



**BUILDING AND STANDARDS COMMISSION
MINUTES
PANEL 1**

REGULAR MEETING
Date: September 28, 2016

The Building and Standards Commission (BSC) convened for a regular meeting on Wednesday, September 28, 2015 at City Hall, Boards and Commission Room, Room 1101, 301 West 2nd Street, Austin, Texas.

CALL TO ORDER

Chair Charles Cloutman called the Commission Meeting to order at 6:32 p.m.

Commission Members in Attendance:

Charles Cloutman, Chair; Wordy Thompson; Ashley Holmes; Andrea Freiburger; John McIntyre; Natalya Shedden; Brian Talley; John Green

Staff in Attendance:

Edgar Hinojosa, Assistant Division Manager (ADM)/ Acting BSC Coordinator; Marcus Elliott, Division Manager; Megan Mosby, Assistant City Attorney; Merlinda Coleman, Program Specialist; Doug Jansky, Administrative Hearing Coordinator; Melanie Alley, Program Specialist; Matthew Noriega, Assistant Division Manager; Hilda Martinez Code Inspector; Marlayna Wright, Code Inspector; Elaine Garrett, Division Manager.

1. CITIZEN COMMUNICATION: GENERAL

A. Citizen Stuart Harry Hersh spoke before the Commission regarding recommended changes by stake holders regarding the Austin Code Department and changes to local code amendment items which he testified to in August before the Commission, and that he is discouraged by the lack of response to these recommendations.

2. APPROVAL OF MINUTES

A. The minutes from the June 22, 2016 and the July 27, 2016 BSC meetings were approved on Commission Member John McIntyre's motion. Commission Member Natalya Shedden seconded the motion on a 6-0-0 vote.

3. PUBLIC HEARINGS

ADM/ Acting BSC Coordinator Edgar Hinojosa presented the following cases:

A. New Cases

| <u>a. BSC Case</u> | <u>Address</u> | <u>Owner(s)</u> |
|-------------------------------|---------------------------------------|-----------------------------|
| CL 2016-111720, et al. | 3839 Dry Creek Drive, Unit 101 | Chau Quach |
| CL 2016-111722 | 3839 Dry Creek Drive, Unit 102 | Mosharraf Houman |
| CL 2016-111724 | 3839 Dry Creek Drive, Unit 103 | Denise Hurd |
| CL 2016-111726 | 3839 Dry Creek Drive, Unit 104 | Jayne Steinmetz |
| CL 2016-111727 | 3839 Dry Creek Drive, Unit 105 | Alan Bergstrom |
| CL 2016-111730 | 3839 Dry Creek Drive, Unit 106 | Tara Hawthorne |
| CL 2016-111732 | 3839 Dry Creek Drive, Unit 107 | William H. Carville |
| CL 2016-111735 | 3839 Dry Creek Drive, Unit 108 | Susan E. & William H. White |
| CL 2016-111737 | 3839 Dry Creek Drive, Unit 109 | Amy R. Mullen |
| CL 2016-111778 | 3839 Dry Creek Drive, Unit 110 | Nita Franks |
| CL 2016-111741 | 3839 Dry Creek Drive, Unit 201 | Kristi Lynn Harrison Trust |
| CL 2016-111742 | 3839 Dry Creek Drive, Unit 202 | Nora Roostaie |
| CL 2016-111749 | 3839 Dry Creek Drive, Unit 203 | Debra Joy Cain |
| CL 2016-111752 | 3839 Dry Creek Drive, Unit 204 | Gabrielle Rosa |

| <u>BSC Case</u> | <u>Address</u> | <u>Owner(s)</u> |
|-----------------|--------------------------------|-----------------------------|
| CL 2016-111754 | 3839 Dry Creek Drive, Unit 205 | Krista Lynn Sease |
| CL 2016-111757 | 3839 Dry Creek Drive, Unit 206 | Alex B. Franz |
| CL 2016-111786 | 3839 Dry Creek Drive, Unit 207 | Priscilla L. Faris |
| CL 2016-111758 | 3839 Dry Creek Drive, Unit 208 | Vincent James LaVigna |
| CL 2016-111759 | 3839 Dry Creek Drive, Unit 209 | Marek & Malgorzata Kacewicz |
| CL 2016-111762 | 3839 Dry Creek Drive, Unit 210 | Florence S. Hinds |

The property located at 3839 Dry Creek Drive, Building B was represented by many of the homeowners, the Dry Creek West Homeowners Association, and several legally interested parties. This is a residential condominium structure consisting of individually owned units, Unit numbers 101-110 and 201-210, which are currently unoccupied. This case is about a structure with substandard and dangerous conditions due to a fire in the before-mentioned units, and in Code's belief, require repairs.

Staff recommended the following to the Commission: The Commission admit Exhibit 1 and Exhibit 2A through 2J for this property; adopt the proposed Findings of Fact and Conclusions of Law; and order recommending the following: 1) Require the property owners, owners' representative(s) or Dry Creek West Homeowners Association to submit an engineer's report to the Austin Code Department showing affected units by the fire to be in stable condition within 30 days from the date the Order is mailed; 2) Require the property owners, owners' representative(s) or Dry Creek West Homeowners Association to complete the following within 60 days from the date the Order is mailed: a. secure all necessary permits; b. repair the structure to correct the cited violations so that the structure meets or exceeds the requirements of all applicable codes; c. request inspection(s) from Austin Code to verify compliance; and 2) If the requirements set forth in Items 1 is not secured by the deadline in Item 1, assess a penalty of \$10 per unit per week that will start to accrue 60 days after the date the Order is mailed.

Chairman Charles Cloutman made a motion to close the public hearing and was seconded by Commission Member John McIntyre. The vote carried 8-0-0.

Commission Member John McIntyre made a motion to adopt the proposed Findings of Fact and Conclusions of Law; and to modify the recommended order to include: 1) change the engineers report to an engineer's conditional assessment report; 2) that a security fence be placed around the entire area that came in to question during the public hearing; 3) that the HOA, management company and contractor provide a report at every meeting until the project is completed; 4) that the fines be reduced to \$0; and 5) that the remainder of Building B and slabs be demolished contingent on the engineer's conditional assessment report. The motion was seconded by Commission Member Andrea Freiberger. The motion failed on an 8-0-0 vote.

A second motion was made by Commission Member Natalya Shedden to adopt the proposed Findings of Fact and Conclusions of Law; and to modify the recommended order to include: 1) change the engineers report to an engineer's conditional assessment report that is limited to the condition of the foundation of Building B; 2) that a security fence be placed around the entire area within 10 days; 3) that the HOA, management company and contractor provide a report at every meeting until the project is completed; 4) that the fines be reduced to \$0; 5) that the remainder of Building B be demolished and 6) the foundation of Building B be demolished subsequent to the structural engineer's conditional assessment report released within the next 30 days. Commission Member Wordy Thompson seconded the motion.

Commission Member John McIntyre made a friendly amendment for the management company to secure the fence within 10 days, seconded by Commission Member Brian Talley. The amendment carried on an 8-0-0 vote.

Commission Member Andrea Freiberger made a second friendly amendment, seconded by Commission Member Wordy Thompson, to complete the demolition within 60 days. The vote carried on an 8-0-0 vote.

Commission Member John Greene made a motion to reopen the public hearing, which was seconded by Commission member Brian Talley. The motion carried unanimously on an 8-0-0 vote. A motion was made by Commission Member Andrea Freiberger to close the public hearing and was seconded by Commission Member Wordy Thompson. The vote carried 8-0-0.

A vote on Commission Member Shedden's motion was held, and the motion carried unanimously on an 8-0-0 vote.

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| b. BSC Case | <u>Address</u> | <u>Owner(s)</u> |
| CL 2016-066235 | 3500 Greystone Drive, Bldg. # 5 | Palgol, LLC |

The property located at 3500 Greystone Drive, Building # 5 was represented. This is a multi-family commercial structure that is currently unoccupied. This case is about substandard and dangerous conditions due to a fire in the aforementioned building which require repairs.

Staff recommended the following to the Commission: The Commission admit Exhibit 1 and Exhibit 2A through 2G; adopt the proposed Findings of Fact and Conclusions of Law; and order the following: 1) Require that the owner, or owners' representative complete the following within 60 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 modifications to meet or exceed the requirements of all applicable codes; d. request inspection(s) from Austin Code to verify compliance; and 2) If compliance is not achieved within 60 days from the date the Order is mailed to the owner of record, order a penalty of \$1000 per week that shall begin to accrue and be assessed until compliance is achieved with final inspections passed.

Chair Cloutman admitted Exhibit 1 and Exhibit 2A through 2G and adopted the proposed Findings of Fact and Conclusions of Law.

Chairman Charles Cloutman made a motion to close the public hearing and was seconded by Commission Member Andrea Freiburger. The vote carried on an 8-0-0 vote.

Commission Member John Green made a motion to adopt the proposed Findings of Fact and Conclusions of Law; and amend the recommended order to change the deadline for compliance from 60 days from the date the order is mailed to a definite date of July 1, 2017. The motion was seconded by Commission Member Andrea Freiburger. Commission Member John Green off dais and the motion failed for lack of quorum on a 5-2-0 vote.

Commission Member Andrea Freiburger proposed that the case be put in abeyance until the December meeting. Commission Member Natalya Shedden seconded the motion. The vote was unanimous and carried on a 7-0-0 vote.

B. Appeal Cases

| | | |
|-----------------------|--------------------------|-----------------|
| a. BSC Case | <u>Address</u> | <u>Owner(s)</u> |
| CL 2015-057927 | 1194 Comal Street | BPCH LLC |

The property located at 1194 Comal Street was represented by owner, Mr. Brooks Calavan. The appellant appealed Code's denial to renew his Type 2 Short Term Rental (STR) license and requested the renewal of his license.

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

Chair Charles Cloutman admitted Exhibits 1 and 2 for this property. Chair Cloutman made a motion to close the public hearing. The motion was seconded by Commission Member Natalya Shedden and carried unanimously on a 7-0-0 vote.

Commission Member Brian Talley made a motion to grant the owner's appeal, which was seconded by Commission Member Ashley Holmes. The motion failed on a 5-2-0 vote and the appeal was denied.

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| b. CL 2014-048715 | 301 E 4th Street, Apt. 305 | David Whitworth |
|--------------------------|--|------------------------|

The property located at 301 E 4th Street, Apt. 305, was represented by the owner, David Whitworth. The appellant appealed the denial to renew his Type 3 Short Term Rental (STR) license and requested the renewal of his license.

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

Chair Charles Cloutman admitted Exhibit 1 and 2 for this property.

Chair Charles Cloutman made a motion to close the hearing. The motion was seconded by Commission Member Brian Talley. Commission Member Brian Talley made a motion to grant the appeal, which was seconded by Commission Member

Andrea Frieberger. The motion carried on a 7-0-0 vote and the appeal was granted.

C. Update Cases:

| <u>BSC Case</u> | <u>Address</u> | <u>Owner</u> |
|-----------------|---------------------------------|----------------------------------|
| 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 |

The update was provided by Code Inspector Hilda Martinez. Inspector Martinez stated that in a September 15, 2016 district court hearing, Judge Triana, kept injunction in effect and that the Court was waiting for Cross Creek to close out any permits for replacement of the hot water loops. She further stated that Cross Creek was awaiting funding for their rehabilitation loan and that the City was awaiting further information on funding before taking any further action.

3. DISCUSSION AND BRIEFINGS

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

This item was pulled by Staff because legal wanted to be here and were not present.

B. Possible changes to the City's Repeat Offender Program for problem rental properties.

This item was placed in abeyance until the next meeting.

C. Resources and opportunities to assist property owners with repairing substandard and dangerous conditions.

Beth Culver, Division Manager with Developmental Services was present to answer questions. Discussion included express permits; new programs, i.e., Expedited Review Program; the Better Builders Program; use of emergency permits; and Speak-up Austin threads on the expedited permit process.

D. Proposed venues, topics, and dates for Commission retreat.

The Commission selected two tentative dates, i.e., October 13 at the Millennium from 9-2 with back-up date of October 12, and back-up location at 1520 Rutherford Lane.

E. Report on Administrative Hearing Program.

This item was put in abeyance until the next meeting.

3. FUTURE AGENDA ITEMS

Two items were placed in abeyance, i.e., 1) Possible changes to the City's Repeat Offender Program; 2) Report on the Administrative Hearing Program. Also, a presentation on the proposed changes to the City's Property Maintenance Code was taken off the agenda and would need to come back before the Commission.

4. ADJOURNMENT

A motion to extend time past 10:00 was made by Commission Member John Greene, and seconded by Commission Member Ashley Holmes. The vote carried on a 7-0-0 vote.

Chairperson Charles Cloutman adjourned the Commission Meeting at 11:36 pm on Commission Member Natalya Shedden's motion. Commission Member Brian Talley seconded without any objection on a 7-0-0 vote.