

**CITY OF EL PASO  
BUILDING & STANDARDS COMMISSION BOARD PANEL "A"  
CITY HALL, CITY COUNCIL CHAMBERS, 300 N. CAMPBELL STREET, 1<sup>ST</sup> FLOOR  
May 29, 2013  
5:30 P.M.**

**MINUTES**

The Building & Standards Commission Panel "A" held a public hearing at the El Paso City Hall, City Council Chambers, 300 N. Campbell Street, 1<sup>st</sup> Floor, on Wednesday, May 29, 2013 at 5:30 p.m. with the following members present:

**Board Members Present:**

Robert C. Filarski  
Jesse Sanchez  
Paul Gilcrease  
Conrad Conde (alternate)  
Michael Bray (alternate)  
Linda Vick  
Al Jurado Jr. 5:40

**Others Present:**

Elda Rodriguez-Hefner, Code Compliance Manager  
Wendi Vineyard, Assistant City Attorney  
Tom Maguire, Chief Building Inspector  
Nellie Avalos, Building Inspector  
Kevin Harrell, Building Inspector  
Rodolfo Huerta, Building Inspector  
Nathan Walsh, Building Inspector  
Diana Cedillo, Senior Office Assistant

**AGENDA**

Call to Order

- I. The Building & Standards Commission meeting, Panel "A" was called to order by Chairman Filarski at 5:30 p.m.

Chairman Filarski swore in all witnesses present to give testimony on the cases heard.

- II. Approval of the March 27, 2013 minutes

**Motion made by Mr. Filarski to approve the March 27, 2013 minutes, seconded by Mr. Gilcrease unanimously passed.**

**Regular Items:**

- III. Public hearing to determine if the property located at 401 Riverside, in the City of El Paso, is a dangerous structure and to determine if the owners will be ordered to secure, repair, remove or demolish the property. The interested parties have been identified as, EJ & Celia Sullivan and Celia Jauregui Sullivan, Administratrix of the Estate of Edward Joseph Sullivan, and they have been notified of this hearing.

Tom Maguire, Chief Building Inspector, read the item to record.  
Nathan Walsh, Building Inspector presented the case.

Ms. Vick inquired about fencing around the property. The fencing is approximately 6 feet high. Adolfo Zavala Jr., who is the neighbor, spoke on behalf of the owner(s) of 401 Riverside. He stated the he has assisted in cleaning the property, has secured the trailer on the property as well and states that the owners are aware that the property is not being occupied. Mr. Zavala stated that there is always police present around the area and there has not been any break ins.

He is requesting for the Board to consider allowing the family to secure the property instead of demolishing the property. Mr. Zavala belongs to the Quality Enhancement Plan from El Paso Community College and believes that he may be able to find volunteers to assist with the maintenance of this property. He is also aware that the property does need structural work, but would still like to secure the property for the owners since the owners are not in good health and reside in Union.

Mr. Bray asked if the grandson (owner) is present.

Mr. Maguire stated that the hearing letters were sent; deliveries of notices were attempted, but letters were returned. Due to Mr. Zavala not being the owner, he cannot be held to any proposition to action as far as maintenance to the home.

Mr. Bray inquires if it would be acceptable to allow the owners more time to board and secure the property.

Mr. Maguire states that there is no security on notification to the family about the Board's final decisions. Mr. Zavala cannot be held accountable for the maintenance that he is agreeing to do to the property since he is not the owner; but has agreed to secure the property for the owners. Mr. Bray's concern is the cost of complying with recommendations without the owners present and that there are also nearly \$40,000 owed in back taxes. The option to board and secure within thirty (30) days property is obtainable to allow the owners additional time to maintain property.

Mr. Maguire states the option to postpone in sixty (60) days to allow Mr. Sullivan to attend next hearing or if there is a power of attorney who will present themselves for the owner(s) to verify if the owners would like to keep the property or let it be handled by the City.

Mr. Bray inquires about any other concerns in postponing for 60 days until the next panel hearing.

Mr. Maguire does state the property is open and accessible although there is a chain link fence surrounding the area. There is also a swimming pool that is unsecured which is a hazard.

Ms. Vick states that her concern is how accessible the Fire Department is in case of fire. In which Mr. Maguire states that the Fire Department is easily accessible.

Mr. Filarski inquires if the back taxes need to be paid before the owner obtains permits, in which they do not.

Mr. Sanchez asks if the owners are aware that Mr. Zavala is present on their behalf. Mr. Zavala stated that he has attempted to contact owners, but has been unsuccessful since they reside in La Union. Mr. Sanchez verifies that Mr. Zavala has the permission from property owners to be on property, in which he states, yes.

Mr. Maguire states that there is a bee infestation on the property needs to be addressed.  
No further comments

**Motion made by Mr. Sanchez, seconded by Ms. Vick to accept staff recommendations, unanimously carried.**

The owners have been notified of the property maintenance violations at this property. To date there has been no response or corrective action taken and therefore the Division 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 structure is not in substantial compliance with the municipal ordinances regulating fire protection, structural integrity, and disposal of refuse; and
3. That the structures' certificate of occupancy be revoked; and
4. That the structure cannot be rehabilitated; and
5. that the structure be demolished within thirty (30) days; and
6. The camper be removed within thirty (30) days; and

7. The dilapidated in-ground swimming pool be demolished and filled in within thirty (30) days; and
  8. That the premises be cleaned and maintained clean of all weeds, trash, and debris within thirty (30) days; and
  9. 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.
- IV. Public hearing to determine if the property located at 5227 Sun Valley, in the City of El Paso, are dangerous structures and determine if the owners will be ordered to secure, repair, remove or demolish the property. The interested parties have been identified as Armando Velasquez and he has been notified of this hearing.

Tom Maguire, Chief Building Inspector, read the item into the record.  
Kevin Harrell, Building Inspector, presented the case.

The listed owners are not present to speak on behalf of property.  
Inspector Harrell also states that property is close to Andres High School; giving access to students. The El Paso Police Department has been dispatched to the property several times due to trespassing.

Mr. Sanchez inquires about the utilities on the property, in which they are not available.  
Mr. Filarski allows for the El Paso Police Department to speak about the property.  
Officer Saul Gutierrez from the El Paso Police Department stated that there have been numerous complaints on the property. He is a part of the Community Service Section with the CRCC and stated that they are doing extra patrol requests on this residence. They have had numerous encounters with the high school students from Andres High School in which they have found drug paraphernalia. Officer Gutierrez is being dispatched to the residence at least 3 times per week.

The owners have been notified of the property maintenance violations at this property. To date there has been no response or corrective action taken, and therefore the Division 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 structure 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 structures can be rehabilitated; and
5. That the structures be secured within thirty (30) days and maintained secure thereafter; and
6. That the premises be cleaned of all weeds, trash, and debris within thirty (30) days and maintained clean thereafter; and
7. That upon failure by the owner or any other interested party to comply with the order if 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 made by Ms. Linda Vick, seconded by Mr. Jesse Sanchez to accept staff recommendations, and unanimously carried.**

V. Public hearing to determine if the property located at 5101, 5109, 5117, 5125, and 5133 Trowbridge, in the City of El Paso, is a dangerous structure and to determine if the owners will be ordered to secure, repair, remove or demolish the property. The interested parties have been identified as Efren and Maria L. Gonzalez % Escrow Inc., and they have been notified of this hearing.

Tom Maguire, Chief Building Inspector, read the item into the record.  
Rudy Huerta, Building Inspector, presented the case.

Mr. Sanchez inquires about how many units the structure has.  
Inspector Huerta replies that there are five (5) structures, eight (8) units per structure, a total of forty (40) units.

Mr. Sanchez verifies how many units the staff's recommendations are for.  
Inspector Huerta states that some of the units were being occupied and the tenants did allow for photos to be taken of their current living conditions; on May 10<sup>th</sup>, a Writ of Entry was served; allowing for the inspections to proceed.

Mr. Filarski inquires about the units currently being occupied.  
Inspector Huerta responding that currently, that there are approximately thirty four (34) to thirty five (35) units are being occupied. He stated that some of the tenants have already been relocated through the Housing Authority; a total of twenty six (26) tenants have been moved, this total including apartment manager.

Mr. Bray inquired about the permit on the building with the new roof.  
Inspector Huerta states that 5125 and 5133 Trowbridge did obtain a permit, but both structures did not pass final inspection due to no air conditioning units on structure. The apartment manager did install other air conditioning units, but did not obtain a permit for those.

Mr. Filarski asks if those air conditioning units were removed since they did not have a permit.  
Inspector Huerta replies that apartment manager did disconnect some of the units; 5101 and 5109 Trowbridge with the tenants still residing in the apartment.

Mr. Filarski asks if there is anyone is present to speak on behalf of the property.

Ms. Vineyard states that owner and his attorney did present themselves, but left after coming to an agreement about the structures.

Mr. Bray would like to hear about the proposed settlement.

Ms. Vineyard states that since there are a pending contract for purchase on the property, parties have come into agreement.

Mr. Sanchez asks Mr. Huerta if he positively identified asbestos containing materials. In which the City did not, but the State Inspector did; having sent the samples to Austin, coming back positive for asbestos.

Mr. Maguire states that if there are more than four dwelling units, it is considered a commercial structure in which an asbestos survey is required, along with the application for permits to rehabilitate.

Legal Aid Representative, Mr. Everett Saucedo, attorney & Director for Texas Rio Grande Legal Aid Legal Clinic for the homeless is representing one (1) unit from the complex. He states that his primary concern is the residents must relocate to more habitable conditions. The family does not qualify for housing benefits. He is currently asking that the City amend the agreement for current owner to assist the residents of the apartment that do not qualify for assistance.

John Batoon states that the City's jurisdiction extends to the issue of structural integrity and safety of the building. Any agreements that tenants would like to enter with the owner has to be done on their own. The Board does not have jurisdiction to order the owner to do anything with the tenants.

Inspector Huerta continues with the presentation.

John Batoon states that the only difference between the proposed agreement that owner proposed with City is the additional 30 days to comply due to pending sale. There is a willing

buyer aware of the situation and compliances needing to be made. Proposed buyer is requesting a list of all requirements.

Vineyard states that extension was made due to buyer having 45 days to close on property so the agreement made to extend for 60 days in order to close.

Bray inquiring contingency based on receipt of inspection reports where there is an option to terminate.

Batoon, if sale does not go through, the order of demo would stand based on staff recommendations and Commission Board.

Haggerty inquires of time limit on vacating tenants.

John Batoon states tenants would still need to vacate in 30 days due to living conditions. State requirement is 30 days.

Mr. Sanchez inquires if the agreement is approved and compliance is not met, if the case will be presented to Panel A at the next meeting.

Mr. Filarski states that case will be presented at the next meeting to justify whether new owner is going to comply with agreement or case recommendations will be accepted.

Tom ensures that Inspector Huerta will be out to check on property in 30 days to verify if compliance is being made.

Mr. Filarski inquires on why the property was prolonged on being presented to the Board considering presentation went as far back as the year 2007.

Inspector Nellie Avalos verifies date as far back as 2004. Due to there being 40 units in apartment complex, Code did not anticipate such great damage in 2004. Due to the lack of maintenance, exposure to elements, rehabilitation that has not taken place, the damage has progressed.

#### The Building and Standards Commission FINDS:

1. That the structure be condemned as substandard, and unfit for habitation for use and a hazard to the public health, safety, and welfare; and
2. That the structures are not in substantial compliance with the municipal ordinances regulating fire protection, structural integrity, and disposal of refuse; and
3. That the structures' can be rehabilitated.

NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED BY THE BUILDING AND STANDARDS COMMISSION OF THE CITY OF EL PASO:

1. That the structures be vacated within (30) days; and
2. The owners agree to issue thirty (30) day notices to the current occupants; and
3. That the structures be secured within thirty (30) days and maintained secure thereafter; and
4. The premises be cleaned of all weeds, trash and debris within sixty (60) days and maintained clean thereafter; and
5. The owners will return in sixty (60) days before the Building and Standards Commission to show progress on the property; and
6. The certificate of occupancy will remain revoked until all units are up to code; and
7. The City of El Paso will issue photographs of the Code violations to Counsel for the owners of the property; and
8. That upon failure of the Owners to comply with this Order, any mortgages, lien holder, and other persons having interest in the property have an additional ten (10) days to secure the buildings and clean the premises of all weeds, trash, and debris; and
9. That upon failure of the Owners to comply with this Order, the City of El Paso through its Director for Code Compliance Division of the Environmental Services Department, may secure and maintain the buildings secure and clean the premises of all weeds, trash and debris, at its own expense, but for and on account of the Owners of said property; and
10. That said Owners shall become personally liable for all costs incurred by City in connection with securing the buildings and maintaining the buildings secured; and

cleaning the premises of all weeds, trash, and debris, shall become due and payable within thirty (30) days of the date of completion of the work and such cost shall be assessed as a lien; and

11. That upon failure of the Owners to comply with this Order, one or all of the following actions will be taken:
  - a. The City may perform any and all work needed to bring the property into compliance with this Order, at its own expense but for and on account of the Owners of said property, the cost of which shall be assessed as a lien against the property; and
  - b. That upon failure of the Owners to comply with this Order the Building and Standards Commission may assess a civil penalty against the property owners in an amount not to exceed \$1,000.00 per day for each violation or if the owners show that the property is the owners lawful homestead in an amount not to exceed ten (10) dollars a day for each violation; and
  - c. That upon failure of the owners to comply with this Order, the Owners may be confined in jail as permitted by state law; and
12. That upon failure of the Owners, any mortgagees or lien holders to restore the Buildings so that it complies with all relevant City Code requirements, the City of El Paso, if applicable, may bring action in District Court to request appointment of a receiver for rehabilitation of said property pursuant to Section 214.003 of the Texas Local Government Code; and
13. That any civil penalty or assessment imposed will accrue interest at a rate of ten (10) percent a year from the date of assessment until paid in full; and
14. That the City Clerk is ordered to cause copies of this Order to be served on the record Owners and all other persons having interest in the property as provided by law.

**Motion made by Mr. Sanchez to rescind the first motion made based on incomplete information, seconded by Mr. Bray, unanimously passed.**

**Motion made by Mr. Filarski to accept the amended recommendation from staff, seconded by Mr. Sanchez; one apposed, Ms. Vick, opposing amended recommendation, motion carries 5 to 1.**

VI. Adjournment

**Motion made to adjourn the meeting by Mr. Filarski, seconded by Mr. Bray was unanimously carried. The meeting adjourned at 6:55 p.m.**

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Robert Filarski, Chairman, Panel "A"

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Tom Maguire, Deputy Building Official  
Code Compliance Division