

Casa de Luz 1701 Toomey Road Building and Fire Code Board Appeal

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I am appealing the Director of Development Services and Building Official's decision to suspend and/or revoke and/or place Do Not Enter signs at Casa de Luz located at 1701 Toomey Road.

All of the documents presented at the 5/8/19 appeal hearing were secured prior to or subsequent to the Attorney General's letter of 3/28/18 (attached). The Attorney General's opinion is included in the Building and Standards Commission packet submitted to the BSC on 12/12/18 (pages 5-7) and to the Director and Building Official at the 5/8/19 appeal hearing.

The Building Official acknowledged at the 5/8/19 hearing that City staff has continued to refuse to accept a building permit application for a sprinkler system prior to my meeting with City staff on January 4, 2019. The reason for the denial was lack of certificate of occupancy for Casa de Luz. All departments finally concurred that certificates of occupancy did exist and the building permit application for the sprinkler system should be processed. Subsequent to that meeting we learned that the Building Official also required a structural engineer's report and an asbestos survey which were procured by the owner and provided to the Building Official.

- 1. I am asking you to rescind the suspension of the certificates of occupancy for the assembly building/cafeteria located at the back of 1701 Toomey Road known as Casa de Luz. The 3/28/19 letter established 60 day and 90 day deadlines that must be met or suspension or revocation may occur. Assuming weather is not an impediment, the owner of Casa de Luz has instructed the design team and contractors to meet those deadlines so that suspension or revocation does not occur.**
- 2. I am asking you not to revoke the certificates of occupancy on June 1, 2019 as the 5/2/19 notice suggests.**
- 3. I am asking you to direct City staff not to place Do Not Enter signs or disconnect utilities until all appeal hearings at the Building and Standards**

Commission, the Building and Fire Code Board of Appeals, and the City Council and final decisions made.

4. I am asking you to find that I have requested approval of sprinkler plans and a temporary building permit for installation and connection of the sprinkler system since January 16, 2014 (attached).
5. I am asking you to find that commercial building plans were approved by Development Services on 4/1/19 and by the Fire Department 4/2/19, and by Commercial Zoning Review on 3/25/19 (copy attached). Yet no temporary building permit has been issued that would allow for City inspections while plumbing review is pending concerning how the system will be drained during testing.
6. I am asking that you find the plumbing permit for the fire line was approved on 1/3/19.
7. I am asking that you find that a site plan exemption was approved on 12/28/18. The Fire Department representatives in the May 8, 2019 hearing declared their support for the Building Official to suspend the certificates of occupancy based on a claim that the requested site plan exemption was approved in March 2018. While it is true that the site plan exemption for the sprinkler system was authorized in March 2018, the actual site plan exemption was not approved until 12/28/18 according to Austin Build and Connect (attached).
8. I am asking that you find that the proposed fire tap to an existing 12-inch water line was approved on 12/18/18 and has been installed and approved.
9. I am asking that you find that required structural engineer and asbestos reports have been submitted and accepted.
10. I am asking that you find that Development Services has received four (4) copies of a requested survey and that the Transportation Department has received its one (1) requested copy for parking analysis.

Given the City refusal since 2013 to issue a temporary building permit when phased approval is allowed under the adopted International Building Code and could be responsive to the requirement for Casa de Luz to secure all required permits and all required inspections, I request that you authorize required City inspections before all appeal hearings have been conducted and final decisions made.

BACK GROUND

Austin adopted its first Building Code on April 30, 1931 and created both an alternate method compliance and an appeals process. This code was based on the 1927 Uniform Building Code which Austin adopted throughout the last century. In this century, Austin adopted the International Building Code, International Fire Code, and International Property Maintenance Code with local amendments and other City Code provisions that granted due process rights to owners and their agents to submit alternate methods of compliance and appeals to an appeals board and ultimately in some circumstances to the City Council.

BUILDING AND STANDARDS COMMISSION

On November 29, 2018, I received a notice to appear on December 12, 2018 before the Building and Standards Commission. The notice highlighted the fact that the commission had the authority to issue a binding order to vacate. I appeared as requested and provided a status update under oath and under penalty of perjury. I testified that Casa de Luz was close to being in compliance and requested answers to several questions related to the case.

City staff did not request an Order to Vacate or receive an Order to Vacate. None of the questions posed have been answered to date. The Chair agreed to review my submittals and schedule a special called meeting of the Commission if necessary. Without a notice for a special called meeting or a regular meeting of the Building and Standards Commission and the issuance of an order to vacate, I was surprised to learn that City employees placed a Do Not Enter sign without an Order to Vacate on May 3, 2019. I appealed that decision by e-mail and voice mail and the signs were replaced that afternoon.

On February 8, 2018, I appealed the notice of intent or revoke the certificate of occupancy if a corrected site plan was not filed by 3/9/18 and the 2/2/18 notice that a gated entrance was built without a required building permit. I was told that my appeal would not be heard until the certificate of occupancy was either suspended or revoked. No hearing at the Building and Fire Code Board of Appeals has been scheduled to date.

SUMMARY

Please review the documentation I have submitted and reverse the 5/2/19 notice to suspend certificates of occupancy at 1701 Toomey Road and approve the other actions I have requested.