

CITY of ALBUQUERQUE

TWENTY FOURTH COUNCIL

COUNCIL BILL NO. R-21-132 ENACTMENT NO. _____

SPONSORED BY: Lan Sena

1 RESOLUTION

2 A NUISANCE, SUBSTANDARD DWELLING OR STRUCTURE IN NEED OF
3 ABATEMENT AT 5912 SWEET WATER DR NW 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 5912 SWEET
8 WATER DR NW ALBUQUERQUE NM 87120, which is located and is more
9 particularly described as: *15 1 AMENDED SUMMARY PLAT MONTANO WEST
10 SUBD 0.1326 AC; and

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

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

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

23 Section 2. That ZERBE DARY & DEBORAH, record owner of said
24 building, structure or premises shall commence removal of same within ten
25 (10) days after service of a copy of this Resolution or within said ten (10) day

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1 period, file written objection to findings herein with the City Clerk/Recorder of
2 the City of Albuquerque, asking for a hearing before 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

September 24, 2020

TO: Pat Davis, President, City Council

FROM: Timothy M. Keller, Mayor 

SUBJECT: Resolution of Nuisance Abatement of a Substandard Building at: 5912 SWEETWATER DR NW 87120

The attached resolution requests that the building located at 5912 SWEETWATER DR 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 \$21,954.

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

Resolution of Nuisance Abatement of a Substandard Building at: 5912 SWEETWATER DR NW, Albuquerque, New Mexico 87120

Approved:

DocuSigned by:



11/20/2020 | 11:34 AM MST

Sarita Nair

Date

Chief Administrative Officer

Approved as to Legal Form:

DocuSigned by:



11/17/2020 | 2:52 PM MST

Esteban A. Aguilar, Jr.

Date

City Attorney

Recommended:

DocuSigned by:



11/17/2020 | 2:50 PM MST

Brennan Williams

Date

Director

Cover Analysis

1. What is it?

A substandard, nuisance structure located at 5912 SWEETWATER DR NW 87120 and legally described as, *15 1 AMENDED SUMMARY PLAT MONTANO WEST 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 \$21,954 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: 5912 SWEETWATER DR NW 87120

R: X O:

*15 1 AMENDED SUMMARY PLAT MONTANO WEST SUBD

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:

		2021	Fiscal Years 2022	2023	Total
Base Salary/Wages					
Fringe Benefit	30.440%		-	-	-
Subtotal Personnel		-	-	-	-
Operating Expenses			-	-	-
Property			-	-	-
Indirect Costs	%				
Total Expenses		\$ -	\$ -	\$ -	\$ -
[] 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

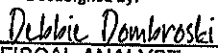
COMMENTS :


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:

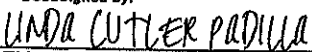
PREPARED BY:


APPROVED:

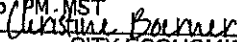
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 FISCAL ANALYST
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 DIRECTOR
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REVIEWED BY:

DocuSigned by:

 EXECUTIVE BUDGET ANALYST
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 BUDGET OFFICER (date) 11/20/2020 | 1:56 PM MST
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DocuSigned by:

 CITY ECONOMIST
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N
↓

Approx. 1909 sq ft not to
scale

52'

Address: 5912 SWEET
WATER DR NW, Legal
Description: *151
AMENDED SUMMARY
PLAT MONTANO
WEST SUBD_

CITY OF ALBUQUERQUE



CODE ENFORCEMENT
Plaza Del Sol Building, Suite 500
600 2nd Street NW
Albuquerque, NM 87102
Telephone (505) 924-3450 Fax (505) 924-3847

Richard J. Berry, Mayor

13-MAR-2015

NOTICE AND ORDER WITH APPEAL

Owners: ZERBE, DARY & DEBORAH
1614 ASPEN RD
BENNINGTON, KS 67422

A handwritten signature in black ink, appearing to be "RJB".

RE: 5912 SWEETWATER DR NW ALBUQUERQUE, NM 87120

PO Box 1293

On 13-MAR-2015, the City of Albuquerque Planning Department, Code Enforcement Division, made an inspection of the building or structure owned, occupied, or controlled by you at:

Albuquerque

5912 SWEETWATER DR NW, ALBUQUERQUE, NM 87120,

which is more particularly described as:

New Mexico 87103

*15 1 AMENDED SUMMARY PLAT MONTANO WEST SUBD LOT 15,
BLOCK 1, SUBDIVISION MONTANO WEST UNIT 1, ALBUQUERQUE,
NEW MEXICO.

www.cabq.gov

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.

Description of Violation(s) found on the property located at
5912 SWEETWATER DR NW:

Heating facilities not capable of minimum room temperature (Section: 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 degrees F at a point 3 feet above the floor in all habitable rooms.

Upon initial inspection of the property located at 5912 SWEET WATER NW 87120 ALBUQUERQUE NM; the unit was without any utility services. The lack of these services endangers 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. The unit shall be vacated until all missing utility services are restored.

Substandard dwelling (Section: 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 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.

Upon initial inspection of the property located at 5912 SWEET WATER NW 87120 ALBUQUERQUE NM; the unit was without any utility services. The lack of these services endangers 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. The unit shall be vacated until all missing utility services are restored.

Lack of hot and cold running water (Section: 14-3-4-2(E)): Inadequate sanitation includes lack of hot and cold running water to plumbing fixtures in a dwelling unit.

Upon initial inspection of the property located at 5912 SWEET WATER NW 87120 ALBUQUERQUE NM; the unit was without any utility services. The lack of these services endangers 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. The unit shall be vacated until all missing utility services are restored.

Lack of adequate heating facilities (Section: 14-3-4-2 (F)): Inadequate sanitation includes lack of adequate heating facilities.

Upon initial inspection of the property located at 5912 SWEET WATER NW 87120 ALBUQUERQUE NM; the unit was without any utility services. The lack of these services endangers 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. The unit shall be vacated until all missing utility services are restored.

Lack of required lightning (Section: 14-3-4-2(I)): Inadequate sanitation includes lack of required electrical lighting.

Upon initial inspection of the property located at 5912 SWEET WATER NW 87120 ALBUQUERQUE NM; the unit was without any utility services. The lack of these services endangers 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. The unit shall be vacated until all missing utility services are restored.

General dilapidation or inadequate maintenance (Section: 14-3-4-2(L)): Inadequate sanitation includes general dilapidation or inadequate maintenance.

All weeds, trash, litter and outside storage shall be removed.

Nuisance as defined in this code (Section: 14-3-4-4): Any nuisance as defined in this code.

Upon initial inspection of the property located at 5912 SWEET WATER NW 87120 ALBUQUERQUE NM; the unit was without any utility services. The lack of these services endangers 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. The unit shall be vacated until all missing utility services are restored.

Faulty weather protection (Section: 14-3-4-8(A)): Faulty weather protection includes deteriorated or ineffective waterproofing of exterior walls, roof, foundations or floors, including broken windows, doors and basement hatchways.

All broken windows and doors shall be replaced.

Failure to act within 12 months (Section: 14-3-5-12): *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. 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 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.*

ORDER

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

Vacate the building or structure on or before 23-MAR-2015. 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 DAYS of the date of this Order. The repairs must be completed by 01-MAY-2015.

NOTICE ADMINISTRATIVE REMEDIES

IF THE PROPERTY IS NOT SECURED BY 23-MAR-2015 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 OF \$250.00 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: 23-MAR-2015.

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 order 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 the Notice and Order or to any portion thereof. A hearing on a properly and timely filed appeal to the 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)924-3465. Please reference Notice and Order number 2015000067.



RICARDO VIALPANDO

Code Enforcement Inspector
Planning Department
City of Albuquerque

AFFIDAVIT OF SERVICE
FOR POSTING AND MAILING
OF NOTICE AND ORDER

STATE OF NEW MEXICO }
COUNTY OF BERNALILLO } SS

I, RICARDO VIALPANDO being duly sworn upon Oath, state that on 3/13/15 posted a copy of
the Notice and Order at 5912 SWEET WATER NW 87120

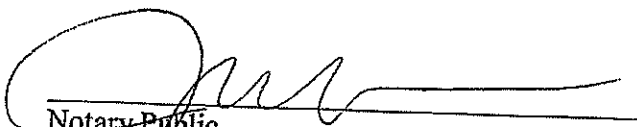
Mailed a copy of the Notice and Order by certified mail to the owner on 3/13/15

Addressed to:

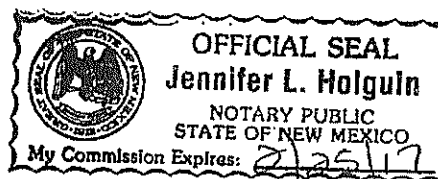
ZERBE DARY & DEBORAH
1614 ASPEN RD
BENNINGTON KS 67422 9025

RICARDO VIALPANDO, Code Enforcement Inspector
Code Enforcement Division
Planning Department
City of Albuquerque
924-3465

SUBSCRIBED AND SWORN TO me on this 24th day of March, 20 15,
by RICARDO VIALPANDO


Notary Public

My commission expires 2/25/17



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:

5912 SWEET WATER NW 87120

15 1 AMENDED SUMMARY PLAT MONTANO WEST SUBD

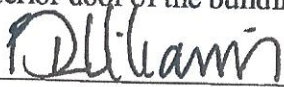
Owner & Owner's address:

ZERBE DARY & DEBORAH
1614 ASPEN RD
BENNINGTON KS 67422 9025

Property described above is in violation of the City Housing Code: Notice and Order dated 13-MAR-15.

Attached Are Copies of Findings

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



Brennon Williams
bnwilliams@cabq.gov
Code Compliance Manager
Code Enforcement Division
Planning Department
City of Albuquerque

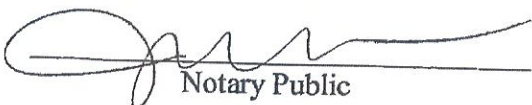
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04/01/2015 10:01 AM, Page: 1 of 8
NOT R:\$25.00 M. Toulouse Oliver, Bernalillo County

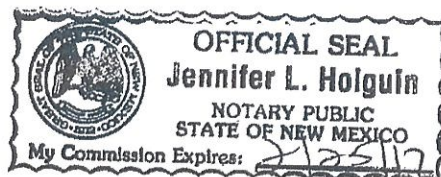


STATE OF NEW MEXICO } SS
COUNTY OF BERNALILLO

The foregoing instrument was acknowledged before me by Brennon Williams this 24 day of MAR 2015.


Notary Public

My Commission Expires 2/25/17



Sep 24, 2020 at 10:11:41 AM
5912 Sweetwater Dr NW
Albuquerque NM 87120
United States



Sep 24, 2020 at 10:11:46 AM
5912 Sweetwater Dr NW
Albuquerque NM 87120
United States



Sep 24, 2020 at 10:12:58 AM
5912 Sweetwater Dr NW
Albuquerque NM 87120
United States

