



BUILDING AND STANDARDS COMMISSION MINUTES

REGULAR MEETING
Wednesday, August 27, 2014

The Building and Standards Commission convened in a regular meeting on Wednesday, August 27, 2014 at One Texas Center, Third Floor Conference Room, 505 Barton Springs Road, Austin, Texas.

Vice Chair David Brown called the Commission Meeting to order at 6:32 p.m.

Commission Members in Attendance:

David Brown, Vice Chair; Steven Alloway, Charles Cloutman, Daniel Gonzalez, and Stacy Kaplowitz.

Staff in Attendance: Christopher Moore - Building & Standards Commission Coordinator; Patricia Link - Assistant City Attorney; Dan Cardenas - Assistant Director, Austin Code Department; Matthew Christianson - Division Manager; Edgar Hinojosa - Assistant Division Manager; Matthew Noriega - Assistant Division Manager; Douglas Jansky - Administrative Hearing Coordinator; Christina Mendez - Administration Support; Chris Maldonado - Inspector; Alicia Tovar - Investigator; Hilda Martinez - Inspector.

1. CITIZEN COMMUNICATION: GENERAL

Stuart Harry Hersh, an Austin renter, stated that 55 percent of Austinites rent, according to the latest housing market study. He reminded the Commission that at its October 3, 2013, meeting, the City Council asked the Commission to consider a couple of code amendments to help deal with unsafe rental properties and make rental compliance more likely, but Commission has not done so to date. No hearings have been held in the three areas deemed to have largest number of problem rental properties. He asks Commission to consider expansion so that smaller panels could meet in neighborhoods with the most problems and also to support expedited permits that are currently prohibited by a local amendment.

2. APPROVAL OF MINUTES

Motion was made by Commissioner Cloutman to approve the minutes of the July 23, 2014 BSC meeting. Commissioner Kaplowitz seconded. Motion was approved.

3. PUBLIC HEARINGS

- i. 1512 Wheless Lane; DeLoach Property Interest Inc.
CL #2014-084269

Property was represented by Mark DeLoach. Staff was represented by Code Inspector Hilda Martinez.

1512 Wheless Lane is a 32-unit multifamily structure built in 1972, called Wheless Manor Apartments; legal description is Lot 2 less S10ft Herring Patrick Subdivision. Structure was damaged by fire on March 8, 2014. Eight units were affected and vacated. After the Fire Department's investigation, an additional 15 units were vacated due to compromised egress. Code Compliance first received complaint regarding the property on March 27, 2014. Code Officer Hilda Martinez was assigned to this case.

The City of Austin Code Department found that this property is in violation of the International Property Maintenance Code adopted by reference in Sections 25-12-211 through 25-12-213 Austin City Code and is therefore a public nuisance with dangerous and substandard conditions.

Staff recommended the following to the Commission: that the Commission admit Exhibit 1 and the photographs marked 2A through 2S, adopt the Findings of Fact and Conclusions of Law for the property, and issue an order that would require the property owner or owner's representative to: 1, obtain and secure all necessary permits; 2, repair the property within 45 days from the date the order is mailed to the owner; 3, require all repairs or modifications to meet or exceed the requirements of all applicable codes; 4, require units 105 through 112, units 201 through 214, and unit 216 to remain vacant until compliance is achieved; 5, request inspections to verify compliance; and, 6, be assessed a penalty of \$1000 per week, after 45 days, if all work is not completed and final inspections passed.

Vice Chair Brown admitted Exhibit 1 and photographs 2A through 2S. He then invited Mark DeLoach to give testimony.

Mr. DeLoach stated they agree with the conclusions drawn by staff. He said even if this project would have been started on the day of the fire, there's no way it could be completed 45 days from now. He says it's a year-long project, and they're waiting on their insurance carrier, which he says is Hartford and Lloyd's, who are notorious for slow payments. They retained an adjusting company promptly after the fire; it was 90 days after the fire before the adjusters walked the property. It was June 8 before insurance company sent people out to look at property, and their estimate at that time was for 50.33 percent of damage.

Vice Chair Brown asked Mr. DeLoach what he would suggest for time limit. Mr. DeLoach estimates there is six to eight months of construction if there are no holdups. Every construction consultant they have has said this will be a year-long project from the time of starting.

Patricia Link, the City's Asst. City Attorney, told Commissioners they can exceed 91-plus days if the property owner proves the scope and complexity of the required work cannot be reasonably completed within 90 days; that would require evidence of a detailed plan and the time schedule for work. Regular reporting to staff is required to show compliance with established schedule and plan. Commission could put item in abeyance till plan is presented at next meeting.

Mr. DeLoach provided a copy of a construction schedule drawn up by the construction consultant retained by the insurance company; it's eight months. He says they do plan on rebuilding; they have replacement-value insurance. He also provided a copy of the insurance

policy and an estimate from his adjuster. He says the fire was a grease fire caused by a tenant; and has had no code violations in the 20 years, that he knows of. He has been manager during those 20 years. There are eight tenants left in the units that are unaffected.

Code Inspector Martinez stated that Mr. DeLoach has been responsive to requests made by Code Compliance to keep damaged units boarded as best he can. Mr. DeLoach states there's a night watchman on site.

Commissioner Cloutman asked why this property has come before the Commission. Inspector Martinez said it's because no permits have been obtained, nor did they have any of the information Mr. DeLoach has provided today.

Vice Chair Brown admitted the respondent's exhibits 1 through 4, documents provided by Mr. DeLoach. With no further questions from the commissioner members, Vice Chair Brown called for a motion; public comment was closed. Commissioner Cloutman made a motion that the case be put in abeyance for 90 days, with a report due at the December meeting; at which time the Commission would require evidence of a detailed plan and time schedule for work; the owner should be prepared to provide the Commission with regular reporting after that time; and the property shall remain secured. Commissioner Kaplowitz seconded. With no questions on the motion, the motion passed.

ii. 2314 (aka 2310) Wickersham Lane, Bldg 20; Wickersham Greens, LLC
CL # 2014-050374

The property was represented by Chris Malish, of Malish & Cowan and Jason Berkowitz of Roscoe Properties. Mr. Malish represents the current owner and Berkowitz's company is a prospective buyer of the property. Also with them was Veronica Martinez, manager of the property. Code Officer Alicia Tovar is the investigator assigned to the case.

The legal description for 2314 Wickersham Lane is Lot 1 Chevy Chase, South PHS 2. It is a 190-unit apartment complex, built in 1973. The case deals with a neglected and deteriorated building that holds 10 units. Units 2000 and 2001 are currently vacant. The case was opened in 2013 and transferred to the current investigator in January 2014.

The Austin Code Department found that this multifamily structure is in violation of the International Property Maintenance Code adopted by reference in Sections 25-12-211 through 25-12-213 Austin City Code and is therefore a public nuisance with dangerous and substandard conditions.

Staff recommended that the Commission admit Exhibit 1 and the photographs marked 2A through 2Y; adopt the Findings of Fact and Conclusions of Law for the property; issue an order that would require the property owner or owner's representative to: obtain and secure all necessary permits; repair the property within 30 days from the date the order is mailed to the owner; submit an engineer's report to staff; require all repairs or modifications to meet or exceed the requirements of all applicable codes; require units 2000 and 2001 of Building 20 to remain vacant until compliance is achieved; request inspection to verify compliance; and be assessed a penalty of \$1000 per week, after 30 days, if all work is not completed and final inspections passed.

Upon questioning, Officer Tovar said six more units of Building 20 could also be affected but not as seriously as 2000 and 2001. The landing and stairs for the whole building are affected.

Vice Chair Brown admitted Exhibit 1 and photographs 2A through 2Y without objection. He then invited testimony from the property representatives.

Chris Malish apologized that he was retained for the case only a couple of days before the Commission meeting. The current owner is in California, which is why Malish & Cowan was retained. The property owner does not have the money to repair all the problems on the property; that is why they have not been addressed before. The owner entered into a contract around August 12, 2014 to sell to Mr. Berkowitz's company, Roscoe Properties.

Per Mr. Berkowitz, Roscoe Properties is aware of the problems and intends to correct them as well as do much broader renovations for the entire complex. Closing would likely take place approximately 60 days from date of contract. Things can be fixed, but more time is needed. Mr. Malish said assessments from civil and structural engineers indicate there is no threat of imminent harm.

Mr. Malish would request 120 days in order to get new owners on board, get permitting, and get repairs under way and done. Mr. Berkowitz said they do have a very detailed scope. They're already spending money on engineering and design work for the wall so they can get permitting right away. They'll be replacing brick facing with HardiePlank. The slabs are designed to move a little, but brick isn't. Roscoe Properties is familiar with the expansive clays of this area.

Commissioner Gonzalez made a motion that both 2314 Wickersham items be placed in abeyance until the October Commission meeting, with units 2000 and 2001 remain vacant. Seconded by Commissioner Cloutman. Vice Chair Brown called the question, and the motion was approved.

- iii. 2314 (aka 2310) Wickersham Lane, Bldg 20; Wickersham Greens, LL
CL # 2014-050725 (retaining wall)

The property was represented by Chris Malish, of Malish & Cowan. With him was Jason Berkowitz, with Roscoe Properties, prospective buyer of the property. Also with them was Veronica Martinez, manager of the property. Staff was represented by Code Officer Alicia Tovar.

The legal description for 2314 Wickersham Lane is Lot 1 Chevy Chase, South PHS 2. It is a 190-unit apartment complex, built in 1973. The case was opened on March 28, 2014.

The City of Austin Code Department found that this multifamily structure is in violation of the International Property Maintenance Code adopted by reference in Sections 25-12-211 through 25-12-213 Austin City Code and is therefore a public nuisance with dangerous and substandard conditions.

Staff recommended the following to the Commission: that the Commission admit Exhibit 1 and the photographs marked 2A through 2O; adopt the Findings of Fact and Conclusions of Law for the property; and issue an order that would require the property owner or owner's representative to: 1, obtain and secure all necessary permits; 2, repair the property within 30 days from the date the order is mailed to the owner; 3, submit an engineer's report to staff; 4, require all repairs or modifications to meet or exceed the requirements of all applicable codes; 5, require units 2000 and 2001 of Building 20 to remain vacant until compliance is achieved; 6, request inspection to verify compliance; and, 6, be assessed a penalty of \$1000 per week, after 30 days, if all work is not completed and final inspections passed.

Vice Chair Brown admitted Exhibit 1 and photographs 2A through 2O without objection. Commissioner Kaplowitz asked why units 2000 and 2001 are in the order if this is about the retaining wall. Mr. Moore responded that those units sit in front of the most dangerous part of the wall.

Commissioner Cloutman asked why are the two Wickersham issues not being taken together. Officer Tovar responded that the complaint was first made for Building 20; then they found the problem with the retaining wall. Mr. Moore said the cases were just presented as two separate cases, but that the order should be the same for both, so they could be considered together. Commissioner Cloutman made a motion that the two cases be combined, without objection from staff. The motion was seconded and approved.

- iv. 11311 Walnut Ridge Drive; Richard Cogbill
CL # 2014-084384

This case was withdrawn by staff.

4. OLD BUSINESS: BRIEFING, DISCUSSION, AND POSSIBLE ACTION

- A. Austin Code Department's Emergency Tenant Relocation Plan – Alanna Reed was available to answer questions regarding the presentation made at the July Commission meeting. Ms. Reed gave a brief summary of the July presentation because several Commissioners present today were not present then. It is hoped to get the plan before the City Council in October. Building and Standards Commission is the last group to provide comments on the plan. When asked what is the number threshold that triggers the plan, Ms. Reed said the executive team would have to determine those parameters; it hasn't been defined yet. A vote from the Commission is not needed; just their support. Commissioner Gonzalez would feel better about support if the threshold was defined.

Stuart Harry Hersh has met with Ms. Reed and provided written comment. He has been working on a test case as part of Travis-Austin Recovery Group (TARG) in Southeast Austin with rental flood victims as well as homeowners. He pointed out the need to take into account single-family renters as well as multifamily. He suggested that utility customers could give their electronic contact information to Austin Energy so that rapid communication could be conveyed to citizens in the event of an emergency, as it does on The University campus. Vice Chair Brown assured Mr. Hersh that this Commission is listening. Commissioners asked if the plan will consider assistance to homeowners as well as renters in case of an event like the Onion Creek flood. There is not an answer to that question yet. The

consensus of commissioners is to wait till September to take a vote on the plan.

- B. Commission's Annual Retreat Dates and Agenda Topics: Reminder that retreat will take place on Thursday, October 2, 2014, from 11:00 to 4:00 p.m. Lunch will be served. Location will be 1520 Rutherford Lane, in the Training Room. Suggested agenda items: two-panel Commission, discussion of Emergency Tenant Relocation Plan, annual internal review; suggestions as to information presented in readers for code cases; consideration of internal processes and communications.

5. NEW BUSINESS:

- A. Staff Presentation – Recognition of Commission Member Stacy Kaplowitz, a plaque from the Austin Code Department in gratitude for her dedicated service as a BSC Commissioner; she was also presented a coin, given to anyone who has advanced the quality of life in the community.

6. FUTURE AGENDA ITEMS:

- A. Discussed under 4.B.

ADJOURNMENT

With motion made by Commissioner Gonzalez; seconded by Commissioner Alloway, and no dissent, the Commission meeting was adjourned by the Vice Chair at 8:20 p.m.