

BUILDING & STANDARDS COMMISSION – PANEL “B”

Minutes of November 30, 2005

The Building & Standards Commission Panel “B” held a public hearing in City Council Chambers, 2nd Floor of the City Hall Building on Wednesday, November 30th, 2005, at 5:30 p.m. with the following members present:

Board Members Present:

Bob Ayoub (Chairman)
Roman Bustillos
Gregory Davis
Alexandra Swann
Becky Friesenhan

Others Present:

R. Alan Shubert, Dev. Services Director
Terry Cullen-Garney, Assistant City Attorney
Josette Flores, Assistant City Attorney
Tom Maguire, Chief Inspector
Bill Stern, Residential Inspector Supervisor
Wayne Fannin, Residential Inspector
Lucy Acosta, Recording Secretary

Board Members Absent:

Phillip L. Simms
Paul Zacour
Hector Zamora

The Building & Standards Commission meeting, Panel “B” was called to order by Chairman Bob Ayoub at 5:30 p.m.

Approval of Minutes:

Mr. Ayoub asked if there were any additions/corrections to the minutes of September 28th, 2005. Being none, the minutes for September 28th, 2005 were unanimously approved.

DISCUSSION AND ACTION: Public Hearings

Motion was made by Mr. Bustillos and seconded by Mr. Davis to **MOVE** Item #7, **917 N. Ochoa Street**, to the forefront of the agenda. Motion carried unanimously.

A public hearing was held to determine if the property located at **917 N. Ochoa**, is a fire and safety hazard, and a nuisance and whether the same should be repaired or demolished.

Bill Stern, Residential Inspector Supervisor, presented the case and stated that this property was first investigated on August 2000. A certified condemnation letter was mailed to Robbie D. Wolff and Maria G. Stoiber, owners of the property, 12532 Tierra China and P.O. Box 371063, El Paso, Texas. The building was first condemned by City Council on January 9th, 2001 to be maintained clean and secure. Since the building was condemned in 2001 the property has not been maintained clean and secure and as a result there have been 4 fires in the building. The building continues to deteriorate and

is being entered by unwanted persons and continued to be an attractive nuisance. A certified notice of the public hearing scheduled for November 30th, 2005, was mailed to the owners and all interested parties on November 18th, 2005. The owners have been notified of the violations.

The owners of this property have applied for a Community Development Loan to rehabilitate the property, and at this time are awaiting final approval from City Council for the loan proceeds. The taxes are up to date.

The department recommends that it be found:

- 1) That the structure be condemned as substandard, and unfit for habitation or use and a hazard to the public health, safety, and welfare; and
- 2) That the building is not in substantial compliance with the municipal ordinances regulating fire protection, structural integrity, and disposal of refuse; and
- 3) That the structure's certificate of occupancy be revoked; and
- 4) Since the owners have not submitted any building plans, specifications or reports from design professionals to indicate otherwise the structure can not be repaired; and
- 5) That the building be demolished within 30 days; and
- 6) That the premises be cleaned of all weeds, trash and debris within 30 days; and
- 7) That upon failure by the owner(s) or any other interested party to comply with the order of the Building and Standards Commission the City may take whatever action is necessary to bring the property into compliance, and place a lien on the property for the work that will be done by the City.

Christopher Goldsmith from the El Paso High Neighborhood Association stated that this building is a drinking and smoking spot for unwanted persons. There have been several fires in this building and neighbors are concerned that if another fire occurs their houses may also catch fire since they are only about 5' away.

Julio Norman, past President of the El Paso High Neighborhood Association, stated that this is a threat to the neighborhood. As past President of the association, he is recommending that this building be condemned. He clarified that this is not a historical building as Ms. Stoiber previously stated. She is talking about The Rio Grand Historic District which was founded by Ron Pate for the purposes of getting commercial loans at 3% to improve some of these properties but this is designated mainly for commercial purposes.

Ms. Stoiber, property owner, stated that she has tried to secure the property and maintain it secured but people find a way to get in.

Bill Stern, Residential Inspector Supervisor, stated that the building is unsafe and dangerous and poses a hazard to the surrounding buildings and to the neighborhood. Staff is recommending that the building be demolished.

Jaime Herrera, Housing Program Specialist from Community Development Department, addressed the commission stating that the status for this loan is approximately 30 days. He processes more than 200 of these loans and as of today none of them have been denied. This application was submitted about a year ago but it has taken approximately 9 months just to get through the technical phase but they are now at the final stage.

Guillermo Soto, Police Officer for CRCC, PAR, stated that he has been with the department for 5 years and since then he has been dispatched to this building several times. He expressed concern about loosing a human life to realize that this is a potential hazard to the neighborhood.

Lieutenant Joe Telles, El Paso Fire Department, mentioned several dates in which the Fire Department has responded to fires at this address. He stated that this building in inadequately secure and with winter coming up, homeless people will come in and build a fire to keep warm. He feels this is a potential hazard to the neighborhood. They suspect arson can be a factor to this case but since no arrests have been made the case is still under investigation..

Mr. Bustillos questioned that if by condemning the building the investigation would be hindered.

Lt. Telles responded that it would not because they already have all the evidence that they need. He stated that on the fire of November 15th, 2005, they had over forty-five fire fighters respond and were at the site almost 12 hours. There is not much left to burn, so if another fire occurs the walls will start collapsing and there's a great possibility of people getting hurt.

Motion was made by Mr. Bustillos and seconded by Mr. Ayoub, to reschedule a special meeting to be held on January 11th, 2006, in which this item could be heard. The property should be properly secured during this postponement. The entire property needs to be fenced with a fence taller than 6' and should be installed in a fashion that is secure. Motion carried unanimously.

Terry Cullen-Garney, Assistant City Attorney, stated that because this is a postponement, staff needs to notify all the appropriate parties again.

Ms. Stoiber, owner of the property, is willing to comply with the board's recommendations.

A public hearing was held to determine if the property located at **4000 Clifton Avenue** is a fire and safety hazard, and a nuisance and whether the same should be repaired or demolished.

Bill Stern, Residential Inspector Supervisor, presented the case and stated that this property was first investigated on March 16th, 2004. A certified condemnation letter was mailed to Mike A. Garcia , owner of the property at 3011 Gateway W. Blvd, El Paso, Texas 79903-4116. The main structure and an accessory building were found to be open and abandoned and in an advanced state of disrepair and has been used as a harborage by unwanted persons. Certified notices of the first Public Hearing scheduled for September 28th, 2005, were mailed to the owners and all interested parties on September 15th, 2005. Certified notices of the second public hearing scheduled for November 30th, 2005 were

mailed to the owners and all interested parties on November 18th, 2005. As of November 10th, 2005 there are \$1,036.26 are owed in taxes.

On September 28th, 2005, Mr. Fermin Dorado, of Dorado Engineering, Inc., was present to represent the case. At that meeting this item was postponed for 60 days to allow the owner to submit plans to rehabilitate the property. There has been insufficient response from the owner or Mr. Fermin Dorado, P.E., of Dorado Engineering, Inc.

The department recommends that it be found:

1. That the main structure and accessory building be condemned as substandard, and unfit for habitation or use and a hazard to the public health, safety, and welfare; and
2. That the buildings are not in substantial compliance with the municipal ordinances regulating fire protection, structural integrity, and disposal of refuse; and
3. That the structure's certificates of occupancy be revoked; and
4. That the owner has failed to provide this department with a report or plans to indicate otherwise, that the main structure and accessory structure cannot be repaired; and
5. That the main structure be demolished within 30 days; and
6. That the accessory structure be demolished within 30 days; and
7. That the premises be cleaned of all weeds, trash, and debris within 30 days; and
8. That upon failure by the owner or any other interested party to comply with the order of the Building and Standards Commission the City may take whatever action is necessary to bring the property into compliance, and place a lien on the property for the work which will be done by the City.

Fermin Dorado, P.E., of Dorado Engineering Inc., was present to represent the owner. He stated that the property has been secured and clean. He inspected the two buildings and the structures are sound. He has provided some engineering drawings to Mr. Garcia instructing him how to correct some of the deficiencies on the adobe walls. Mr. Garcia is a contractor and is willing to repair these buildings and bring them up to code.

Mike Garcia, owner of the property, addressed the commission stating that he has been ill for some time but is willing to repair the buildings and bring them up to code.

Mr. Dorado requested that staff work with them in order to accomplish the goal.

Motion was made by Mr. Bustillos and seconded by Ms. Swann to order rehabilitation of the building within 60 days and that the building should be secured while the work is being done. Motion carried unanimously.

A public hearing was held to determine if the retaining wall located at **12268 Diana Natalicio** is unsafe, hazardous and a public nuisance due to the continued deterioration and whether the same should be repaired or demolished. The owners of the property, David L. & Tammy A. Watts, 12268 Diana Natalicio Drive, El Paso, Texas 79936, have been notified of the continued deterioration of the

retaining wall and the potential hazard situation that has risen. The potential collapse poses an imminent threat to public health and safety.

Bill Stern, Residential Inspector Supervisor, presented the case and stated that the retaining wall in question was inspected on the following dates: September 12th, 15th, 20th, 21st, 22nd, 27th, and again on November 30th, 2005. The retaining wall has been found to be in an advanced state of disrepair and in imminent danger of collapsing.

The department recommends that it be found:

1. That the wall is not in substantial compliance with the codes regulating structural integrity; and
2. That it is a hazard to public safety; and
3. That the wall and any ancillary structures be removed and replaced with code compliant structures within 30 days; and
4. That if the Building Official determines that emergency action is required due to further deterioration of the wall or a failure by the owner to act in a timely fashion, that the wall may be demolished at the Building Official's order without any further notification being given.

Eddie Miranda, attorney representing the owners, stated that the retaining wall in question was designed by Conde, Inc. The parties in this case have gotten together several times and a strategic meeting was held on November 18th, 2005 to plan ahead and agree on some time of a completion schedule for the repairs. He handed out copies of 2 letters to the commission members signed by both Mr. Larry Baskin, attorney for the homebuilder, and Mr. Tony Conde, attorney for Conde, Inc. They have agreed that there will be an exploratory demolition of the wall to take place no later than December 15th, 2005. The purpose of the exploratory demolition, according to the structural engineer hired by the homebuilder, is to find out exactly what is causing the failure of the retaining wall. He believes it is due to poor workmanship. The parties have also agreed that within a week from that date the parties will submit detailed plans and specifications to the City of El Paso. January 2nd, 2006 is the target date that the parties have agreed. On or before that date the plans should be submitted. Once the building permit is issued by the city, than the homeowners have agreed that they will complete the repairs within 30 days thereafter or by February 16, 2006, whichever date is later. Mr. Miranda feels that 30 days to complete all the repairs is not a reasonable time period.

Mr. Shubert, Development Services Director, stated that he does not consider the shoring to be adequate and the reason being is because he has not seen the calculations or the designs. Staff requested plans for shoring and a design to repair it but the homeowners have failed to supply either one of the requests.

Ruben Ponce, Structural Engineer, stated that vibration is not affecting the retaining wall right now because barrels are placed on the street and traffic tends to slow down and speed is reduced from 15 mph to 10 mph. There has been some downward movement of the rip raft but there has not been any movement on the retaining wall.

Bill Stern stated that staff is requesting authority to take emergency action when necessary.

For the record, Mr. Shubert read item number three from the department's recommendations:
That the wall and any ancillary structures be removed and replaced with code complaint structures within 30 days.

Mr. Shubert stated that the City needs information on the shoring consisting of a design calculation sealed by a professional engineer.

Mr. Miranda stated that according to Section 2.38.90 from City Code, homeowners are required to be given at least 10 days notice before the hearing. Notice of this hearing was served on November 21st, which is not the necessary 10 days. In addition to that, the ordinance requires that notice of the specific violations be given to the homeowner, the notice of this hearing did not contain any such information. He believes that as a jurisdictional defect this may affect the jurisdiction of this commission to rule on this proceeding. They are not contesting the right of the City of El Paso to go in on an emergency basis and do whatever is necessary to preserve the safety of the public but he believes that this ordinance speaks about structures, and the spirit of the ordinance is that it applies to building structures where people live, therefore, the commission can not condemn a structure that is not occupied or a structure that is not used by human habitation. He believes that the case before the commission does not fall within the spirit or the letter of the ordinance because there is no provision that allows the commission to issue a condemnation order for a structure that is not normally occupied.

Staff must make sure that the notices have been received by the homeowner, but if the homeowner does not receive notification within five days of the hearing they can request an appeal.

Motion was made by Mr. Bustillos and seconded by Mr. Ayoub that shoring plans be submitted to the Building Services Department by December 9th, 2005 and that the wall be rebuilt satisfactorily to city code no later than February 15, 2006. Motion carried unanimously.

A public hearing was held to determine if the property located at **5629 Hemmingway Drive** is a fire and safety hazard, and a nuisance and whether the same should be repaired or demolished. The owner has not performed the work to bring the structure and premises into compliance with the Order of July 27th, 2005.

Bill Stern, Residential Inspector Supervisor, presented the case and stated that a public hearing was held on July 27th, 2005 in the City Council Chambers and evidence was heard by the Building and Standards Commission. The owner of the property, Rico Alvarez, 5629 Hemmingway Drive, El Paso, Texas 79924, has been notified of the violations. Certified notices of the public hearing scheduled for November 30th, 2005 were mailed to the owner and all interested parties on November 18th, 2005. There has been no response from the owner.

The department recommends that it be found:

- 1) That the owner(s), mortgages, lienholders and other interested parties have not performed the work to bring the structure and premises into compliance with the Order of July 27th, 2005; and

- 2) That the Building and Standards Commission order the Director of Development Services to perform the work required to secure the property from unwanted entry and clean the premises of all weeds, trash and debris and to assess the cost of the work as a lien against the property; and
- 3) That any lien assessed is due and payable within (30) days of the date the City of El Paso completes the work.

No one came forward at the meeting to represent the case.

Bill Stern stated that the property continues to deteriorate. There are shingles out in the street and all over the sidewalk and the roof is collapsing. This case had already been heard by the commission and staff had recommended that it be secured and cleaned. Since the owner has failed to comply with the Order of July 27th, 2005, staff is requesting authority to secure and clean the property. Staff is hoping that this property will be sold at auction and then a contractor will rehabilitate it, but if it isn't sold at auction then staff will come back and ask for a total demolition.

Motion was made by Mr. Bustillos and seconded by Mr. Ayoub to accept staff's recommendations. Motion carried unanimously.

A public hearing was held to determine if the structure located at **5320 Gary Owen Drive** is a fire and safety hazard and a nuisance and whether the same should be repaired or demolished.

Bill Stern, Residential Inspector Supervisor, presented the case and stated that this property was first investigated on August 24th, 2005. The structure is open and abandoned and in an advanced stage of disrepair. A certified condemnation letter was mailed to the owner, Rafael Carrillo, 4115 Cumberland Avenue, El Paso, Texas, 79903. Certified notices of the public hearing scheduled for November 30th, 2005 were mailed to the owners and all interested parties on November 18th, 2005. As of today \$1,586.25 are owed on taxes. There has been no response from the owner.

The department recommends that it be found:

1. That the main structure be condemned as substandard, and unfit for habitation or use and a hazard to the public health, safety, and welfare; and
2. That the building is not in substantial compliance with the municipal ordinances regulating fire protection, structural integrity, and disposal of refuse; and
3. That the structure's certificate of occupancy be revoked; and
4. That the structure can be repaired; and
5. That the structure be secured within 30 days; and
6. That the premises be cleaned of all weeds, trash, and debris within 30 days; and
7. That upon failure by the owner or any other interested party to comply with the Order of the Building and Standards Commission the City may take whatever action is necessary to bring the property into compliance, and place a lien on the property for the work which will be done by the City.

No one was present at the meeting to represent the case.

Motion was made by Mr. Bustillos and seconded by Mr. Davis to accept staff's recommendations.
Motion carried unanimously.

A public hearing was held to determine if the structure located at **9125 Cana Avenue**, in the City of El Paso is a fire and safety hazard and a nuisance and whether the same should be repaired or demolished.

Bill Stern, Residential Inspector Supervisor, stated that the first investigation was done on July 28th, 2005. The building was found to be open and abandoned and in an advanced state of disrepair. The building has been used as a harborage by unwanted persons and is an attractive nuisance. A certified condemnation letter was mailed to Maria G. Paiz, 9125 Cana Avenue, El Paso, Texas 79907. Notices of the public hearing scheduled for November 30th, 2005 were mailed to the owner and all interested parties on November 18th, 2005. There are back taxes of \$412.49 owed for 2004 and 2005. There has been no response from the owners.

The department recommends that it be found:

- 1) That the main structure be condemned as substandard, and unfit for habitation or use and a hazard to the public health, safety, and welfare; and
- 2) That the building is not in substantial compliance with the municipal ordinances regulating fire protection, structural integrity, and disposal of refuse; and
- 3) That the structure's certificate of occupancy be revoked; and
- 4) That the structure can not be repaired; and
- 5) That the structure be demolished within 30 days; and
- 6) That the premises be cleaned of all weeds, trash, and debris within 30 days; and
- 7) That upon failure by the owner or any other interested party to comply with the Order of the Building and Standards Commission the City may take whatever action is necessary to bring the property into compliance, and place a lien on the property for the work which will be done by the City.

Motion was made by Mr. Bustillos and seconded by Mr. Davis to accept staff's recommendations.
Motion carried unanimously.

Mr. Bustillos expressed some concerns about legal issues on the notification process.

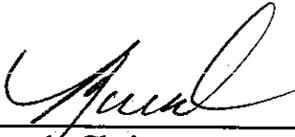
Terry Cullen-Garney, Assistant City Attorney, stated that the property owner has to receive the notice within 5 days of the hearing, if not they can request an appeal. The department now has a new electronic tracking that shows when the card was received and who signed for it.

Staff has to ensure that we have either the electronic posting or the green card to show that the notice has been received within the mandated 5 days.

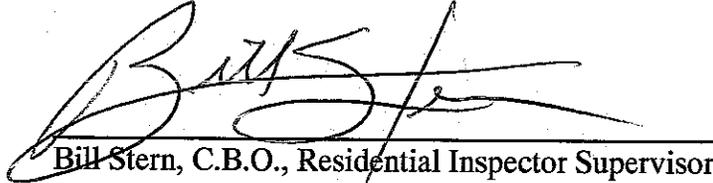
Bill Stern, Residential Inspector Supervisor, clarified that staff posts the property and advertises the public hearing in the newspaper well before the hearing date.

General Discussion:

Without further discussion, motion was unanimously carried to adjourn the meeting at 8:45 p.m.



Bob Ayoub, Chairman



Bill Stern, C.B.O., Residential Inspector Supervisor
Development Services Department