



October 23, 2019

Submitted Via Email (Steve.Sadowsky@austintexas.gov)

Austin Historic Landmark Commission
c/o Steve Sadowsky, Historic Preservation Office
One Texas Center, 505 Barton Springs Road, 5th Floor
Austin, Texas 78767

RE: Objection to designation of 1705 Haskell Street, Austin, Texas 78702 (the
“Property”) as a historic landmark

To the Austin Historic Landmark Commission (“AHLC”):

My name is Brian Potter and I am the court-appointed receiver for the above-referenced Property. I am submitting this objection for the record in anticipation of the public hearing on a demolition permit applicable to the Property and decision whether to recommend designation of the Property as a historic landmark, which is currently set for October 28, 2019.

On April 15, 2019, I was appointed as receiver for the Property by Judge Guy Herman of the Travis County Probate Court. A copy of that order is attached hereto as Exhibit A. On October 11, 2019, the Court entered another order providing additional clarification as to my powers as receiver for the Property. A copy of that order is attached hereto as Exhibit B. As to the matters currently pending before the AHLC, the two orders read in relevant part as follows:

That Brian Potter of Bangle & Potter, PLLC....be appointed Receiver to sell the Property at a public or private sale, for cash and subject to confirmation by this Court upon sworn report of such sale.

The Receiver shall have the exclusive right to retain a real estate agent to sell the Property.

[The] Receiver has the power to close the sale of the Property by signing the closing documents on behalf of Plaintiff and Defendants, which include the heirs of Concepcion M. Rendon.

[The Receiver] has the right and power to represent the ownership interest of all owners of the property located at 1705 Haskell Street, Austin, Texas 78702 (the “Property”) and as the representative of the owners’ interest he has the right and power to oppose any effort to designate the Property as a historical

October 23, 2019

landmark (whether before the Historical Landmark Commission, the Austin Planning Commission or the Austin City Council) if he deems that opposition to a potential designation is necessary to ensure that the value of the Property is maximized in any sale or is necessary to sell the Property on terms that will facilitate a sale within a reasonable time frame.

As set forth above, I am under Court order to sell the Property, to maximize its value and facilitate a sale within a reasonable time. Upon being sold, the funds are to be placed in the registry of the court, after which the Court will determine how they are to be disbursed amongst the heirs.

To that end and in furtherance of the Court's order, on or about June 6, 2019, I executed a contract for the sale of the Property, and an application for a demolition permit has since been submitted to the City by the anticipated purchaser. As it bears on this matter, know that every firm offer I received for the purchase of the Property was in anticipation of being able to build a new structure on the lot.

In my opinion, were the Property to be designated as "historic," it would likely render it impossible for me to effectuate to court's order to maximize the value of the Property for cash and to facilitate a sale within a reasonable time frame.

While I respect the fact that there are different opinions on this matter and that the former owner of the Property was a citizen of note, in furtherance of my mandate from the Court **I must respectfully object to any attempt to designate the Property as a historic landmark.**

In closing, know that I will be in attendance at the meeting scheduled on this matter and plan on making myself available for questions.

Sincerely,

Sincerely,

/s/ Brian C. Potter /s/

Brian C. Potter

Enclosures

EXHIBIT A

Cause No. C-1-PB-18-001609

ELISA R. MONTOYA, AS INDEPENDENT	§	IN THE PROBATE COURT
EXECUTOR OF THE ESTATE OF	§	
EULALIO EDUARDO RENDON	§	
Plaintiff	§	
v.	§	NO. ONE
	§	
ROSE RUBIO	§	
Defendant	§	TRAVIS COUNTY, TEXAS

**ORDER GRANTING ROSE RUBIO'S MOTION
TO APPOINT RECEIVER TO SELL REAL PROPERTY**

On April 15, 2019, the Court, after considering Rose Rubio's Motion to Appoint Receiver to Sell Real Property (the "Motion"), the evidence and the arguments of counsel, is of the opinion that the Motion should be granted in its entirety.

It is therefore ORDERED, ADJUDGED AND DECREED that Rose Rubio's Motion to Appoint Receiver to Sell Real Property is GRANTED in its entirety.

It is FURTHER, ORDERED, ADJUDGED AND DECREED as follows:

1. The property at issue in the above-referenced lawsuit is a residential property located at 1705 Haskell Street, Austin, Texas 78702 (the "Property"), which is more particularly described as:

Lot No. Three (3), in the V.E. Taylor Subdivision, of Lots Nos. Five and Six (5 and 6), in outlet No. Fifty-nine (59) in Division "O", in the City of Austin, and in Travis County, Texas, according to the map or plat of said subdivision recorded in Vol. 470, Page 597, of Travis county Deed Records.

2. The Property is not susceptible to fair and equitable Partition in kind and it should be sold.

3. That Brian Potter of Bangle & Potter, PLLC, 604 West 13th Street, Austin, Texas 78701, (512) 270-4844, be appointed Receiver to sell the Property at a public or private sale, for cash and subject to confirmation by this Court upon sworn

I, Dana DeBeauvoir, County Clerk, Travis County, Texas, do hereby certify that this is a true and correct copy as same appears of record in my office. Witness my hand and seal of office on

Dana DeBeauvoir, County Clerk
By Deputy: **A. BLAIR HICKS**
APR 18 2019

report of such sale. The Receiver shall post a bond of \$13,000.00 and enter an Oath as Receiver.

4. The Receiver shall have the exclusive right to retain a real estate agent to sell the Property and shall have the exclusive right to sell the Property with a 5% commission. Additionally, the Receiver has the power to close the sale of the Property by signing the closing documents on behalf of Plaintiff and Defendants, which include the heirs of Concepcion M. Rendon.

5. Upon approval by the Court of the sworn report of sale, the Receiver shall pay the Receiver's reasonable and necessary attorneys' fees and expenses from the net sale proceeds from the sale of the Property and deposit the remaining net sales proceeds into the Court Registry of the Travis County Clerk.


Judge Presiding

04/15/2019

HONORABLE PROBATE JUDGE
TRAVIS COUNTY PROBATE COURT



I, Dana DeBeauvoir, County Clerk, Travis County, Texas, do hereby certify that this is a true and correct copy as same appears of record in my office. Witness my hand and seal of office on

Dana DeBeauvoir, County Clerk
By Deputy:

APR 18 2019


A. BLAIR HICKS

EXHIBIT B

Cause No. C-1-PB-18-001609

ELISA R. MONTOYA, AS INDEPENDENT	§	IN THE PROBATE COURT
EXECUTOR OF THE ESTATE OF	§	
EULALIO EDUARDO RENDON	§	
Plaintiff	§	
v.	§	NO. ONE
	§	
ROSE RUBIO	§	
Defendant	§	TRAVIS COUNTY, TEXAS

**ORDER GRANTING DEFENDANT'S MOTION SEEKING
CLARIFICATION OF THE RECEIVER'S POWERS**

On October 11, 2019, the Court, after considering Defendant's Motion Seeking Clarification of the Receiver's Powers (the "Motion"), the evidence and the arguments of counsel, is of the opinion that the Motion should be granted in its entirety.

It is therefore ORDERED, ADJUDGED AND DECREED that in addition to the rights and powers identified in the Court's Order Granting Rose Rubio's Motion to Appoint Receiver to Sell Real Property, that Brian Potter of Bangle & Potter, PLLC (the "Receiver") has the right and power to represent the ownership interest of all owners of the property located at 1705 Haskell Street, Austin, Texas 78702 (the "Property") and as the representative of the owners' interest he has the right and power to oppose any effort to designate the Property as a historical landmark (whether before the Historical Landmark Commission, the Austin Planning Commission or the Austin City Council) if he deems that opposition to a potential designation is necessary to ensure that the value of the Property is maximized in any sale or is necessary to sell the Property on terms that will facilitate a sale within a reasonable time frame.

Guadalupe Neighborhood Development Corporation has until 12:00pm on October 18th, 2019, to submit a cash-offer contract in excess of \$485,000 for the property located at 1705 Haskell Street, Austin, Texas 78702, with a thirty-day closing period.


Judge Presiding

10/11/2019

HONORABLE PROBATE JUDGE
TRAVIS COUNTY PROBATE COURT

APPROVED AS TO FORM AND SUBSTANCE.

Noel L. Stout, Attorney for Defendant

Brian Potter, Receiver

UNOFFICIAL