

# CITY of ALBUQUERQUE

## TWENTY FOURTH COUNCIL

COUNCIL BILL NO. R-20-18 ENACTMENT NO. \_\_\_\_\_

SPONSORED BY: Cynthia D. Borrego, by request

1 RESOLUTION

2 A NUISANCE, SUBSTANDARD DWELLING OR STRUCTURE IN NEED OF  
3 ABATEMENT At 5609 EVERITT RD NW 87120 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 5609 EVERITT  
8 RD NW ALBUQUERQUE NM 87120, which is located and is more particularly  
9 described as: 003 003SLOANS ACRES SUB; 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 KOWALCHUK LUCY J & JANICE & CASSANDRA &  
23 RANDY, record owner of said building, structure or premises shall commence  
24 removal of same within ten (10) days after service of a copy of this Resolution  
25 or within said ten (10) day period, file written objection to findings herein with

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1 the City Clerk/Recorder of the City of Albuquerque, asking for a hearing before  
2 the City Council.

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

9 Section 4. SEVERABILITY CLAUSE. If any section, paragraph, sentence,  
10 clause, word or phrase of this resolution is for any reason held to be invalid or  
11 unenforceable by any court of competent jurisdiction, such decision shall not  
12 affect the validity of the remaining provisions of this resolution. The Council  
13 hereby declares that it would have passed this resolution and each section,  
14 paragraph, sentence, clause, word or phrase thereof irrespective of any  
15 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: November 5, 2019

**TO:** Klarissa J. Peña, President, City Council

**FROM:** Timothy M. Keller, Mayor 

**SUBJECT:** Resolution of Nuisance Abatement of a Substandard Building at: 5609  
EVERITT RD NW 87120

The attached resolution requests that the building located at 5609 EVERITT RD NW Albuquerque, New Mexico 87120, be abated and removed. Council approval is required according to N.M.S.A. Section 3-18-5, 1978.

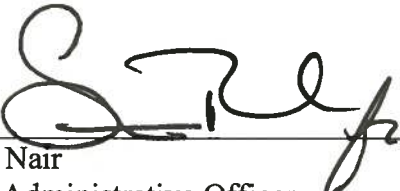
In the event that the owners fail to demolish the condemned structure, the Planning Department will contract for the demolition and place a lien on the property. The estimated cost for demolition is \$24,500.

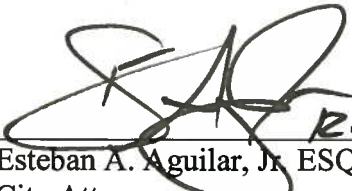
I am submitting this resolution to the City Council for their consideration and action.

**Resolution of Nuisance Abatement of a Substandard Building at: 5609 EVERITT RD  
NW, Albuquerque, New Mexico 87120**


Approved:

Approved as to Legal Form:

  
Sarita Nair  
Chief Administrative Officer  
Date 12-27-19

  
Esteban A. Aguilar, Jr. ESQ.  
City Attorney  
Date 12-19-19

Recommended:

  
Brennon Williams  
Planning Director  
Date

## **Cover Analysis**

### **1. What is it?**

**A substandard, nuisance structure located at 5609 EVERITT RD NW 87120 and legally described as, 003 003SLOANS ACRES SUB, 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: 5609 Everitt RD NW 87120  
003 003SLOANS ACRES SUB

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:

		2020	Fiscal Years 2021	2022	Total
Base Salary/Wages					-
Fringe Benefit:	30.440%		-	-	-
Subtotal Personnel		-	-	-	-
Operating Expenses			-		-
Property			-	-	-
Indirect Costs	%				-
Total Expenses		\$ -	\$ -	\$ -	\$ -
<hr/>					
[ ] Estimated revenues not affected					
[X] 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:

  
FISCAL ANALYST

APPROVED:

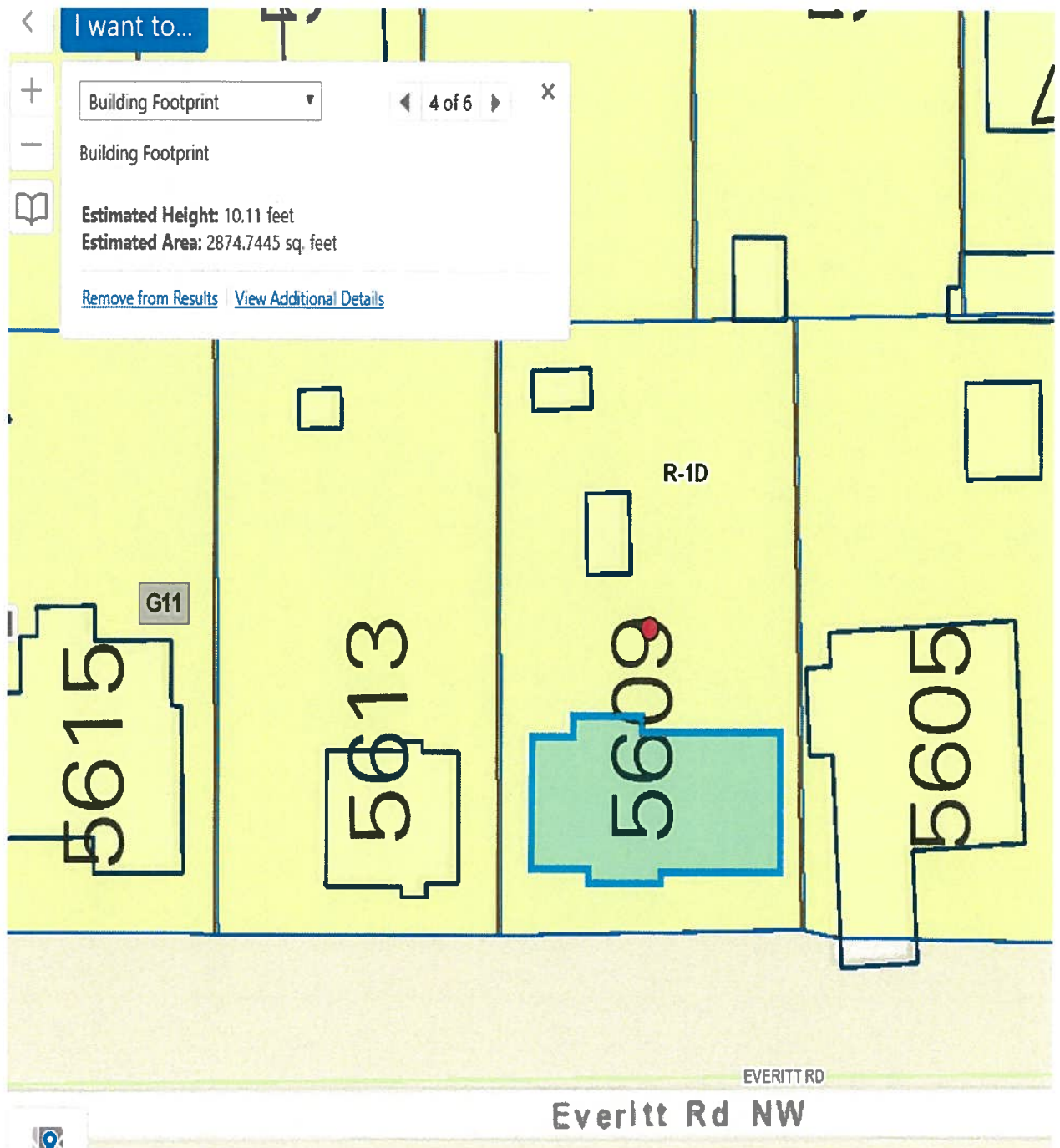
 06 NOV 2019  
DIRECTOR (date)

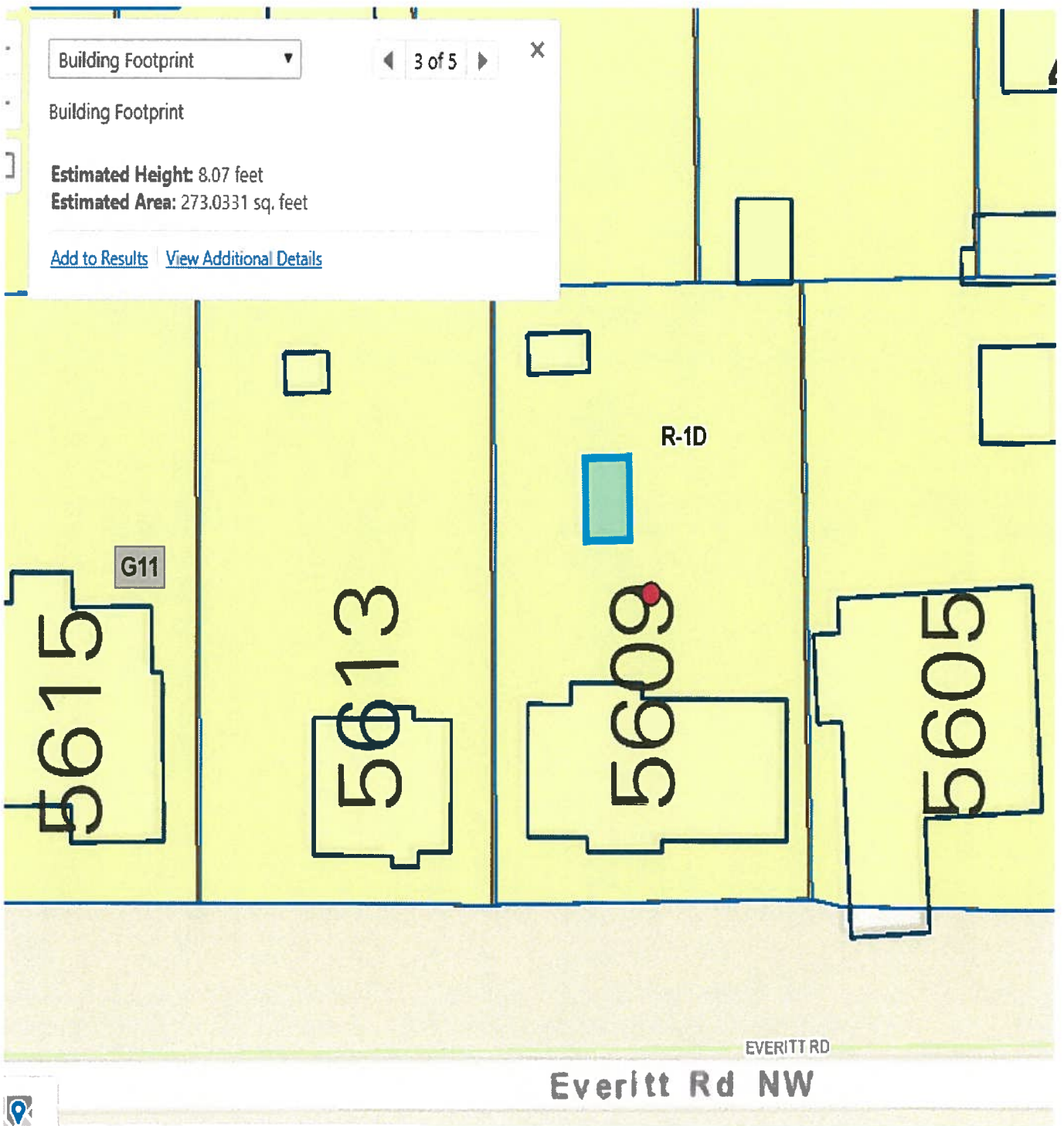
REVIEWED BY:

EXECUTIVE BUDGET ANALYST

BUDGET OFFICER (date)

CITY ECONOMIST







Building Footprint ▾

◀ 4 of 5 ▶

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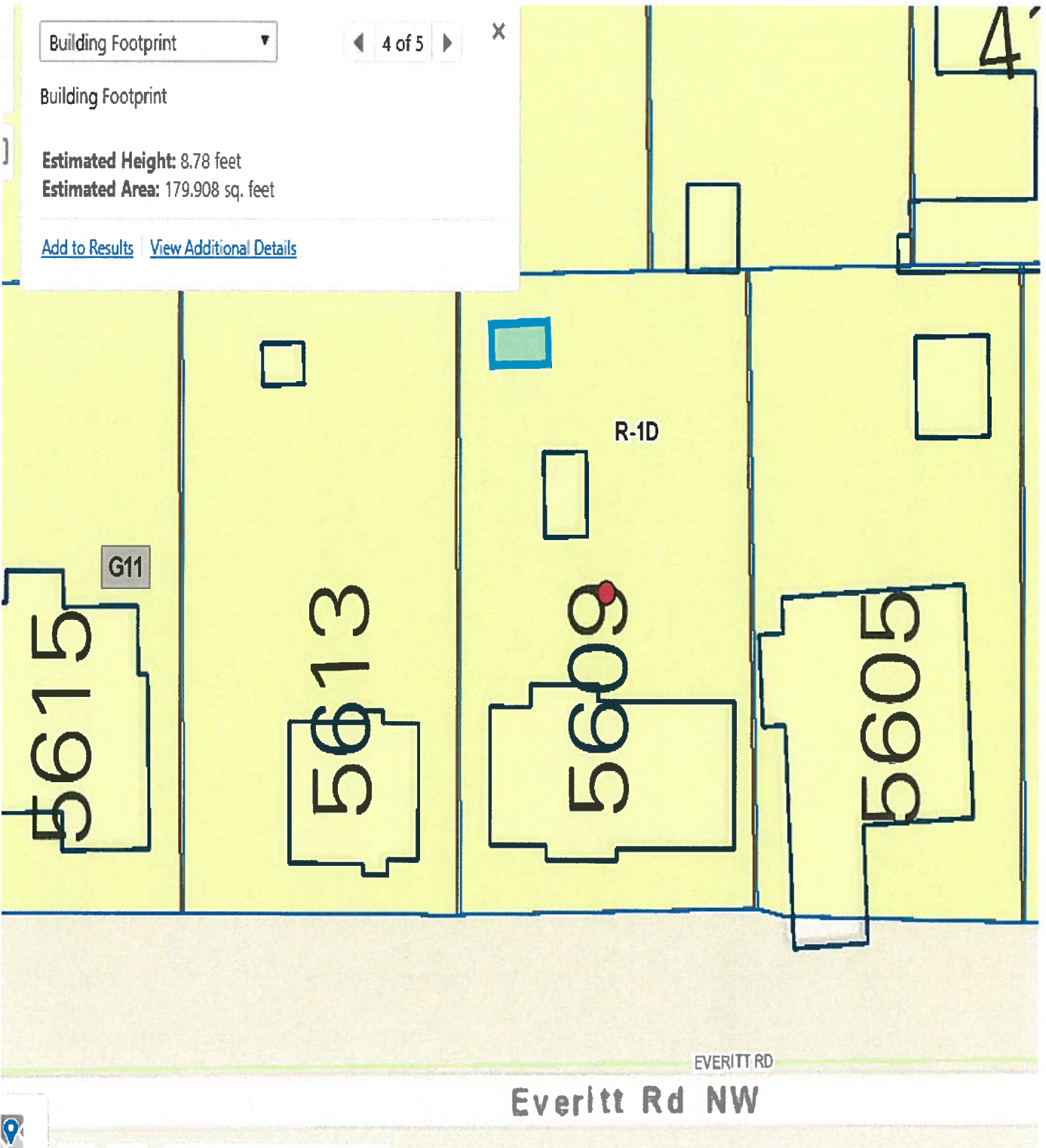
Building Footprint

**Estimated Height:** 8.78 feet

**Estimated Area:** 179.908 sq. feet

[Add to Results](#)

[View Additional Details](#)





# CITY OF ALBUQUERQUE

## CODE ENFORCEMENT

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



Richard J. Berry, Mayor

Jun 7, 2017

### **NOTICE AND ORDER WITH APPEAL**

**KOWALCHUK LUCY J & JANICE & CASSANDRA & RANDY  
5613 EVERITT NW  
ALBUQUERQUE, NM 87120**

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: **5609 EVERITT RD NW, Albuquerque, NM** on Jun 7, 2017

The Property is more particularly described as:

\* 003 003SLOANS ACRES SUB LOT 3, BLOCK 3, SUBDIVISION SLOANS ACRES

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,

Sandra Handley  
Code Enforcement Specialist  
(505) 924-3832

File Number: CF-2017-020792

Job Number: 044480750-001

Initial Print Date: Jun 7, 2017

# CITY OF ALBUQUERQUE

## CODE ENFORCEMENT

Plaza Del Sol Building, Suite 500  
600 2<sup>nd</sup> 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: **5609 EVERITT RD NW, Albuquerque, NM**

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
14-3-5-12 Substandard Buildings	All opening shall be secured by locking. If an opening is unable to be secured at the time it is discovered it will be secured and a lien will be placed on the property. This service is required to prevent further access to the building or accessory structures.	Jun 22, 2017
14-3-4-4 Nuisance	Any nuisance as defined in this code. All opening shall be secured by locking. If an opening is unable to be secured at the time it is discovered it will be secured and a lien will be placed on the property. This service is required to prevent further access to the building or accessory structures.	Jun 22, 2017
14-3-4-4 Nuisance	Any nuisance as defined in this code. All opening shall be secured by locking. If an opening is unable to be secured at the time it is discovered it will be secured and a lien will be placed on the property. This service is required to prevent further access to the building or accessory structures.	Jun 22, 2017
14-3-4-2 Inadequate Sanitation	Inadequate sanitation includes lack of, or improper operation of required ventilating equipment.	Jun 22, 2017
14-3-4-2 Inadequate Sanitation	Inadequate sanitation includes lack of electric lighting.	Jun 22, 2017
14-3-4-2 Inadequate Sanitation	Inadequate sanitation includes lack of hot and cold running water in plumbing fixtures in the dwelling unit.	Jun 22, 2017
14-3-4-2 Inadequate Sanitation	Inadequate sanitation includes lack of, or not properly operative kitchen sink in the dwelling unit.	Jun 22, 2017
14-3-4-2 Inadequate Sanitation	Inadequate sanitation includes lack of, or not properly operative water closet, lavatory, bathtub or shower in a dwelling unit.	Jun 22, 2017
14-3-4-2 Inadequate Sanitation	Inadequate sanitation includes lack or not properly operative kitchen sink in the dwelling unit.	Jun 22, 2017
14-3-4-2 Inadequate Sanitation	The accumulation of discarded items, trash, inoperative vehicles, and weeds make this property an eyesore to the surrounding neighborhood.	Jun 22, 2017

File Number: CF-2017-020792

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# CITY OF ALBUQUERQUE

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Albuquerque, NM 87102

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



Richard J. Berry, Mayor

14-3-4-4 Nuisance	The accumulation of discarded items, trash, inoperative vehicles, and weeds make this property an eyesore to the surrounding neighborhood.	Jun 22, 2017
14-3-4-1 Substandard Building Defined	Upon initial inspection of the property located at 5609 Everitt NW, was without any utility service. The lack of these services endanger; the life, health, safety, and welfare of the occupants and has created a SUBSTANDARD dwelling. The unit is not capable of supplying heat, electricity or water. Prior to occupancy all utility service shall be restored.	Jun 22, 2017

Code Sections	Code Description
14-3-5-12	<p>All buildings or portions thereof which are determined to be substandard as defined in this code are hereby declared to be nuisances and shall be abated by repair, rehabilitation, demolition, removal or securing all accessible openings and entrances to building in accordance with the procedure as provided herein.</p> <p>Any building that has been determined to be substandard and which has been abated by securing all accessible openings and entrances shall be repaired, rehabilitated, demolished or removed within 12 months of being secured. The failure to repair, rehabilitate, demolish or remove such building within 12 months shall be prima facie evidence that the building is a menace to the public comfort, health, peace or safety and should be condemned. At the first City Council meeting following the 12 month period the administration shall present the City Council with a Resolution of Condemnation as provided for in Section 3-18-5 NMSA 1978 and proceed with condemnation as provided for under that statute.</p>
14-3-4-4(B)	Buildings that have broken windows or doors constituting hazardous conditions and inviting trespassers or malicious mischief.
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.
14-3-4-2(G)	Lack of, or improper operation of required ventilating equipment.
14-3-4-2(J)	Lack of required electrical lighting.
14-3-4-2(E)	Lack of hot and cold running water to plumbing fixtures in a dwelling unit.
14-3-4-2(C)	Lack of, or not properly operative kitchen sink.
14-3-4-2(A)	Lack of, or not properly operative water closet, lavatory, bathtub or shower in a dwelling unit.
14-3-4-2(C)	Lack of, or not properly operative kitchen sink.

File Number: CF-2017-020792

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Richard J. Berry, Mayor

14-3-4-2(L)	General dilapidation or inadequate maintenance.
14-3-4-4(D)	Buildings whose maintenance is so out of harmony and conformity with the maintenance and quality of adjacent or nearby properties as to cause substantial diminution in the enjoyment, use or property value of such adjacent or nearby properties.
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.

File Number: CF-2017-020792

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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:

Vacate the building or structure on or before Jun 12, 2017. After vacating the building or structure, you must then secure all accessible openings and entrances to the building(s) within five (5) days of the date of this order. Failure to comply with this order will result in the City securing the building and filing a lien against the property for the cost of securing the building. You must then repair or demolish the building or structure. In repairing or demolishing the building or structure, obtain all required permits and physically commence within 15 DAY of the date of this Order. The repairs must be completed by July 22, 2017.

#### NOTICE ADMINISTRATIVE REMEDIES

IF THE PROPERTY IS NOT SECURED BY Jun 22, 2017 AT 5:00 PM, AND 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: Jun 7, 2017.

A form for filing an appeal is available in the Code Enforcement Section office at 600 2<sup>nd</sup> 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) 924-3832. Please reference Notice and Order number CF-2017-020792.

Sandra Handley  
Code Enforcement Specialist  
(505) 924-3832

File Number: CF-2017-020792

Job Number: 044480750-001

Initial Print Date: Jun 7, 2017

AFFIDAVIT OF SERVICE  
FOR POSTING AND MAILING  
OF NOTICE AND ORDER

STATE OF NEW MEXICO }  
COUNTY OF BERNALILLO } SS

I, Sandra Handley, being duly sworn upon Oath, state that on 6/12/2017, posted a copy of the Notice and Order at 5609 EVERITT RD NW, Albuquerque, NM, and mailed a copy of the Notice and Order by certified mail to the owner on 6/7/2017.

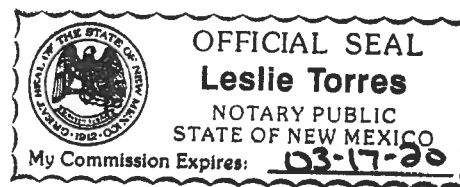
Addressed to: **KOWALCHUK LUCY J & JANICE & CASSANDRA & RANDY**  
**5613 EVERITT NW**  
**ALBUQUERQUE, NM 87120**

*Sandra Handley*  
Sandra Handley  
Code Enforcement Specialist  
Code Enforcement Division  
Planning Department  
City of Albuquerque  
(505) 924-3832

SUBSCRIBED AND SWORN TO me on this 7th day of June, 20 17,  
by Sandra Handley.

*Leslie Torres*  
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: **5609 EVERITT RD NW, Albuquerque, NM**

Legal Description: \* **003 003SLOANS ACRES SUB LOT 3, BLOCK 3, SUBDIVISION SLOANS ACRES**

Parcel Number (UPC): **10-110-6001946220409**

Owner & Owner's Address: **KOWALCHUK LUCY J & JANICE & CASSANDRA & RANDY  
5613 EVERITT NW  
ALBUQUERQUE, NM 87120**

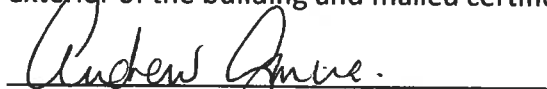
Processing Fee: \$50.00

Filing Fee: \$25.00

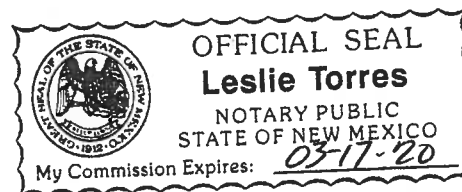
The property described above is in violation of the City Housing Code: **Notice and Order** dated **Jun 7, 2017**

## 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 9<sup>th</sup> day of June, 2017.

  
Notary Public

My Commission Expires 03-17-20

Doc# 2017063173

06/29/2017 11:43 AM Page: 1 of 7  
NOT R: \$25.00 Linda Stover, Bernalillo County



















