

Notice of Appeal

(a) The name of the person(s) filing the appeal:

Mr. Cecil Ruby ("Appellant")
4713 Highland Terrace
Austin, Texas 78763

(b) A background of the case and a summary of the decision from which the appeal is taken:

On or about July 2014, Dallas Thompson ("Thompson"), owner of the property at 3100 Highland Terrace W, Austin, Texas 78731 (the "Property"), ordered a pre-fabricated metal barn/warehouse from ICON Building Systems (www.MetalBuildingDepot.com). In September of 2014, before applying for building permits, Thompson poured a slab foundation (approximately 24 feet by 30 feet) behind his property's wooden fence. In October 2014, Thompson assembled the pre-fabricated industrial/warehouse structure (the "Structure") on his property, without first obtaining the necessary City of Austin ("COA") permits. A number of neighbors called "311" COA code enforcement and other neighbors sent e-mails to the City. Since the time the pre-fabricated metal barn/warehouse was assembled in October 2014, a group of more than 20 neighbors, have worked together to insure the COA was aware of the violations at the Property.

On February 25, 2015, the Building and Fire Code Board of Appeals ("Board") conducted a public hearing. The Board determined that Thompson failed to comply with the requirements contained in Section 25-12-3 of the Land Development Code. Specifically, Section 25-12-3 requires the following inspections with respect to foundations:

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.

The Board determined that since Thompson built the Structure before applying for a building permit, the required inspections of the Structure and foundation for the Structure did not occur. Additionally, the COA Building Official, Carl Wren, acknowledged that as of the date of the hearing, the COA had not inspected the Structure or the foundation for the Structure.

Although the Board determined that the above-referenced violations of Section 25-12-3 occurred, the Board denied Appellant's appeal. On February 26, 2015, the Board issued a decision stating that Appellant's appeal was denied "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."

To date, the Building Official is still investigating the Structure and the Structure's foundation and has not rendered any determination. Accordingly, this Notice of Appeal is preliminary and Appellant reserves the right to amend or supplement the Notice of Appeal once the Building Official renders his determination.

(c) a statement containing facts which show, beyond a reasonable doubt, that the decision appealed from was incorrect because of its inconsistency or conflict with city ordinance or state law, or that a finding of fact by the board was clearly contrary to the evidence before the board:

Section 2-1-121(D) of the Land Development Code states that the Board "may not waive a Code requirement." The Board acknowledged during its questioning of the parties and during its public deliberations that Thompson failed to comply with the technical requirements of Section 25-12-3 because the Structure and foundation for the Structure did not undergo the required inspections. Additionally, Thompson's violations of Section 25-12-3 are undisputed. Therefore, the decision to deny Appellant'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 Board. Accordingly, the City Council should overturn the Board's decision and uphold Appellant's appeal.

(d) the relief requested from the city council.

Appellants pray that the City of Austin Council find that the Board erred by denying Appellant's appeal because it waived the Code requirements contained in Sections 25-12-3 of the Land Development Code. Therefore, Appellants request that Thompson's building permit be revoked.