

CITY OF EL PASO
BUILDING & STANDARDS COMMISSION BOARD
2ND FLOOR, CITY COUNCIL CHAMBERS
MAY 23, 2012
5:30 P.M.

MINUTES

The Building & Standards Commission Panel "A" held a public hearing in City Council Chambers, 2nd floor of the City Hall Building on Wednesday, May 23, 2012 at 5:30 p.m. with the following members present:

Board Members Present:

Andrew Haggerty
Jesse A. Sanchez
Robert Filarski
Gerardo Licon
Linda Vrick
Matt Bohannon
Tommy Razloznik
Ira Barbe
Ben Bohannon

Others Present:

Bill Stern, Deputy Building Official
Kurt Fenstermacher, Deputy Director
Laura Gordon, City Attorney
Lesley Nicholes, Assistant City Attorney
Tom Maguire, Chief Building Inspector
Nellie Avalos, Building Inspector
Kevin Harrell, Building Inspector,
Roger Iverson, Chief Building Inspector
Sonya Cahalan, Building Inspector
Nancy Spencer, Recording Secretary
Trenda Rocha, Administrative Assistant

Late Members:

Lorraine Huitt 5:38 p.m.

Absent Members:

Angel Miguel Ochoa

AGENDA

- I. Call to order

The Building & Standards Commission meeting, Panel "A" was called to order by Chairman Andrew Haggerty at 5:34 p.m.
- II. Legal Department Update

Introduction of Deputy City Attorney Laura Gorden

Laura Gordon gave a presentation to the commission on the Texas Supreme Court issued opinion on the court Case City of Dallas vs. Stewart. A brief chronology on the events of the case that led to the lawsuit was given, the appeal by the City of Dallas to the Court of Appeals, the appeal to the Supreme Court, and the final opinion determined by the Texas Supreme Court on January 27, 2012. The board was also informed of the new amendments to the ordinances which regulate the hearings before the Building and Standards Commission including the appeal process.

Board member Ira Barbe asked whether every witness for the case being presented be sworn in when giving testimony. Assistant City Attorney Lesley Nicholes advised that process should be conducted and would work with the staff on establishing procedures.

III. Approval of minutes for the meeting held May 25, 2011.

One correction was made to the May 25, 2011 minutes. Chair Mr. Andrew Haggerty's name was listed twice on the members present at the meeting.

Motion made by Andrew Haggerty, seconded by Robert Filarski to approve the minutes with the noted correction for the meeting held May 25, 2011, unanimously carried.

Regular Items:

IV. Public hearing to determine if the property located at 3529-3531 Alameda Avenue, in the City of El Paso, is a dangerous structure and determine if the owners will be ordered to secure, repair, remove or demolish the property. The interested parties have been identified as; Deleyeto Saiz Jr. and Leonor Pacheco Hyder and they have been notified of this hearing.

Bill Stern, Deputy Building Official, read the item into the record.

Nellie Avalos, Building Inspector presented the case.

Board Member Ben Bohannon asked about the combustible materials located in the property. Ms. Avalos informed the commission where the items were located and also advised that property was open at this time.

Board Member Gerardo Licon asked whether there had been any contact with the owners. Bill Stern advised the owners were trying to sell the property. The board was also informed that the owners previously had advised that they would come in with plans and an engineer's report reference the stability of the structure.

Board member Linda Vick advised that she remembered seeing this property presented to the commission before. Bill Stern informed the commission this property was condemned in 2010; however, the demolition process was stopped due to the pending lawsuit filed with the Texas Supreme Court. Mr. Stern did advise that the asbestos had been removed from the building.

Motion made by Paul Gilcrease, seconded by Ben Bohannon to accept staff recommendations, unanimously carried.

The owner has been notified of the property maintenance violations at this property. To date there has been no response or corrective action taken, and therefore 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 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. That the premises be cleaned and maintained clean 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.

- V. Public hearing to determine if the property located at 401 Cinecue Way, in the City of El Paso, is a dangerous structure and determine if the owners will be ordered to secure, repair, remove or demolish the property. The interested parties have been identified as, Daniel Parra, John Parra, and Ramona Gruver, and they have been notified of this hearing.

Bill Stern, Deputy Building Official, read the item into the record.

Sonia Cahalan, Building Inspector, presented the case.

Motion made by Barbe, seconded by Filarski 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 structures are substandard, and unfit for habitation or 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' certificate of occupancy be revoked; and
4. That the structures cannot be rehabilitated; and
5. That the main house and accessory structures be demolished within thirty (30) days; and
6. That the premises be cleaned and maintained clean of all weeds, trash, and debris within thirty (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.

- VI. Public hearing to determine if the property located at 809 Myrtle Avenue, in the City of El Paso, is a dangerous structure and determine if the owners will be ordered to secure, repair, remove or demolish the property. The interested parties have been identified as, Haraan Investments Inc., and it has been notified of this hearing.

This item was moved to the forefront and was presented first.

Bill Stern, Deputy Building Official read the item into the record.

There was public comment from Mr. Joe Balsiger, legal representative for the law firm of Scott Hulise PC, representing Mr. Harry Garber, owner of 809-811 Myrtle Avenue. Mr. Balsiger advised that Mr. Garber did not receive notification of this public hearing until May 18th, 2010 and therefore, pursuant to the ordinance, the owner can request a hearing within 10 days. However, he advised that Mr. Garber has agreed to the staff recommendations and not request a hearing if given 90 days to demolish the property.

Board Member Ira Barbe asked why the owner was asking for 90 days instead of 30 days to demolish the property. Mr. Balsiger advised that at present they were seeking a contractor to take on the project which also includes preparing an asbestos report which would be required before the demolition could take place.

Board member Linda Vick asked what the condition of the property was at this time.

Bill Stern informed the board that this property was first investigated in April 2005, was condemned in 2011. A certified letter was mailed to the owner on March 5, 2012, and the notice for the hearing was mailed on May 10th, 2012.

Board member Gerardo Ligon asked if this case was started in 2005 why was it being presented now in 2012. Mr. Stern advised that at that time the property was to be fixed up and secured. At the time of the condemnation proceedings, the Supreme Court lawsuit came up.

Board member Ira Barbe asked if the property was a danger to the public and if granting 90 days to demolish the property was too long a time to give to the property owner. Mr. Stern advised it was the commission's discretion on the decision they take and also that he would not oppose in granting the owner 90 days to demolish the property so long as it is done.

Board member Linda Vick inquired about the asbestos report being done within 30 days.

Assistant City Attorney Lesley Nicholes reminded the commission that the decision would have to be based on the facts presented and also reminded the board that the property owner was agreeing to the staff recommendations to demolish the structure.

Board member Jesse Sanchez asked if since 2005, other proposals reference this property have been made as seven years have passed and no action has been taken. Mr. Balsiger advised that Haraan Investments has not owned the property for 7 years and again advised that Mr. Garber was agreeing to demolish the property if given the time frame of 90 days.

Mr. Stern advised that the property taxes would have to be paid.

Assistant City Attorney Lesley Nicholes advised that the Environmental Services Department would not be bringing this case back to the commission and that there was an agreement by the owner for this property to be demolished within 90 days.

Motion made by Barbe, seconded Ben Bohannon 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 corrective action taken, and therefore the Division recommends that it be found:

1. A continuance is granted.
2. The owner shall demolish and clear the Property of all trash, weeds and debris within ninety (90) days from the date of this order.
3. All work on the Property will be done in compliance with all applicable El Paso City Codes and state and federal regulations and statutes.
4. The City of El Paso Environmental Services will not bring the Property before the Commission earlier than 90 days from the date of this order.
5. If the City of El Paso Environmental Services brings the subjected property before the Commission again, the owner's legal waivers formal notice and notice will be considered satisfied when delivered to the Owner's legal representative of record, Joe Balsiger, Scottluisse, P.C., 1100 Chase Tower, El Paso, Texas 79901.

IV. Adjournment

Motion made to adjourn the meeting was unanimously carried. The meeting adjourned at 6:30 p.m.


Andrew Haggerty, Chairman


Bill Stern, C.B.O., Deputy Building Official
Code Compliance Division