

# NOTICE OF APPEAL INFORMATION

Austin City Code ARTICLE 7. APPEALS, VARIANCES, SPECIAL EXCEPTIONS, AND ADJUSTMENTS.  
 Division 1. Appeals  
 (see page 2 of 2 for appeal process)



## Planning and Development Review Department

Address of Property in Question <b>1917 DAVID ST AUSTIN TX 78705</b>	Permit Number <b>2012-084972-BP</b>
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Appellant Filing Appeal <b>NURIA ZARAGOZA FOR OWUNA</b>	Relationship to Property <b>INTERESTED PARTY</b>
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Appellant's status as Interested Party  
**PRESIDENT OF N/A & PROXIMITY TO PROPERTY**

Appellant Contact Information	Permit Holder Contact Information
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Name <b>NURIA ZARAGOZA</b>	Name <b>MICHAEL SAID / MIKE McHONE.</b>
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Street <b>1908 CLIFF ST</b>	Street <b>2459 WESTLAKE DR</b>
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City State Zip <b>AUSTIN TX 78705</b>	City State Zip <b>AUSTIN TX 78746</b>
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Telephone <b>512 320 0351</b>	Telephone
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E-Mail <b>TEDANDNURIA@HOTMAIL.COM</b>	E-Mail
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Date of Decision Being Appealed: <b>8-28-2012</b>	Date Appeal is Filed:
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Decision being appealed: (use additional paper as required)  
**PROJECT IS EFFECTIVELY A "ROOMING HOUSE" AS DEFINED BY THE LPC AND BY PREVIOUS DECISION OF THIS BOARD (SEE ATTACHED DECISION SHEET) THEREFORE THIS PERMIT ~~SHOULD~~ SHOULD HAVE BEEN REVIEWED UNDER THE COMMERCIAL CODE.**

Reason the appellant believes the decision does not comply with the requirements of the Land Development Code (Title 25)  
**THE LPC DEFINES "ROOMING HOUSE" AS A BUILDING OTHER THAN A HOTEL WHERE LODGING WITHOUT MEALS FOR MORE THAN SIX PERSONS (UNRELATED) IS PROVIDED**

### BELOW FOR CITY USE ONLY

Hearing Date:	Board or Commission:
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Action on Appeal:	Date of Action:
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Form Bldg 101 Page 1 of 2

**The applicant must complete page 2 of 2 and sign before this application of appeal is complete. The application will not be processed unless the applicant reads and signs page 2 of 2.**

RECEIVED  
 SEP 17 2012  
 Planning & Development Review

Appeal Process

You may appeal by following the following Land Development Code requirements. You must complete the form with all information required as listed below.

**ARTICLE 7. APPEALS, VARIANCES, SPECIAL EXCEPTIONS, AND ADJUSTMENTS.**

**Division 1. Appeals.**

**§ 25-1-181 STANDING TO APPEAL.**

- (A) A person has standing to appeal a decision if:
- (1) the person is an interested party; and
  - (2) a provision of this title identifies the decision as one that may be appealed by that person.
- (B) A body holding a public hearing on an appeal shall determine whether a person has standing to appeal the decision.

Source: Section 13-1-250; Ord. 990225-70; Ord. 030828-65; Ord. 031211-11.

**§ 25-1-182 INITIATING AN APPEAL.**

An interested party may initiate an appeal by filing a notice of appeal with the responsible director or building official, as applicable, not later than:

- (1) the 14th day after the date of the decision of a board or commission; or
- (2) the 20th day after an administrative decision.

Source: Section 13-1-251(a); Ord. 990225-70; Ord. 031211-11.

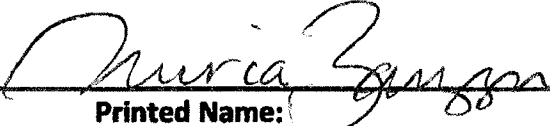
**§ 25-1-183 INFORMATION REQUIRED IN NOTICE OF APPEAL.**

The notice of appeal must be on a form prescribed by the responsible director or building official and must include:

- (1) the name, address, and telephone number of the appellant;
- (2) the name of the applicant, if the appellant is not the applicant;
- (3) the decision being appealed;
- (4) the date of the decision;
- (5) a description of the appellant's status as an interested party; and
- (6) the reasons the appellant believes the decision does not comply with the requirements of this title.

Source: Section 13-1-251(a); Ord. 990225-70; Ord. 010329-18; Ord. 031211-11.

By signing this document, I attest to having read and understand my rights as granted by the Land Development Code.

9-11-12  NURIA ZARAGOZA  
Date: Printed Name: Signature:

## **§ 25-12-213 LOCAL AMENDMENTS TO THE INTERNATIONAL PROPERTY MAINTENANCE CODE.**

**202.1 Supplemental and replacement definitions.** The definitions in this subsection apply throughout this code and supplement the definitions in Section 202 (*General Definitions*) of the 2009 International Fire Code, as published, unless the term is defined in both places, in which case the definition in this subsection replaces and supersedes the definition in Section 202 of the 2009 International Property Maintenance Code.

**BOARDING HOUSE.** A building, other than a hotel, where lodging with meals for more than six (6) unrelated persons is provided for compensation.

● **ROOMING HOUSE** ●. A building, other than a hotel, where lodging without meals for more than six (6) unrelated persons is provided for compensation.



# City of Austin

Founded by Congress, Republic of Texas, 1839  
Planning and Development Review Department  
One Texas Center, 505 Barton Springs Road  
P.O. Box 1088, Austin, Texas 78767

May 10, 2010

Nuria Zaragoza  
1908 Cliff Street  
Austin, TX 78705

RE: 1915A David Street  
Building Permit# 2010-021733 BP / Plan Review # 2010-002721PR

Dear Ms. Zaragoza,

Per the direction of the Building & Fire Code Board of Appeals (Board) at the public hearing on May 5, 2010, this letter memorializes the Board's decision regarding the appeal you filed on the issuance of Building Permit No. 2010-021733 BP for development at 1915A David Street.

The Board voted unanimously to uphold the appeal of the issuance of the building permit. Based on the evidence presented, the Board found that that the development exceeded the limits of a remodel and therefore constituted new construction. Additionally, the Board found that development was effectively a "rooming house" and therefore should have been reviewed as a commercial project under the International Building Code, not as a residential use under the International Residential Code.

The Board's decision reverses the building permit issued for 1915A David Street. Further development of the property may only occur if a new building permit is issued.

Sincerely,

Leon, Barba, P.E., Building Official  
Planning and Development Review

cc: Building and Fire Code Board of Appeal Members  
Dan McNabb, Building Inspection Division Manager  
Mitch Ely, Owner  
Mike McHone, Owner's Agent

**Case No. C 15-2012-0044 Nuria Zaragosa for Michael Said 1917 David Street**

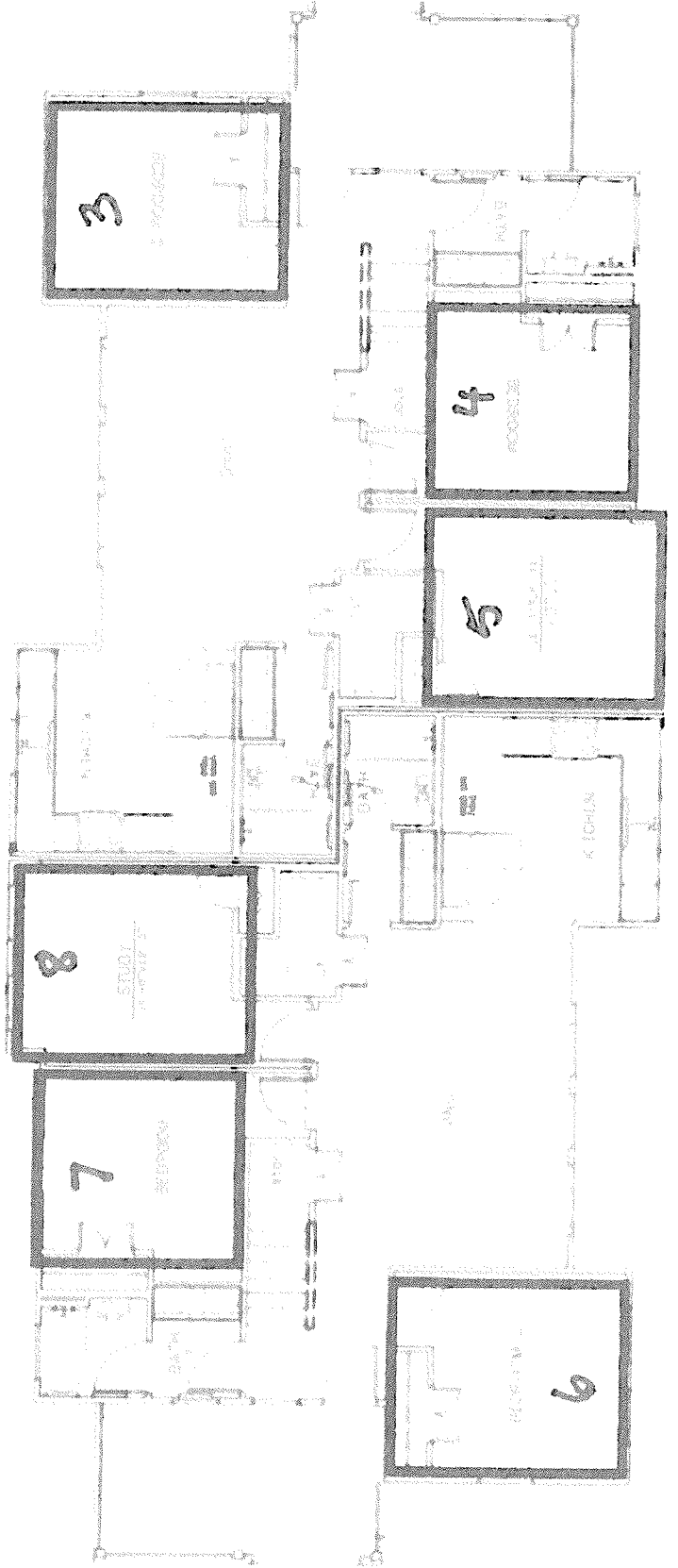
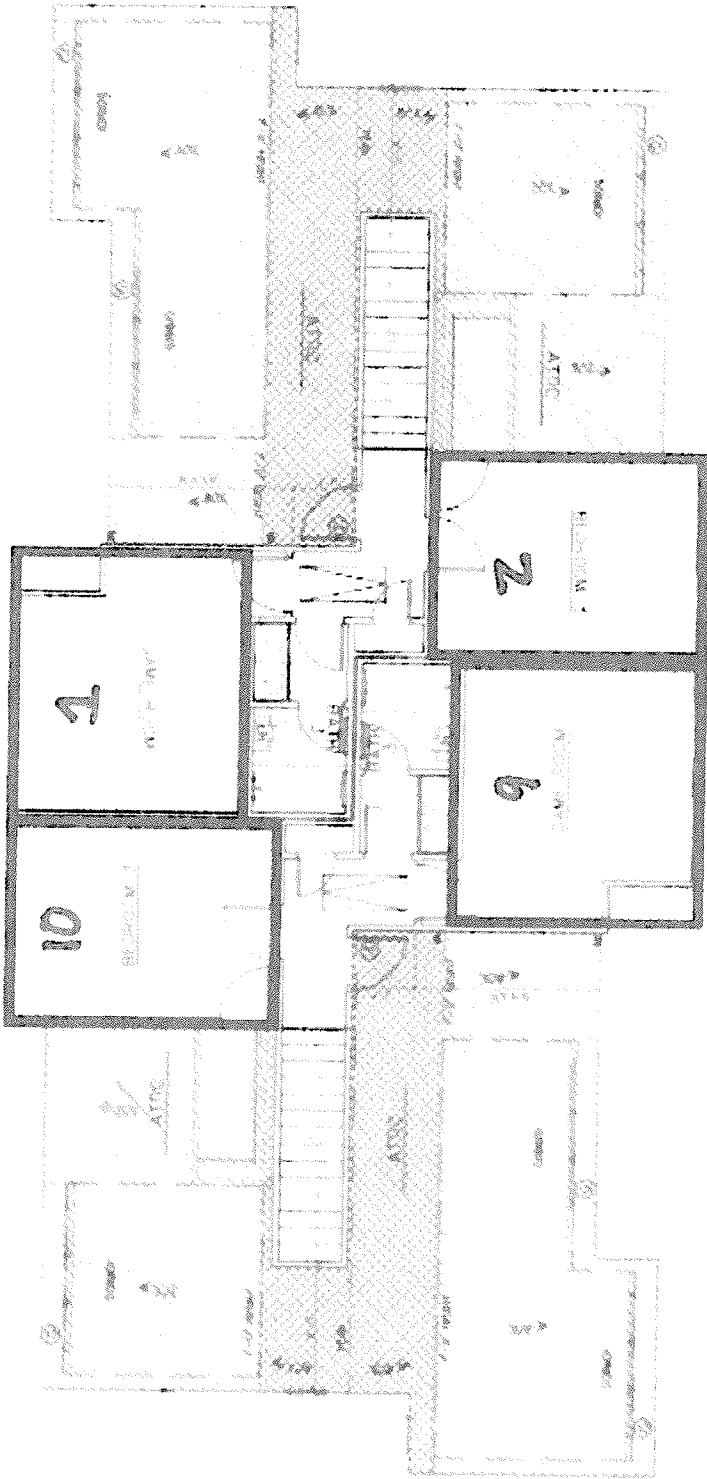
***Boardmember's Motion:***

"I move that the Board of Adjustment take no action on the appeal based on the fact that the original applicant in this case has withdrawn their request for a building permit and therefore there is no longer an active development approval by the Director for this location. However, I also find that the plans previously submitted for 1917 David Street were approved on an incorrect interpretation of Section 25-2-555 (D) of the Land Development Code with regard to what constitutes a "bedroom".

For this reason, my motion also includes the following recommendation for staff to consider when applying Section 25-2-555 in future cases.

***Recommendation:***

- (1) A room designated on the floor plan of a residential duplex project should be considered a "Bedroom" for the purposes of determining the number of bedrooms allowed under section 25-2-555(D) of the Land Development Code if :
  - (A) the room is a minimum of 70 square feet in area and is not a kitchen, bathroom, garage, utility room, common living area or common circulation space (halls or stairs),
  - (C) the room is configured so that it is or is capable of being a private space separated from all other areas of the building by a permanent door or doors, and
  - (D) if all designated "bedrooms" shown on the plans have access to bathrooms only through shared common living areas also accessible from these rooms and no shown bedroom has direct access to any of the bathrooms.
- (2) It is recognized that an interpretation relies on the specifics of a case. Because the original project permit application has been withdrawn, an interpretation at this time is not applicable. However it is my hope that this recommendation, will be used by the Director when considering what constitutes a bedroom with regard to future projects meeting the requirements of Section 25-2-555



**The Lear Company**  
2108 W. Ben White Boulevard  
P.O. Box 163662  
Austin, TX 78716  
(512)329-8290

4/17/2012

Board of Adjustment  
Chairman Jeff Jack

RE: 1917 David St, Austin, TX

Chairman:

I have reviewed plans submitted to me in regard to the property to be built at 1917 David St., Austin, TX, Lot 18, Block 2, Carrington Subdivision. It was requested for me to observe the plans to offer my professional opinion as a real estate appraiser in regard to objectively observed bedrooms. I would conclude that the plans clearly indicate exceeding the three (3) bedroom per unit duplex limit.

Please find attached my qualifications, as well as a copy of my state certification.

Sincerely,

A handwritten signature in black ink, appearing to read "Ted Lear", with a long, sweeping underline.

Ted Lear, SRA  
TX-1321124-G

## ***A RESUME OF THE QUALIFICATIONS OF TED N. LEAR***

My name is Ted Lear and I am an independent real estate appraiser and owner of The Lear Company, a real estate appraisal and consulting firm with offices at 2108 W. Ben White Boulevard, Austin, Texas. I have been actively engaged in the appraisal of real estate since 1983, after receiving my degree from the University of Texas. I have had the privilege of developing experience in the appraisal and analysis of multiple types of properties. Before opening my own office, I managed the residential appraisal department of Sayers & Associates, Inc. I have spent 100% of my career time appraising during the past 28 years.

### **Designations**

SRA designation – Appraisal Institute (Senior Residential Appraiser)

### **State Certification**

General Real Estate Appraiser - Certificate Number: TX-1321121-G

### **Employment History**

Sayers & Associates 7/83 - 1/95 The Lear Company 1/95 - Present

### **Education and Memberships**

University of Texas; BBA, Petroleum Land Management, 1983  
Appraisal Institute-SRA Member

I am up to date regarding all ongoing education requirements. □to state licensing course requirements every two years, I am required to submit evidence of 100 hours of classwork every five years for the Appraisal Institute.



## **Experience, Types of Appraisal Work Performed**

The bulk of my workload is appraisals performed for mortgage lending purposes (both resale and new construction). In addition to these type appraisals, I also have many years experience appraising properties for the purpose of litigation. My experience goes beyond the valuation process, but also into the process of court testimony. I also provide services to property owners, developers, and other prospective purchasers in a consultant role, as well as that of the appraiser. My experience also encompasses both proposed and developed properties.