



**BUILDING AND STANDARDS COMMISSION
MINUTES
PANEL 1**

**REGULAR MEETING
Date: July 27, 2016**

The Building and Standards Commission (BSC) convened for a regular meeting on Wednesday, July 27, 2016 at City Hall, Boards and Commission Room, Room 1101, 301 West 2nd Street, Austin, Texas.

Commission Members in Attendance:

Charles Cloutman, Chair; Jessica Mangrum, Vice Chair; Melissa Orren; Brian Talley; John McIntyre; Andrea Freiberger; Wordy Thompson and Natalya Sheddian.

Staff in Attendance:

Edgar Hinojosa, Assistant Division Manager (Acting BSC Coordinator); Marcus Elliott, Division Manager; Robin Harris, Assistant City Attorney; Carl Smart, Director; Merlinda Coleman, Program Specialist; Doug Jansky, Administrative Hearing Coordinator; Anthony McBryde, Investigator; Robert Alvarado, Assistant Division Manager; Matthew Noriega, Assistant Division Manager; Moses Rodriguez, Investigator; Melanie Alley, Program Specialist; Linnda-Jo Mireider, Investigator; Hilda Martinez, Investigator; Moses Rodriguez, Investigator and Roland Vargas, Financial Consultant

CALL TO ORDER

Chair Charles Cloutman called the Commission Meeting to order at 6:34 p.m.

1. CITIZEN COMMUNICATION: GENERAL

Stewart H. Hersh spoke before the Commission re-requesting a public hearing requested last month on International Property Maintenance Code (IPMC) amendments and the relationship to the Repeat Offender Program (ROP). He provided a handout to the Commission with 11 points for consideration at a future public hearing.

2. PUBLIC HEARINGS

Assistant Division Manager (Acting BSC Coordinator) Edgar Hinojosa presented the following cases:

A. New Cases

a. CL # 2016-066099

1187 Oak Grove Drive

Tommy J. Nichols

The property located at 1187 Oak Grove Drive was represented by the owner's son, Kenneth Nichols. This is a single-family residential structure, that currently un-occupied. This case is about abandoned and dilapidated structure that is a public and attractive nuisance with substandard and dangerous conditions and, in Code's belief, is ready for demolition.

Staff recommended the following to the Commission: The Commission admit Exhibit 1 and Exhibit 2A through 2K for this property; the Commission adopt the proposed Findings of Fact and Conclusions of Law for this property, and require the owner or owner's representative(s) to complete the following within 45 days from the date the Order is mailed to the owner of record: Secure all necessary permits; b) demolish all portions of the structure and accessory structures located on the property and remove the debris leaving the lot cleaned and raked; and c) require the property owner or owner's representative to request inspection(s) to verify compliance. 2) If compliance is not achieved within 45 days from the date the order is mailed to the owner of record, order: a), a penalty of \$250 per week shall begin to accrue and be assessed until compliance is achieved with final inspections passed; b) authorize the Code Official to proceed with the demolition and to consider all portions of the residential structure, including items in and around the structure as debris and dispose of as such, and c) the property owner shall be on notice that the Code Official is authorized to assess all expenses accrued against the property unless exempted by the Texas Constitution and a lien for all expenses incurred will be filed by the City in the Travis County deed records.

Exhibit 1 and Exhibit 2A through 2K were admitted into evidence.

A motion was made by Vice Chair Jessica Mangrum to adopt the Findings of Fact and Conclusions of Law for this property and the recommended order. Commission Member Melissa Orren seconded the motion.

A motion was made by Commission Member Andrea Freiburger to reopen the public hearing. Commission Member John McIntyre seconded on an 8-0-0 vote. A motion was made by Vice Chair Jessica Mangrum to close the public hearing. Chairman Cloutman seconded the motion to close the hearing for a 7-0-0 vote.

A friendly amendment was made by Commissioner Brian Talley to amend the recommended order from 45 to 90 days. Commission Member Natalya Shedd seconded the amended motion. It was not accepted by the motion maker.

Vice Chair Jessica Mangrum amended her original motion to adopt the Findings of Fact and Conclusions of Law for this property and the recommended order by extending the time from 45 to 60 days and the second was accepted by Commission Member Melissa Orren. The motion carried with a 7-1-0 vote.

b. CL 2016-081077

3410 Pennsylvania Avenue

Scott E Way

3410 Pennsylvania Avenue is a single-family structure that is abandoned and unoccupied. This case is about abandoned and dilapidated structure that is a public and an attractive nuisance with substandard and dangerous conditions that in Code's belief, is ready for demolition.

Staff recommended the following to the Commission: The Commission admit Exhibit 1 and Exhibit 2A through 2L for this property; the Commission adopt the proposed Findings of Fact and Conclusions of Law for this property, and order the following: 1) require that the owner or owner's representative(s) to complete the following within 45 days from the date the Order is mailed to the owner of record: a) secure all necessary permits; b) correct the cited violations by completing all repairs to the structure c) repair or make all modification to meet or exceed the requirements of all applicable codes; d) request inspections from Austin Code to verify compliance. 2) If after 45 days compliance has not been achieved, authorize the Code Official to proceed with the demolition, and to consider all portions of the residential structure, including items in and around the structure as debris and dispose of as such; and 3) The property owner shall be on notice that if the City incurs expenses consistent with this order to repair, vacate, secure, remove or demolish the building and/or relocate any occupants, the City may assess its expenses against the property and file a lien for all expenses incurred by the City with the Travis County Deeds Records, unless exempted by the Texas Constitution.

Exhibit 1 and Exhibit 2A through 2L, noting that 2D consisted of two photos, were admitted into evidence. A motion was made by Commission Member Brian Talley to adopt the Findings of Fact and Conclusions of Law for this property, and amend the recommended order to extend the time from 45 to 90 days and after 90 days a \$250 a week penalty will begin to accrue and be assessed until compliance is achieved with all inspections passed. Commission Member Andrea Freiburger seconded the motion. Commission Member Wordy Thompson made a friendly amendment to keep staff's recommendation of 45 days that was not accepted. A letter identified as Property Owner's Exhibit 1 was admitted. The motion carried on a 6-2-0 vote.

B. Returning Case

a. CL 2012-032421

6506 Greensboro Drive

Charles Garrette, Jr.

6506 Greensboro Drive is a returning case that is represented tonight. It is a single-family residential structure that is currently occupied and is homesteaded. This case is about a substandard, dilapidated structure, is a public and an attractive nuisance with substandard and dangerous conditions, and in Code's belief, is ready for demolition.

- a. Staff recommended the following to the Commission:** The Commission admit Exhibit 1 and Exhibit 2A through 2T for this property; the Commission adopt the proposed Findings of Fact and Conclusions of Law for this property, and order the following: 1) Assess a civil penalty of \$29,080.00 (accrued per the commission's prior order) and cease accrual of new penalties based on the prior order; 2) Require the owner or owner's representative to complete the following within 60 days from the date the Order is mailed to the owner of record: a) secure all necessary permits; b) demolish all portions of the residential structure located on the property and removed the debris leaving the lot clean and raked; c) request inspection(s)

from Austin Code to verify compliance; d) if compliance is achieved within 60 days, the cost of the demolition to the structure can be reduced from the accrued amount of \$29,080.00 (accrued amount per the commission's prior order TRV 2012108017). 3) If compliance is not verified within 60 days from the date the Order is mailed to the owner of record: a) assess a penalty of \$140.00 per week that accrues until compliance is verified; b) after 60 days, authorize the Code Official to proceed with demolition of the structure and to consider all portions of the structure, including items in and around the structure, as debris and to dispose of as debris; c) the property owner shall be on notice this Order hereby authorizes any Peace Officer of the state, including a Sheriff or Constable or designee of the Austin Chief of Police to enforce and carry out this Order; and d) the property owner shall be on notice that if the City incurs expenses consistent with this order to repair, vacate, secure, remove or demolish the building and/or relocate any occupants, the City may assess its expenses against the property and file a lien for all expenses incurred by the City with the Travis County Deeds Records, unless exempted by the Texas Constitution.

Chair admitted Exhibit 1 and Exhibit 2A through 2T for this property.

A motion was made by Commission Member Brian Talley to adopt the Findings of Fact and Conclusions of Law for this property, and amend the recommended order to extend the time for demolition from 60 to 90 days. Commission Member John McIntyre seconded the motion. A friendly amendment was made by Commission Member Andrea Freiburger to amend the order to give the homeowner 90 days to demolish or repair. The friendly amendment was accepted. The motion carried on a 6-2-0 vote.

d. CL 2016-081138

1127 W. 6th Street

1127 W 6th LLC

The commercial structure located at 1127 W 6th Street was not represented. The Code Official found this structure to be a public and an attractive nuisance with substandard and dangerous conditions and requires repairs.

Staff recommended the following to the Commission: The Commission admit Exhibit 1 and Exhibit 2A through 2F for this property; the Commission adopt the proposed Findings of Fact and Conclusions of Law for this property; and order the following: 1) Require the owner or owner's representative to complete the following within 45 days from the date the Order is mailed to the owner of record: a) secure all necessary permits; b) provide engineer's report showing the building is in sound condition; c) correct the cited violations by completing all repairs to the commercial structure within 45 days from the date the Order is mailed to the owner; d) repair or make all modifications to meet or exceed the requirements of all applicable codes; and e) request inspections(s) from Austin Code to verify compliance. 2) If compliance is not achieved within 45 days from the date the Order is mailed to the owner of record, order: a) a penalty of \$1000 per week shall begin to accrue and be assessed until compliance is achieved with final inspections passed; b) the property owner shall be on notice that if the City incurs expenses consistent with this order to repair, vacate, secure, remove or demolish the building and/or relocate any occupants, the City may assess its expenses against the property and file a lien for all expenses incurred by the City with the Travis County Deeds Records, unless exempted by the Texas Constitution.

Chair Charles Cloutman admitted Exhibit 1 and Exhibit 2A through 2F for this property. Commission Member John McIntyre recused himself.

A motion was made by Commission Member Brian Talley to adopt the Findings of Fact and Conclusions of Law for this property, and accept Code's recommendation. Commission Member Andrea Freiburger seconded the motion. A friendly amendment was made by Commission Member Melissa Orren to modify the order as follows: 1) within 15 days from the date the order is mailed to the owner of record, vacate the last bay and to secure the structure's eastern wall with shoring; and amend the fines to \$1000 per week after 45 days if compliance is not achieved. Commission Member Brian Talley stated he would not accept any amendment to his motion. The motion failed on a 2-5-0 vote.

A second motion was made by Commission Member Andrea Freiburger to accept the findings of fact and conclusions of law, adopt the recommended order and amend the order to vacate the easternmost bay of the building within 15 days. Vice Chair Jessica Mangrum seconded the motion. Commission Member Brian Talley made a friendly amendment that within 15 days of receipt, the owner must vacate the portion of the commercial structure containing the repair bay adjacent to the eastern wall of the structure; or shore the wall; or provide an engineer's report showing the building is in sound condition. The rest of the order remains the same beginning after 45 days. Melissa Orren seconded the friendly amendment and Commission Member Andrea Freiburger accepted her friendly amendment. The amendment to the motion carried on an 8-0-0 vote. A second friendly amendment was made by Vice Chair Jessica Mangrum to amend the modified order that after 15 days if the bay is not vacated; or the wall has been shored, or the engineer's report is not provided showing the building is sound, a penalty of

\$1000 per week will begin to accrue. This fine would be in addition to the day 45 penalty of an additional \$1000 per day if not repaired or proved safe. The motion carried on an 8-0-0 vote. Following the vote, Vice Chair Jessica Mangrum was excused from the meeting.

e. CL 2016-082248

6907 La Salle Drive

Mary Huerta

6907 La Salle Drive is a single-family unoccupied structure, and was not represented. The abandoned and dilapidated structure was found by the Code Official to be a public and an attractive nuisance with substandard and dangerous condition and ready for demolition.

Chair admitted Exhibit 1 and Exhibit 2A through 2O for this property. A motion was made by Commission Member Brian Talley to adopt the Findings of Fact and Conclusions of Law for this property, and accept Code's recommendation. Commission Member Andrea Freiberger seconded the motion.

Staff recommended the following to the Commission: The Commission admit Exhibit 1 and Exhibit 2A through 2F for this property; the Commission adopt the proposed Findings of Fact and Conclusions of Law for this property, and order the following: 1) Require the owner or owner's representative(s) to complete the following within 45 days from the date the Order is mailed to the owner of record: a) Secure all necessary permits; b) demolish all portions of the structure and accessory structures located on the property and remove the debris leaving the lot cleaned and raked; and c) require the property owner or owner's representative to request inspection(s) to verify compliance. 2) If compliance is not achieved within 45 days from the date the order is mailed to the owner of record, order: a), a penalty of \$250 per week shall begin to accrue and be assessed until compliance is achieved with final inspections passed; b) authorize the Code Official to proceed with the demolition and to consider all portions of the residential structure, including items in and around the structure as debris and dispose of as such, and c) the property owner shall be on notice that if the City incurs expenses consistent with this order to repair, vacate, secure, remove or demolish the building and/or relocate any occupants, the City may assess its expenses against the property and file a lien and file a lien for all expenses incurred by the City with the Travis County Deeds Records, unless exempted by the Texas Constitution.

A motion was made by Commission Member Brian Talley to adopt the Findings of Fact and Conclusions of Law for this property, and accept Code's recommendation. Commission Member Andrea Freiberger seconded the motion. The motion carried on a 7-0-0 vote.

C. Appeals

a. CL # 2016-066235

3500 Greystone Drive

Palgol LLC

The property located at 3500 Greystone Drive was represented. The appellant appealed the Notice of Violation and requested additional time to complete repairs.

Staff recommended the following to the Commission: The Commission admit Exhibit 1 and Exhibit 2A through 2G for this property; the Commission adopt the proposed Findings of Fact and Conclusions of Law for this property; and deny the owner's appeal.

Vice Chair Jessica Mangrum admitted Exhibit 1 and Exhibit 2A through 2G for this property.

Vice Chair Jessica Mangrum made a motion to close the hearing. The motion was seconded by Commission Member John McIntyre. Natalya Shedden made a motion to modify the Notice of Violation to 60 days for compliance. Brian Talley seconded the motion. The motion carried on an 8-0-0 vote.

D. Update Cases:

2015-098835

1124 Rutland Drive, Bldg. 1

NAHC Cross Creek Apartments, LLC

2015-098845

1124 Rutland Drive, Bldg. 2

NAHC Cross Creek Apartments, LLC

2015-098847

1124 Rutland Drive, Bldg. 3

NAHC Cross Creek Apartments, LLC

2015-098850	1124 Rutland Drive, Bldg. 4	NAHC Cross Creek Apartments, LLC
2015-098853	1124 Rutland Drive, Bldg. 5	NAHC Cross Creek Apartments, LLC
2015-098854	1124 Rutland Drive, Bldg. 6	NAHC Cross Creek Apartments, LLC
2015-098857	1124 Rutland Drive, Bldg. 7	NAHC Cross Creek Apartments, LLC
2015-098861	1124 Rutland Drive, Bldg. 8	NAHC Cross Creek Apartments, LLC
2015-098864	1124 Rutland Drive, Bldg. 9	NAHC Cross Creek Apartments, LLC
2015-098869	1124 Rutland Drive, Bldg. 10	NAHC Cross Creek Apartments, LLC
2015-098870	1124 Rutland Drive, Bldg. 11	NAHC Cross Creek Apartments, LLC
2015-098871	1124 Rutland Drive, Bldg. 12	NAHC Cross Creek Apartments, LLC
2015-098874	1124 Rutland Drive, Bldg. 13	NAHC Cross Creek Apartments, LLC
2015-098877	1124 Rutland Drive, Bldg. 14	NAHC Cross Creek Apartments, LLC
2015-098880	1124 Rutland Drive, Bldg. 15	NAHC Cross Creek Apartments, LLC
2015-098881	1124 Rutland Drive, Bldg. 16	NAHC Cross Creek Apartments, LLC
2015-098885	1124 Rutland Drive, Bldg. 17	NAHC Cross Creek Apartments, LLC
2015-098886	1124 Rutland Drive, Bldg. 18	NAHC Cross Creek Apartments, LLC
2015-098837	1124 Rutland Drive, Main Office	NAHC Cross Creek Apartments, LLC

Commission Member Natalya Shedden recused herself.

The update were provided by Assistant Division Manager Matthew Noriega. Mr. Noriega stated that Phase 1 (Buildings 14-18) and Phase 2 (around Buildings 8-13) of the loop repairs were completed. They were in the process of trenching around Phase 3, closest to Buildings 1-7. A follow-up inspection was conducted on July 1 per the district court order.

The properties were represented by Attorney Zoll. Attorney Zoll stated that at a district court injunction hearing held June 30, the City and Cross Creek entered into an agreement that was signed off on by the Court. Items discussed included: follow-up inspections, the City providing additional funding, completion of Loop 2 and Loop 3. A follow-up hearing is set for September 15 to confirm that work was moving forward and to identify specific units. The district court order can be provided to the Commission. Discussion followed regarding joint inspections referenced in the district court hearing. Attorney Zoll stated that they are working on getting a transcript of the hearing and will bring that to the Commission.

Further discussion ensued regarding hot water measurements that were to be taken jointly per the Court and buildings being vacated in preparation for construction. Director Smart stated that progress has been made and that collaboration and continued cooperation are needed to complete the structural repairs in addition to the hot water.

3. DISCUSSION AND BRIEFINGS

A. Proposed Changes to the City's Property Maintenance Code

A discussion ensued regarding the fact that at this time the Commission is unable to take any action on proposed amendment changes without a quorum of the full Commission, i.e., at least 12 members including at least 1 panel 2 member and that the City Clerk's Office was trying to get someone from Council to place a resolution on the agenda before City Council to dissolve Panel 2.

Code Investigator Moses Rodriguez was sworn in and addressed the suggestions items brought up by Stuart H. Hersch in Citizen's Communications regard the proposed changes to the City's property maintenance code. Code Director Carl Smart suggested that because this is a new list submitted by Mr. Hersch, that this be placed on the agenda for next month and Code Investigator Moses Rodriguez return to respond in detail to Mr. Hersch's new list of items for discussion.

4. FUTURE AGENDA ITEMS

- A. Proposed Changes to the City's Property Maintenance Code (IPMC)**
- B. Repeat Offender Program Updates and Discussion**
- C. Proposed Amendment to return to one BSC Panel**
- D. Proposal to organize local resources to provide assistance to property owners with substandard conditions and structures**

5. ADJOURNMENT

A motion was made by Commission Member Andrea Freiburger to continue past 10:00 pm and was seconded. The motion was carried with an 8-2-0 vote.

Chairperson Charles Cloutman adjourned the Commission Meeting at 11:03 pm on Commission Member Melissa Orren's motion. Commission Member Brian Talley seconded without any objection on a 7-0-0 vote.