

CITY of ALBUQUERQUE

TWENTY THIRD COUNCIL

COUNCIL BILL NO. R-19-153 ENACTMENT NO. _____

SPONSORED BY: Pat Davis, by request

1 RESOLUTION

2 A NUISANCE, SUBSTANDARD DWELLING OR STRUCTURE IN NEED OF
3 ABATEMENT AT 247 ESPANOLA ST NE 87108 WITHIN THE CITY LIMITS OF
4 ALBUQUERQUE, NEW MEXICO IS SO RUINED, DAMAGED AND DILAPIDATED
5 AS TO BE A MENACE TO THE PUBLIC COMFORT, HEALTH, PEACE OR
6 SAFETY AND THAT IT IS TO BE REQUIRED TO BE REMOVED.

7 WHEREAS, the building, structure or premises is located at 247
8 ESPANOLA ST NE ALBUQUERQUE NM 87108, which is located and is more
9 particularly described as: *00260004LA MESA SUBD; and

10 WHEREAS, the Planning Department, Code Enforcement Division of the
11 City of Albuquerque has investigated the condition of said Building, structure
12 of premises and has found same to be so ruined, damaged and dilapidated
13 that it constitutes a menace to the public comfort, health, peace or safety and
14 warrants abatement and removal.

15 BE IT RESOLVED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF
16 ALBUQUERQUE:

17 Section 1. That the findings of said Code Enforcement, in regard to said
18 building, structure or premises, be and are hereby approved and adopted and
19 that said building, structure or premises is found to be ruined, damaged and
20 dilapidated, as to be a menace to the public comfort, health, peace or safety
21 pursuant to Section 3-18-5, N.M.S.A., 1978.

22 Section 2. That SHAIN LAWRENCE V & RACHEL R, record owner of said
23 building, structure or premises shall commence removal of same within ten
24 (10) days after service of a copy of this Resolution or within said ten (10) day
25 period, file written objection to findings herein with the City Clerk/Recorder of
26 the City of Albuquerque, asking for a hearing before the City Council.

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1 Section 3. If there is a failure of compliance with the provision of Section 2
2 herein, the City of Albuquerque shall proceed to remove said building,
3 structure or premises and abate said unsafe condition and the cost thereof
4 shall constitute a lien against such property so removed and against said lot
5 or parcel of land from which such removal be made, all as required and
6 allowed by law

7 Section 4. SEVERABILITY CLAUSE. If any section, paragraph, sentence,
8 clause, word or phrase of this resolution is for any reason held to be invalid or
9 unenforceable by any court of competent jurisdiction, such decision shall not
10 affect the validity of the remaining provisions of this resolution. The Council
11 hereby declares that it would have passed this resolution and each section,
12 paragraph, sentence, clause, word or phrase thereof irrespective of any
13 provisions being declared unconstitutional or otherwise invalid.

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CITY OF ALBUQUERQUE
Albuquerque, New Mexico
Office of the Mayor

Mayor Timothy M. Keller

INTER-OFFICE MEMORANDUM

Date: April 25, 2019

TO: Klarissa J. Peña, President, City Council

FROM: Timothy M. Keller, Mayor 

SUBJECT: Resolution of Nuisance Abatement of a Substandard Building at: 247 Espanola St NE

The attached resolution requests that the building located at 247 Espanola St NE, Albuquerque, New Mexico 87108, be abated and removed. Council approval is required according to N.M.S.A. Section 3-18-5, 1978.


In the event that the owners fail to demolish the condemned structure, the Planning Department will contract for the demolition and place a lien on the property. The estimated cost for demolition is \$24,500.

I am submitting this resolution to the City Council for their consideration and action.


Resolution of Nuisance Abatement of a Substandard Building at: 247 Espanola St NE,
Albuquerque, New Mexico 87108

Approved:

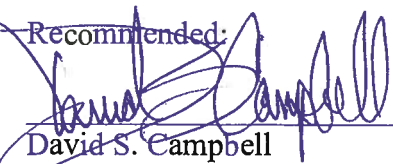
Approved as to Legal Form:



Sarita Nair
Chief Administrative Officer
Date 5/22/19



Esteban A. Aguilar, Jr. ESQ.
City Attorney
Date 5-10-19

Recommended:


David S. Campbell
Planning Director
Date 5/3/19

Cover Analysis

1. What is it?

A substandard, nuisance structure located at 247 ESPANOLA ST NE 87108 and legally described as, *00260004LA MESA SUBD, in the City of Albuquerque.

2. What will this piece of legislation do?

Enable the removal of an unsafe, substandard, nuisance structure by a City Agency.

3. Why is this project needed?

Council approval is required for demolition of a Nuisance structure according to N.M.S.A. Section 3-18-5, 1998 and City Ordinance

4. How much will it cost and what is the funding source?

The estimated cost is \$24,500 from the General Fund. Upon completion of demolition, a lien will be filed which includes a demand for payment addressed to said owner(s).

5. Is there a revenue source associated with this Plan? If so, what level of income is projected?

None

FISCAL IMPACT ANALYSIS

TITLE: 247 Espanola St NE
*00260004LA MESA SUBD

R: X O:

FUND: 110

DEPT: Planning

- ☒ No measurable fiscal impact is anticipated, i.e., no impact on fund balance over and above existing appropriations.
- ☐ (If Applicable) The estimated fiscal impact (defined as impact over and above existing appropriations) of this legislation is as follows:

		2019	Fiscal Years 2020	2021	Total
Base Salary/Wages					-
Fringe Benefit:	30.440%		-	-	-
Subtotal Personnel		-	-	-	-
Operating Expenses			-		-
Property			-	-	-
Indirect Costs	%				-
Total Expenses		\$ -	\$ -	\$ -	\$ -
<hr/>					
<input type="checkbox"/> Estimated revenues not affected					
<input checked="" type="checkbox"/> Estimated revenue impact			-	-	-
					-
					-
Total Revenue		\$ -	\$ -	\$ -	\$ -

These estimates do not include any adjustment for inflation.

* Range if not easily quantifiable.

Number of Positions created

COMMENTS :

Structure poses an extreme hazard and is substandard and a nuisance to the neighborhood surrounding community and to inquisitive minors. The structure will continue to dilapidate causing life safety issues. This is a substandard and a nuisance property.

COMMENTS ON NON-MONETARY IMPACTS TO COMMUNITY/CITY GOVERNMENT:

PREPARED BY:

Daniela D. Lopez
FISCAL ANALYST

APPROVED:

David J. Campbell 5/3/19
DIRECTOR (date)

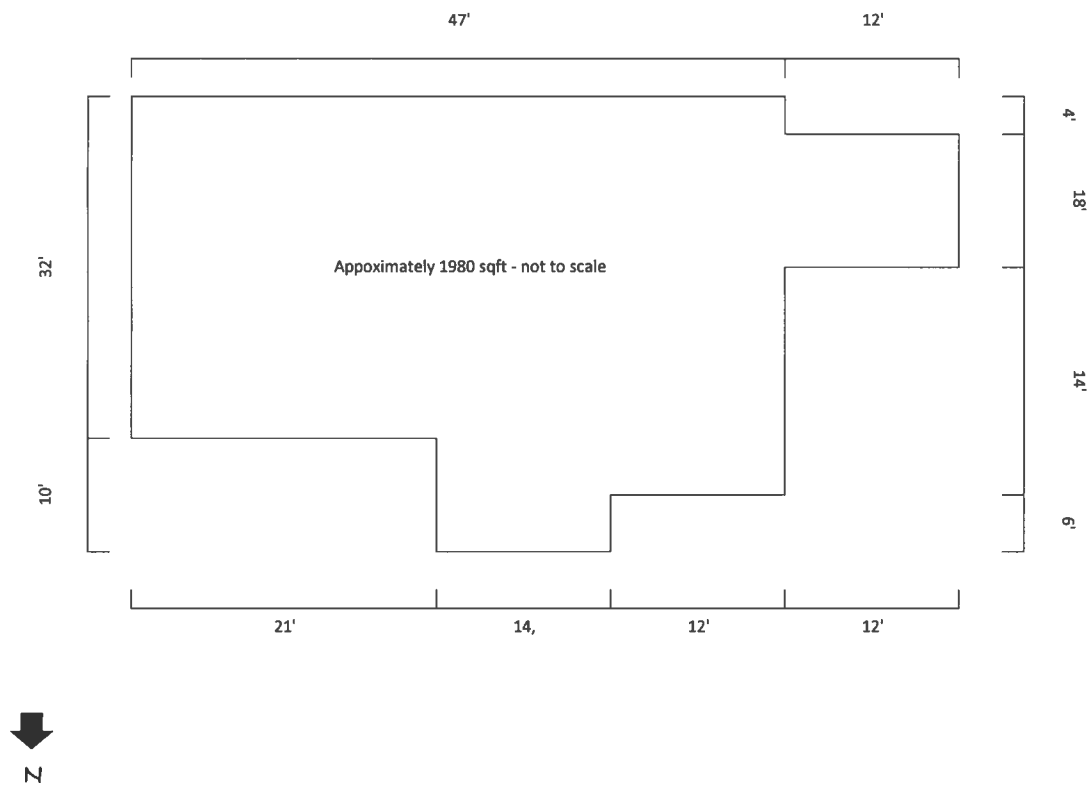
REVIEWED BY:

L. M. W.
EXECUTIVE BUDGET ANALYST

C. Gonzalez 5/28/19
BUDGET OFFICER (date)

C. Boon 5/28/19
CITY ECONOMIST

247 Espanola St NE
Legal Description: *00260004LA MESA SUBD



CITY OF ALBUQUERQUE

CODE ENFORCEMENT

Plaza Del Sol Building, Suite 500
600 2nd Street NW
Albuquerque, NM 87102
Tel: (505) 924-3850 Fax: (505) 924-3847



Richard J. Berry, Mayor

Oct 2, 2017

NOTICE AND ORDER WITH APPEAL

**SHAIN LAWRENCE V ETUX
1749 ALLEGHENY DR NE
RIO RANCHO, NM 87144**

Dear Property Owner:

The City of Albuquerque Planning Department, Code Enforcement Division, made an inspection of the building or structure owned, occupied, or controlled by you at: **247 ESPANOLA ST NE, Albuquerque, NM 87108** on Sep 30, 2017

The Property is more particularly described as:

LOT 26, BLOCK 4, SUBDIVISION LA MESA

Violations of the Uniform Housing Code, hereafter 'Code', City Council Ordinance No. 34-1986 and codified at 14-3-1-1 et seq ROA 1994, were found that must be corrected in order to maintain the accepted standards of health and safety provided for in the Code.

FINDINGS

The Code Enforcement Section has found the units to be substandard under the provisions of the Code. The findings of the inspection are as listed on the following page.

Sincerely,

Christopher Romero
Code Enforcement Specialist
(505) 924-3363

File Number: CF-2017-026233

Job Number: 049887118-001

Initial Print Date: Oct 2, 2017

CITY OF ALBUQUERQUE

CODE ENFORCEMENT

Plaza Del Sol Building, Suite 500

600 2nd Street NW

Albuquerque, NM 87102

Tel: (505) 924-3850 Fax: (505) 924-3847



Richard J. Berry, Mayor

Description of Violation(s) found on the property located at:

Address: **247 ESPANOLA ST NE, Albuquerque, NM 87108**

The above-described premises have been inspected and the following violations of City laws and regulations have been found:

Violation Type	Violation Description	Resolve By Date
14-3-4-3 Structural Hazards	All holes in walls throughout the dwelling shall be repaired and repainted. Replace all damaged walls, ceilings throughout dwelling to include replacing all damaged or missing insulation and sheet rock. All shall be replaced to include taping, texturing and repainting, prior to being occupied.	Oct 30, 2017
14-3-3-2 Mechanical Requirements	At the time of inspection the dwelling unit was without gas services and heat. Prior to dwelling being occupied, gas services shall be restored by NM Gas Company.	Oct 30, 2017
14-3-4-4 Nuisance	At the time of inspection there were 5 open windows and 3 open doors. All broken and or missing windows and doors shall be repaired or replaced to open close and lock as designed, prior to the dwelling being occupied.	Oct 30, 2017
14-3-4-13 Inadequate Fire-Protection	Prior to occupancy, all bedrooms, hallways and rooms for living shall be provided with functioning smoke detectors.	Oct 30, 2017
14-3-4-1 Substandard Building Defined	The subject property is an abandoned dwelling that was unsecured and vacant lacking electrical and gas services causing the dwelling to be substandard. Electrical and gas shall be reactivated by the proper utility company prior to occupancy. The dwelling was vandalized and upon inspection it was found that the dwelling contained graffiti on several interior walls, broken windows, broken fixtures and broken doors.	Oct 30, 2017
14-3-4-4 Nuisance	This office was contacted by the Albuquerque Police Department multiple times due to the dwelling being found in a unsecured and being used by transients. The broken doors and unsecured openings were allowing trespassers and malicious mischief. The accumulation of discarded items, trash, syringes and weeds make this property an eyesore to the surrounding neighborhood. This unsecured and apparently vacant home required immediate securing for public safety purposes on	Oct 30, 2017

File Number: CF-2017-026233

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600 2nd Street NW

Albuquerque, NM 87102

Tel: (505) 924-3850 Fax: (505) 924-3847



Richard J. Berry, Mayor

	September 29, 2017. While vacant, the structure shall remain secure with the exterior free of weeds and litter. You must then repair or demolish the building or structure.	
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Code Sections	Code Description
14-3-4-3(K)	Every interior wall and ceiling is free of holes and large cracks. Every interior wall and ceiling is free of loose plaster and other structural material, the collapse of which might constitute an accident hazard. Plaster, paint, and all other surface materials are of such character as to be easily cleanable and are reasonably smooth, clean, and tight.
14-3-3-2(A)(1)(a)	Every dwelling unit and guest room shall be provided with heating facilities capable of maintaining a room temperature of 70° F. at a point 3 feet above the floor in all habitable rooms. Such facilities shall be installed and maintained in a safe condition and in accordance with Chapter 37 of the Building Code and the Mechanical Code (adopted in § 14-1-3) and all other applicable laws.
14-3-4-4(B)	Buildings that have broken windows or doors constituting hazardous conditions and inviting trespassers or malicious mischief.
14-3-4-13	INADEQUATE FIRE-PROTECTION or FIREFIGHTING EQUIPMENT shall include all buildings or portions thereof which are not provided with the fire-resistive construction or fire-extinguishing systems or equipment required by this code and the Chief of the Fire Department, except those buildings or portions thereof which conformed with all applicable laws at the time of their construction and whose fire-resistive integrity and fire-extinguishing systems or equipment have been adequately maintained and improved in relation to any increase in occupant load, alteration or addition, or any change in occupancy.
14-3-4-1	Any building or portion thereof, including any dwelling unit, guest room or suite of rooms, or the premises on which the same is located, in which there exists any of the following listed conditions [set forth in §§ 14-3-4-2 et seq.] to an extent that endangers the life, limb, health, property, safety or welfare of the public or the occupants thereof shall be deemed and declared a SUBSTANDARD BUILDING.
14-3-4-4(E)	Buildings in an unsecured state that are not securely fenced or adequately lighted to prevent access to trespassers, criminals or others unauthorized to enter for the purpose of committing a nuisance or unlawful act or that constitutes an attractive nuisance for children.

File Number: CF-2017-026233

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CODE ENFORCEMENT

Plaza Del Sol Building, Suite 500
600 2nd Street NW
Albuquerque, NM 87102
Tel: (505) 924-3850 Fax: (505) 924-3847



Richard J. Berry, Mayor

ORDER

You, as the owner of the building or structure, are hereby ordered to:

This unsecured and apparently abandoned home required immediate securing for public safety purposes on September 29, 2017 and the property has been posted substandard. While vacant, the structure shall remain secure with the exterior free of weeds and litter. You must then repair or demolish the building or structure. In repairing or demolishing the building or structure, obtain all required permits. The repairs must be completed by November 2, 2017

NOTICE ADMINISTRATIVE REMEDIES

IF NO APPEAL IS FILED BY THE EFFECTIVE DATE OF THIS NOTICE AND ORDER, THE CITY MAY CAUSE ANY STRUCTURES TO BE SECURED AND ALL TRASH AND DEBRIS REMOVED WITHOUT FURTHER NOTICE TO ANY PARTY, AND A LIEN WILL BE PLACED AGAINST THE PROPERTY FOR THE CITY'S COSTS ASSOCIATED WITH CAUSING THE PROPERTY TO BE SECURED AND/OR CLEANED. THE REMEDIES CONTEMPLATED IN THIS PARAGRAPH ARE IN ADDITION TO ANY OTHER REMEDIES PROVIDED BY LAW.

A CERTIFICATE OF SUBSTANDARD HAS BEEN FILED AT THE COUNTY CLERKS OFFICE. A LIEN WILL BE PLACED AGAINST THE PROPERTY ASSOCIATED WITH THESE ACTIONS.

Pursuant to Section 14-3-5-3 a 2 d ROA 1994, you or any person having any title or legal interest in the building or structure may appeal this Notice and Order or any action of the Code Enforcement Section to the Housing Advisory and Appeals Committee. In the case of demolition, the appeal procedure shall be as set forth in Section 3-18-5 NMSA 1978. The appeal must be in writing and filed with the Mayor's office prior to the effective date of this order. The effective date of this order is: Oct 16, 2017.

A form for filing an appeal is available in the Code Enforcement Section office at 600 2nd St. NW, Suite 500. The form is not necessary as long as the required information is included in the appeal. Pursuant to Section 14-3-5-4 ROA 1994, the required information includes: the names of all appellants participating in the appeal; a brief statement setting forth the legal interest of each of the appellants in the building or the land involved in the appeal; a brief statement of the specific or action protested, together with any material facts supporting the appellant's contentions; a brief statement of the relief sought, and the reasons why it is claimed the protested order or action should be reversed, modified or otherwise set aside; the signatures of all parties named as appellants and their official mailing addresses; and a verification, by declaration under penalty of perjury, of at least one appellant as to the truth of the matters stated in the appeal.

An appeal of the Notice and Order will stay enforcement of that Notice and Order. Failure to file an appeal, however, shall constitute a waiver of the right to an administrative hearing and adjudication of Housing Advisory and Appeals Committee will be scheduled within ten (10) to sixty (60) days after receipt of the appeal. You will receive written notice of the time and place not less than ten (10) days prior to the date of the hearing. Only those matters or issues specifically raised by the appellant shall be considered in the hearing.

If you have any questions concerning this Notice and Order, or the cited violations, please call me at: (505) 924-3363. Please reference Notice and Order number CF-2017-026233.

Christopher Romero
Code Enforcement Specialist
(505) 924-3363

File Number: CF-2017-026233

Job Number: 049887118-001

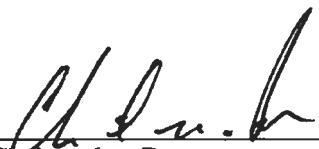
Initial Print Date: Oct 2, 2017

AFFIDAVIT OF SERVICE
FOR POSTING AND MAILING
OF NOTICE AND ORDER

STATE OF NEW MEXICO }
COUNTY OF BERNALILLO } SS

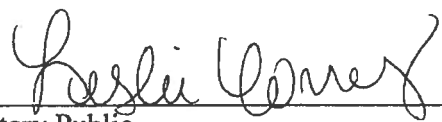
I, Christopher Romero, being duly sworn upon Oath, state that on 10/2/2017, posted a copy of the Notice and Order at 247 ESPANOLA ST NE, Albuquerque, NM, and mailed a copy of the Notice and Order by certified mail to the owner on 10/2/2017.

Addressed to: **SHAIN LAWRENCE V ETUX**
1749 ALLEGHENY DR NE
RIO RANCHO, NM 87144



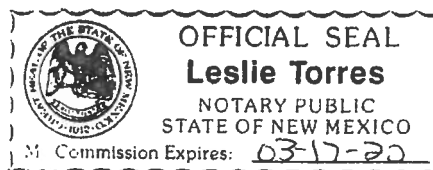
Christopher Romero
Code Enforcement Specialist
Code Enforcement Division
Planning Department
City of Albuquerque
(505) 924-3363

SUBSCRIBED AND SWORN TO me on this 2nd day of October, 2017,
by Christopher Romero.



Notary Public

My commission expires 03-17-20.



CERTIFICATION OF SUBSTANDARD BUILDING

In accordance with City Housing Code, which is City Ordinance enactment No. 34-1986 and codified at 14-3-1-1 ET. Seq. ROA 1994, the City of Albuquerque certifies that the property described below is a substandard building and that the owner(s) has/have been so notified.

Address of substandard building/legal description:

Property Address: **247 ESPANOLA ST NE, Albuquerque, NM 87108**

Legal Description: **LOT 26, BLOCK 4, SUBDIVISION LA MESA**

Parcel Number (UPC): **10-190-5712319631032**

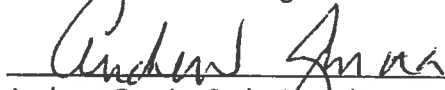
Owner & Owner's Address: **SHAIN LAWRENCE V ETUX
1749 ALLEGHENY DR NE
RIO RANCHO, NM 87144**

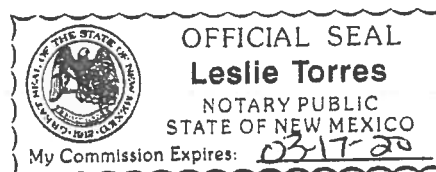
Processing Fee: \$50.00
Filing Fee: \$25.00

The property described above is in violation of the City Housing Code: **Notice and Order** dated **Sep 30, 2017**

Attached Are Copies of Findings

Notice of the condition of the property was given to the owner in the following manner: Posted onto the front exterior of the building and mailed certified mail.


Andrew Garcia, Code Compliance Manager
Planning, Code Enforcement Division
City of Albuquerque



STATE OF NEW MEXICO } SS
COUNTY OF BERNALILLO

The foregoing instrument was acknowledged before me by Andrew Garcia this 5th day of October 2017.


Notary Public

My Commission Expires 03-17-20

Doc# 2017099180

10/17/2017 11:14 AM Page: 1 of 6
NOT R \$25.00 Linda Stover Bernalillo County

