



ALMANZA, BLACKBURN & DICKIE LLP
—ATTORNEYS AND COUNSELORS AT LAW—

2301 S. Capital of Texas Highway,
Bldg. H, Austin, TX 78746
T: (512) 474 9486
F: (512) 478 7151
W: www.abdlawfirm.com

May 6, 2015

Via Email: tony.hernandez@austintexas.gov

Tony Hernandez
Development Services Department
City of Austin
505 Barton Springs Road, Suite 300
Austin, Texas 78704

Via Email: carl.wren@austintexas.gov

Carl Wren
Assistant Director for Plan Review and Inspections/
Building Official City of Austin
Development Services Department
City of Austin
505 Barton Springs Road, Suite 300
Austin, Texas 78704

Subject: 3100 Highland Terrace W, Austin, Texas 78731-5321

Property Owner: Dallas Thompson

COA Permits: 2014-132111PR, 2015-004322BP, 2015-004322DS,
2015-004322DS, 2015-004322EP

Dear Mr. Hernandez and Mr. Wren:

I recently reviewed the Staff Report for 3100 W. Highland Terrace which appears to have been prepared for the appeal to the City Council that is scheduled for Thursday, May 7, 2015 at 4:00 p.m. I was disappointed to see that the Staff Report contains several significant errors. It is important that these errors are corrected so that the City Council members and their staff are provided accurate information and can make an informed decision regarding this matter.

The following are the errors that it is important to correct:

1. The "History" section failed to note that on February 9, 2015, Mr. Thompson submitted a revised permit application that was prepared by Mr. Thompson's architect, David Shrum. The City staff determined the revised permit application was a "major revision" to the plans. Specifically, the revised plans included a breezeway to

attach the garage. As you know, on January 5, 2015, Mr. Thompson had previously withdrawn the plans for the covered breezeway.

2. The “History” section failed to note that on February 23, 2015, my clients submitted an updated appeal to address Mr. Thompson’s revised permit application.

3. The section entitled “Additional Information to the Staff Report” states:

As per the conditional decision rendered by the BFC Board on February 25, 2015, the *engineer of record* has substantiated the load bearing capabilities of the foundation that supports the accessory structure/garage. In addition, the aesthetic and architectural changes proposed to the original metal building which serve as the garage structure have been determined to have no negative affect on its structural integrity.

First, as will be discussed below, the above statement does *not* reflect the ruling of the BFC Board. Second, this statement addresses the specific objection raised by my client to the BFC Board concerning Mr. Thompson’s failure to comply with Section 25-12-3 of the Land Development Code and the City’s failure to require that Mr. Thompson comply with that section. As you will recall, Section 25-12-3 requires the following inspections with respect to the foundation:

1. Section 110.3.1 requires a pre-construction inspection between the inspector, general contractor and/or owner.

2. Section 110.3.1.2 requires a layout inspection after all foundation forms have been erected and are in place, but before any concrete is placed.

3. Section 110.3.1.3 requires a footing and foundation inspection be performed after excavations for footings have been completed and after any required reinforcing steel is in place. Additionally, for concrete foundations, any required forms must be in place and the materials for the foundation shall be on the job.

As you also know, it is undisputed that Mr. Thompson did not comply with the requirements of Section 25-12-3 because he elected to construct the structure before obtaining any permits and without any inspections by the City. Mr. Thompson’s failure to comply with Section 25-12-3 is significant because it demonstrates that the decision by the BFC Board was in error. Pursuant to Section 2-1-121(D) of the Land Development Code the BFC Board “may not waive a Code requirement.” The decision to deny my client’s appeal in the face of undisputed violations of the Section 25-12-3 constitute an impermissible waiver of Section 25-12-3 by the BFC Board.

Moreover, the violation of Section 25-12-3 was of significant concern to the BFC Board because its ruling stated:

...the Board made a motion to Deny the appeal with the understanding that the Stop Work Order remain in effect, with no work allowed to proceed, ***until the Building Official has reviewed the structural design and any other permit application questions that may arise during his review...***

A copy of the BFC Board's ruling is enclosed herein for your review.

As Mr. Wren knows, I asked to be kept updated on his review of the structural designs. On April 14, 2015, I inquired on the status of Mr. Wren's investigation and his requests for documentation from Mr. Thompson. Mr. Wren stated:

I have received some additional information but not everything I have asked for. ***I am waiting until after the hearing before Council to act on what I have or to actively pursue more information. It serves no purpose to accept or reject additional information if Council requires the building to be torn down.***

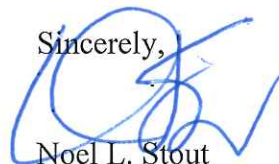
A copy of Mr. Wren's email is also enclosed herein for your review.

As you can see from the BFC Board's ruling, the conditional decision rendered by the BFC Board was based on the investigation by Mr. Wren, not "the engineer of record." Additionally, Mr. Wren has already confirmed that he has not received all of the information he requested from Mr. Thompson and, even if he had received the information, Mr. Wren's investigation has been on hold pending the outcome of the appeal to the City Council. Lastly, the safety specifications for Mr. Thompson's structure (which are enclosed herein) state that "no changes should be made to this building system unless approved in writing by the manufacturer's engineers. Unapproved changes could result in unsafe building design and could endanger public safety." As indicated in the Staff Report, neither City nor Mr. Thompson has received approval from the manufacturer of the structure to make the changes that Mr. Thompson has made and is proposing to make.

It is clear that statements included in the section "Additional Information to the Staff Report" are inaccurate and should be revised so the correct information is provided to the Council members. When these matters are corrected, please provide me with a corrected version of the Staff Report.

Thank you for your attention to this matter.

Sincerely,



Noel L. Stout

cc: Colin Newberry (via email)

David V. Shrum

Architect
702-B W. 34th Street
Austin, Texas 78705
davidshrum1@gmail.com

January 5, 2015

John Richards, Case Manager
Residential Plan Review Dept. - City of Austin
505 Barton Springs Rd, Austin, TX 78704

Re: 3100 W. Highland Terrace, 2014-132111 PR

John,

In response to the comments concerning this permit application, I have revised the plans and provided the required number of copies.

Most notable is that the owner has decided to remove the planned covered Breezeway that was on the previous plans that we submitted. By doing so, I believe we have solved all the issues raised by Beth Culver. I spoke to Beth by phone to confirm this.

For Renee Johns, I have revised the Site/Plot Plan to correct the scale and remove the second driveway.

I understand that by detaching the garage this also alleviated the concerns of the Fire Department Review.

Lastly, the Owner has met on site with the Tree Ordinance representative and has an understanding of what is required.

Thanks for your assistance with this Permit Application.

Best Regards,



David V. Shrum, Architect
Tx Reg. # 6589

Office Phone/Fax 512 328-3838

Cell 512 496-6808

davidshrum1@gmail.com



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

February 25, 2015

Highland Terrace Preservation Group (HTPG)
C/O J. Cecil Ruby, III
4715 Highland Terrace
Austin, TX 78731

Re: Appeal of Administrative Decision related to the structure known as 3100 Highland Terrace West, for Building Permit # 2015-004322 BP.

Dear HTPG:

The Building and Fire Code Board of Appeals (Board) conducted a Public Hearing held on February 25, 2015, to hear your appeal of the issuance of a building permit issued January 15, 2015.

Based on the evidence presented and the merits of the case, the Board made a motion to Deny the appeal with the understanding that the Stop Work Order remain in effect, with no work allowed to proceed, until the Building Official has reviewed the structural design and any other permit application questions that may arise during this review and decides it complies with the residential code, Board Member Schumann second the motion for a 6-0 vote.

Sincerely,

Alan Schumann, Chair
Building and Fire Code Board of Appeals

cc: Board Members, Building and Fire Code Board of Appeals
Carl Wren, Building Official, Assistant Director, Planning & Development Review Dept.
Jose Roig, Building Inspection Division Manager
Tony Hernandez, Program Manager, Building Inspections
Brent Lloyd, Assistant City Attorney
Sam Haddads, representing HTPG
Noel Stout, representing HTPG
Terry Irion, representing Dallas Thompson, Homeowner
Colin Newberry, representing Dallas Thompson, Homeowner

Noel Stout

From: Wren, Carl <Carl.Wren@austintexas.gov>
Sent: Tuesday, April 14, 2015 5:02 PM
To: Noel Stout
Cc: Colin Newberry
Subject: RE: 3100 Highland Terrace Review

I have received some additional information but not everything I have asked for. I am waiting until after the hearing before Council to act on what I have or to actively pursue more information. It serves no purpose to accept or reject additional information if Council requires the building to be torn down.

Carl Wren

Sent via the Samsung Galaxy Alpha™, an AT&T 4G LTE smartphone

----- Original message -----

From: Noel Stout <[REDACTED]>
Date: 04/14/2015 2:55 PM (GMT-06:00)
To: "Wren, Carl" <Carl.Wren@austintexas.gov>
Cc: Colin Newberry <[REDACTED]>
Subject: RE: 3100 Highland Terrace Review

Carl -

What is the status of your investigation regarding Mr. Thompson's structure? Based on the email below, you required additional documentation from the structural engineer for Metal Building Depot. Additional, it is my understanding that you were requiring forensic evidence regarding the structure's foundation. Did you ever receive that information?

Based on our previous discussions and my client's status an interested party under the local ordinances, it was my understanding that we going to be kept in the loop on these issues.

Thanks, Noel

-----Original Message-----

From: Wren, Carl [mailto:Carl.Wren@austintexas.gov]
Sent: Thursday, March 12, 2015 9:16 AM
To: David Shrum
Cc: Noel Stout; Colin Newberry; Eli Cash
Subject: RE: 3100 Highland Terrace Review

Mr. Shrum,

Do you have documentation from the structural engineer for Metal Building Depot that the addition of the stone, siding boards and new roof are compatible with the design of the metal structure and acceptable to manufacturer's engineer? Please see the notes on sheet CS-1 of the Metal Building Depot drawings.

Carl D. Wren, P.E.

Assistant Director for Plan Review and Inspections / Building Official City of Austin, Planning and Development Review Department
505 Barton Springs RD

WE HAVE A COMMITMENT TO MANUFACTURE QUALITY BUILDINGS THAT CAN BE SAFELY ERECTED. HOWEVER, THE SAFETY COMMITMENT AND JOB SITE PRACTICES OF THE ERECTOR ARE BEYOND OUR CONTROL. IT IS STRONGLY RECOMMENDED THAT SAFE WORKING CONDITIONS AND ACCIDENT PREVENTION PRACTICES ARE THE TOP PRIORITY OF ANY JOB SITE. LOCAL, STATE, AND FEDERAL SAFETY AND HEALTH STANDARDS SHOULD ALWAYS BE FOLLOWED TO HELP INSURE WORKERS' SAFETY. MAKE CERTAIN ALL EMPLOYEES KNOW THE SAFEST AND MOST PRODUCTIVE WAY OF ERECTING A BUILDING. ALL EMPLOYEES SHOULD KNOW EMERGENCY PROCEDURES. DAILY MEETINGS HIGHLIGHTING SAFETY PROCEDURES ARE ALSO RECOMMENDED. THE USE OF HARD HATS, RUBBER SOLE SHOES FOR ROOF WORK, PROPER EQUIPMENT FOR HANDLING MATERIAL, AND SAFETY NETS WHERE APPLICABLE, ARE RECOMMENDED.

SAFETY COMMITMENT
MFG HAS A COMMITMENT TO MANUFACTURE QUALITY BUILDINGS THAT CAN BE SAFELY ERECTED. HOWEVER, THE SAFETY COMMITMENT AND JOB SITE PRACTICES OF THE ERECTOR ARE BEYOND THE CONTROL OF MFG. IT IS STRONGLY RECOMMENDED THAT SAFE WORKING CONDITIONS AND ACCIDENT PREVENTION PRACTICES ARE THE TOP PRIORITY OF ANY JOB SITE. LOCAL, STATE, AND FEDERAL SAFETY AND HEALTH STANDARDS SHOULD ALWAYS BE FOLLOWED TO HELP INSURE THE SAFETY OF ALL WORKERS. CERTAIN ALL EMPLOYERS KNOW THE SAFEST AND MOST EFFECTIVE WAY TO PREVENT ACCIDENTS IS TO EMPLOY THE MOST QUALIFIED PERSONNEL AVAILABLE. DAILY MEETINGS HIGHLIGHTING SAFETY PROCEDURES ARE ALSO RECOMMENDED. THE USE OF HARD HATS, RUBBER SOLE SHOES FOR ROOF WORK, PROPER EQUIPMENT FOR HANDLING MATERIAL, AND SAFETY NETS WHERE APPLICABLE, ARE RECOMMENDED.

NOTES: APPLIES TO ALL ELEVATIONS.
1. DOES NOT CUT, REMOVE OR RELOCATE GIRTS OR X-BRACING. NO ADDITIONAL OPENINGS ALLOWED WITHOUT WRITTEN APPROVAL FROM THE STEEL BUILDING MANUFACTURER.
2. HARDWARE SUCH AS WINDOWS, OVERHEAD DOORS, AND ASSOCIATED ATTACHMENTS THAT ARE AND ASSOCIATED ATTACHMENTS THAT ARE SUPPLIED BY OTHERS MUST HAVE THE SAME LEVEL OF WIND RESISTANCE AS WALL PANELS.
3. WORKERS SHALL NOT HAVE THEIR WEIGHT ON FRAMES OR INDIVIDUAL COLUMNS UNTIL THEY HAVE BEEN SECURED WITH GIRTS AND CROSS BRACING.

BUILDERS RESPONSIBILITY. THE BUYER MUST SECURE ALL REQUIRED APPROVALS AND PERMITS FROM THE APPROPRIATE AGENCY AS REQUIRED. APPROVAL OF MFG DRAWINGS AND CALCULATIONS INDICATES THAT MFG HAS CORRECTLY INTERPRETED AND APPLIED THE REQUIREMENTS OF THE CONTRACT DRAWINGS AND SPECIFICATIONS. (SEE: 4.2.1 ABC CODE OF STANDARD PRACTICE, 9TH EDITION) PLANS OF OTHER TRADES, SUCH AS ELECTRICAL, PLUMBING, MECHANICAL, AND STRUCTURAL STEEL, SHALL BE THE BUYER'S RESPONSIBILITY. DESIGN CONSIDERATIONS OF ABC CODE OF STANDARD PRACTICE, 9TH EDITION, SHALL BE THE BUYER'S RESPONSIBILITY. THE BUYER AND ENGINEERS ARE NOT FURNISHED BY MFG ARE THE RESPONSIBILITY OF THE BUYER AND ENGINEERS OTHER THAN MFG ENGINEERING CONSULTING SERVICES. THE BUYER/END USER CUSTOMER IS RESPONSIBLE FOR ALL SPECIFICATIONS AND ASSOCIATED WORK IN COMPLIANCE WITH MFG CONSTRUCTION DRAWINGS.

MFG'S STANDARD PRODUCT SPECIFICATIONS APPLY AND UNLESS STIPULATED OTHERWISE IN THE CONTRACT DOCUMENTS, MFG'S DESIGN, FABRICATION, QUALITY CRITERIA STANDARDS AND TOLERANCES WILL GOVERN THE WORK. IN CASE OF DISCREPANCIES BETWEEN MFG'S STRUCTURAL PLANS AND PLANS FOR OTHER TRADES MFG'S PLANS SHALL GOVERN.

IT IS THE RESPONSIBILITY OF THE BUYER/END USER CUSTOMER TO OBTAIN APPROPRIATE APPROVALS AND NECESSARY PERMITS FROM CITY, COUNTY, STATE, OR FEDERAL AGENCIES, AS REQUIRED. APPROVAL OF METAL MFG'S DRAWINGS CONSTITUTES THE BUYER/END USER CUSTOMER'S ACCEPTANCE OF MFG'S INTERPRETATION OF THE CONTRACT PURCHASE ORDER.

ONCE THE BUYER/END USER CUSTOMER OR AIE FIRM HAS SIGNED MFG'S APPROVAL PACKAGE, CHANGES FROM THE PURCHASE ORDER BY THE BUYER WILL BE BILLED TO THE BUYER/END USER CUSTOMER FOR MATERIAL, ENGINEERING AND HANDLING FEES. SUCH CHANGES MAY CAUSE THE PROJECT TO BE MOVED FROM THE FABRICATION AND/OR SHIPPING SCHEDULE. A PENALTY FEE MAY BE CHARGED IF THE PROJECT MUST BE MOVED FROM THE FABRICATION AND/OR SHIPPING SCHEDULE.

THE BUYER/END USER CUSTOMER OR A/E FIRM IS RESPONSIBLE FOR THE OVERALL PROJECT CONDITION, ALL INTERFACE AND COMPATIBILITY CONCERNING ANY MATERIALS NOT FURNISHED BY MFG ARE TO BE CONSIDERED AND COORDINATED BY THE BUYER/END USER CUSTOMER OR A/E FIRM. MFG ASSUMPTIONS SHALL ALWAYS GOVERN.

THE BUYER/END USER CUSTOMER IS RESPONSIBLE TO INSURE THAT ALL OTHER PROJECT PLANS AND SPECIFICATIONS COMPLY WITH THE APPLICABLE REQUIREMENTS OF ANY GOVERNING BUILDING AUTHORITY. SUPPLYING DRAWINGS BY MFS DOES NOT IMPLY OR CONSTITUTE AN AGREEMENT THAT MFS OR ITS DESIGN ENGINEER IS ACTING AS THE ENGINEER OF RECORD OR DESIGN PROFESSIONAL FOR THE CONSTRUCTION PROJECT. THESE DRAWINGS AND DESIGN DATA ARE FURNISHED BY MFS IN COMPLIANCE WITH ALL REQUIREMENTS OF THE PURCHASE ORDER.

THE BUYER/USER/CUSTOMER IS RESPONSIBLE FOR SETTING OF ANCHOR BOLTS AND ERECTION OF STEEL BUILDING COMPONENTS IN ACCORDANCE WITH WFS "FOR CONSTRUCTION" DRAWINGS. TEMPORARY SUPPORTS OR BRACING REQUIRED FOR THE BUILDING ERECTION WILL BE THE RESPONSIBILITY OF THE ERECTOR TO DETERMINE. FURNISH AND INSTALL WFS DOES NOT WARRANT STRUCTURAL INTEGRITY OF ANY COMPONENTS NOT QUOTED OR DESIGNED AND FABRICATED BY WFS. THE BUYER/USER/CUSTOMER SHALL BE RESPONSIBLE FOR THE SYSTEM IN NON-STANDARD COMPONENTS DESIGNED BY OTHERS MAY HAVE ON THE SYSTEM IN GENERAL.

PRIMER

SHOP PRIMER PAINT IS A RUST INHIBITIVE PRIMER, WHICH MEETS THE END PERFORMANCE OF FEDERAL SPECIFICATION TT-P-938 AND IS MFG RED OXIDE TYPE. IT IS NOT RESPONSIBLE FOR ANY DETERIORATION OF THE ELEMENTS. MFG IS NOT RESPONSIBLE FOR ANY DETERIORATION OF THE SHOP PRIMER PAINT AS A RESULT OF MICROPORE HANDLING AND/OR STORAGE. SHOP SHALL NOT BE RESPONSIBLE FOR ANY FIELD APPLIED PAINT AND/OR COATINGS. (SECTION 06 40 00 - PAINTS AND RELATED MATERIALS PART 1) (SEE STANDARD PRACTICES 9TH EDITION) (SEE CONTRACT DOCUMENTS). THERE SHALL BE 1 MIL UNLESS OTHERWISE SPECIFIED IN CONTRACT DOCUMENTS.

ALL BOLTS ARE 0" 1-1/2" DIA. X 0-1" A307 EXCEPT.

A) EAVE STRUT CONNECTION - 1/2" X 0'-1-1/2" A307
B) END WALL RAFTER SPLICE - 5/8" X 0'-1-3/4" A325-N
C) END WALL COL/RAFT. CONNECTION - 1/2" X 0' - 1-1/4" A325N
D) MAIN FRAME CONNECTIONS - SEE CROSS SECTION

A325 BOLT TIGHTENING REQUIREMENTS
ALL HIGH STRENGTH BOLTS ARE A325-N UNLESS NOTED OTHERWISE.
C) END WALL COL/LAP 1" CONNECTION - 5/12" X 0" - 1-1/4" A325N
D) MAIN FRAME CONNECTIONS - SEE CROSS SECTION

IN ACCORDANCE WITH THE 9TH EDITION AISC "SPECIFICATION FOR STRUCTURAL JOINTS" USING ASTM A 325 OR A 490 BOLTS, WHEN SPECIFICALLY REQUIRED. A325-N BOLTS ARE SUPPLIED WITHOUT WASHER UNLESS NOTED ON THE DRAWINGS AS PROVIDED BY MFG

ALL BOLTED CONNECTIONS UNLESS NOTED ARE DESIGNED AS BEARING TYPE CONNECTIONS WITH THREADS NOT EXCLUDED FROM THE SHEAR PLANE

CLOSEURE STRIPS WITH THREADS NOT EXCLUDED FROM THE SHEAR PLANE.

INSIDE - UNDER ROOF PANELS AT EAVE
OUTSIDE - BETWEEN END WALL PANELS AND RAKE TRIM
UNDER CONTINUOUS RIDGE VENT SKIRTS

ERECTION NOTE:

ALL BRACING, STRAPPING, & BRIDGING SHOWN AND PROVIDED BY MFG FOR THIS BUILDING IS REQUIRED AND SHALL BE INSTALLED BY THE ERECTOR AS A PERMANENT PART OF THE STRUCTURE. IF ADDITIONAL BRACING IS REQUIRED FOR THE BUILDING, THE ERECTOR SHALL BE RESPONSIBLE FOR THE DESIGN, RESPONSIBILITY TO DETERMINE THE AMOUNT OF SUCH BRACING AND TO PROVIDE AND INSTALL AS NEEDED.

ERECTION AND UNLOADING NOT BY MFG

(7) DAYS AFTER DELIVERY, OR SUCH CLAIMS SHALL BE CONSIDERED WAIVED BY THE CUSTOMER AND DISALLOWED.

REASONABLE INSPECTION OF SUCH MISFITS, THE CORRECTION OF MINOR MISFITS BY THE USE OF DRIFT PINS TO DRAW THE COMPONENTS INTO LINE, MODERATE AMOUNTS OF REAMING, CHIPPING, SHIMMING AND CUTTING, AND THE REPLACEMENT OF MINOR SHORTAGES OF MATERIAL ARE A NORMAL PART OF REECTION AND ARE NOT SUBJECT TO CLAIM. NO PART OF THE BUILDING MAY BE RETURNED FOR ALLEGED MISFITS WITHOUT THE PRIOR APPROVAL OF MFG.

THE STRUCTURE UNDER THIS CONTRACT HAS BEEN DESIGNED AND DETAILED FOR THE LOADS AND CONDITIONS STIPULATED IN THE CONTRACT AND SHOWN ON THESE DRAWINGS. ANY ALTERATIONS TO THE STRUCTURAL SYSTEM OR REMOVAL OF ANY COMPONENT PARTS OR THE ADDITION OF OTHER CONSTRUCTION MATERIALS OR LOADS MUST BE DONE UNDER THE ADVICE OF A REGISTERED ARCHITECT, CIVIL OR STRUCTURAL ENGINEER. MFG WILL NOT ASSUME RESPONSIBILITY FOR ANY LOADS NOT INDICATED.

A REGISTERED ARCHITECT, CIVIL OR STRUCTURAL ENGINEER, MPE WILL NOT ASSUME RESPONSIBILITY FOR ANY LOADS NOT INDICATED.

WARNING
INSTALL THIS BUILDING AND ALL ITS PARTS PER THESE DRAWINGS. NO CHANGES SHOULD BE MADE TO THIS BUILDING. SYSTEM UNLESS APPROVED IN WRITING BY THE MANUFACTURER'S ENGINEERS. UNAPPROVED CHANGES COULD RESULT IN UNSAFE BUILDING DESIGN AND COULD ENDANGER PUBLIC SAFETY.

IN NO CASE SHOULD GALVALUME STEEL PANELS BE USED IN CONJUNCTION WITH LEAD OR COPPER. BOTH LEAD AND COPPER HAVE HARMFUL CORROSIVE EFFECTS ON THE GALVALUME ALLOY COATING WHEN THEY ARE IN CONTACT WITH GALVALUME STEEL PANELS. EVEN RUN-OFF FROM COPPER FLASHING, WIRING, OR TUBING ONTO GALVALUME SHOULD BE AVOIDED.

