

**CITY OF SAGINAW
BUILDING BOARD OF APPEALS
MEETING AND PUBLIC HEARING
HELD AT CITY HALL
333 WEST MCLEROY BOULEVARD
DECEMBER 13, 2011**

Present at the meeting:

Chairman	Gary Brinkley
Vice Chairman	David Flory
Member	Ed Larson
Member	Delbert Sedberry
Member	Tony del Muro (had to leave meeting early)
City Attorney	Fritz Quast
City Manager	Nan Stanford
Asst. City Manager	Dolph Johnson
Director of Public Works	Mark White
Fire Marshall	Bobby Davenport
Building Official	Kevin McMillin
Senior Building Inspector	Larry Little
Code Enforcement Officer	Lisa Newsom
Code Enforcement Officer	Jeremy Roberson

Absent from the meeting:

Member	Todd Flippo
Member	Alex McCraw

Visitors at the meeting:

Gary Stroud	Darwin German
Barry Jenkins	

(1) Call to Order

Chairman Brinkley called the meeting to order at 6:08 p.m. with a quorum present.

(2) Audience Participation

Chairman Brinkley explained the procedure necessary for members of the audience to speak regarding any particular items.

(3) Approval of Minutes, September 15, 2011

The minutes of the Building Board of Appeals Meeting held on September 15, 2011 were presented for consideration.

Motion was made by Member Larson with a second by Vice Chairman Flory to approve the minutes of the September 15, 2011 Building Board of Appeals Meeting. Motion carried unanimously. 4-0-0-2

For: Chairman Brinkley, Vice Chairman Flory, Members Larson,
and del Muro

Against: None

Abstain: None

Absent: Members Flippo, Sedberry, and McCraw

Chairman Brinkley declared the meeting recessed into Executive Session at 6:09 p.m.

Chairman Brinkley declared the meeting back in Regular Session at 6:30 p.m. He explained that Member del Muro must leave the meeting at this time due to a prior commitment. He also explained that Member Sedberry arrived at the meeting during the Executive Session.

(4) BBA-1211-01

Public Hearing – Substandard Building Abatement Proceedings, including possible action, against property Located at 101 Hialeah Park Street, Rancho North Addition, Block A3A, Lot 17, **Laundry Room/Workshop/Boiler Room Building**, which Has Been Determined by the Building Official to be Substandard, Consider Compliance with Prior Order Dated September 14, 2011, and Consider Assessment of Civil Penalties (Case#: BBA-0911-01)

Chairman Brinkley declared the public hearing open at 6:31 p.m.

Building Official McMillin in accordance with Ordinance No. 2009-11 presented evidence to the Board showing that the property owner was notified of both hearings (September 15, 2011 and December 13, 2011) and the orders issued at the September 15, 2011 Board Meeting. The evidence included returned mail receipts, the sign in sheet for the September 15, 2011 Board Meeting, and the minutes of the September 15, 2011 Board Meeting.

Building Official McMillin explained that of the items on the inspection checklist for the Laundry Room/Workshop/Boiler Room Building, there are three items that were incomplete when the property was inspected yesterday. Those items are as follows.

2. Exterior doors not installed properly.
6. Paint exterior trim.
12. Clean up all debris around building.

Mr. Darwin German addressed the Board. He explained that he is a partner of the ownership group of The Crossing Apartments. He stated that they purchased the property in 2008. He stated that on September 15, 2011, they received approval from the lender to refinance the property. He added that this was completed on October 12, 2011 which is the reason that work on the issues didn't start until October 13, 2011. He stated that to date they have spent over \$100,000 rectifying items. He added that some of that money was from insurance claims that they didn't receive the money for until December. He stated that they are trying to be pro-active in addressing the various issues identified.

Mr. German introduced Mr. Gary Stroud to the Board. He stated that Mr. Stroud is the on-site maintenance employee for the apartment complex. Mr. Stroud stated that the three items have been completed.

Fire Marshall Davenport informed the Board that an inspection was performed yesterday evening and as a result the “no entry” placards on the boiler room building have been removed. He stated that this particular inspection only considered the safety violations.

Chairman Brinkley declared the public hearing closed at 6:49 p.m.

There was a brief discussion that the Order was issued in September but many items were not resolved until the last few days. It was pointed out that it appears that the property owner is trying to address the issues.

Motion was made by Vice Chairman Flory with a second by Member Sedberry to accept the evidence as presented that the three items have been completed and close this item with no fines assessed. Motion carried unanimously. 4-0-0-3

For: Chairman Brinkley, Vice Chairman Flory, Members Larson and Sedberry

Against: None

Abstain: None

Absent: Members Flippo, McCraw, and del Muro

(5) BBA-1211-02

Public Hearing – Substandard Building Abatement Proceedings, including possible action, against property Located at 101 Hialeah Park Street, Rancho North Addition, Block A3A, Lot 17, **Building 181 – All Units**, which Has Been Determined by the Building Official to be Substandard, Consider Compliance with Prior Order Dated September 15, 2011, and Consider Assessment of Civil Penalties (Case#: BBA-0911-02)

Chairman Brinkley declared the public hearing open at 6:53 p.m.

Building Official McMillin explained that in regard to the interior items on the checklist for Units 45, 46, 47, and 48, all items have been addressed and completed except the following two items for Unit 45.

12. Wrong cover for commode in hall bath.
13. Patch drywall in hall bath.

In regard to the exterior items on all four units, he stated that the following have not been completed.

2. Missing screens.
4. Replace all decayed wood.
6. Wood must be protected against weather.
7. Seal all penetrations on exterior walls.
9. Roof is holding water.
11. Roof decking weak above apt 44.
12. A/C units on roof improperly installed.
14. Missing service plugs on roof for A/C units.
16. A/C units not properly grounded.

Building Official McMillin briefly explained the items. He pointed out that the electrical breakers are oversized for the A/C units. They are 30 amp but should be 20 amp. He also added that the water damage on the roof is extensive.

Vice Chairman Flory asked when permits were taken out for the items listed. Building Official McMillin explained that permits were issued on October 28, 2011.

Mr. German addressed the Board. He stated that they have contracted with Professional Service Company to do the plumbing and HVAC work. In regard to the commode cover listed, he stated that they have been unable to find the exact lid that is needed. He also stated that they have filed a new insurance claim for hail damage.

Mr. Barry Jenkins of Professional Service Company addressed the Board. He stated that his company was hired in October and they are going through all the units at the complex making needed repairs. He explained that he just found out about the issue with the electrical breakers on Monday.

Mr. German stated that Mr. Stroud has replaced all the electrical breakers. There was a discussion regarding when the property owner was made aware of the problem with the breakers. Building Inspector Little stated that the property owner was made aware of the problem approximately one month ago.

Member Sedberry asked if the air conditioning units on the roof are a fire hazard. Fire Marshall Davenport stated that the Fire Department purposely avoids the roofs in the complex for safety reasons.

Chairman Brinkley asked if an electrical license was required in order to change out the breakers. Building Official McMillin stated that it is not required. Mr. Stroud explained that he just found out about the breakers yesterday. He stated that he has replaced all of them except for the one in Unit 42. He also added that he painted the doors yesterday.

Mr. German explained that he hired an electrician to address Item 16 (A/C units not properly grounded) and it has been completed. Building Inspector Little stated that the electrician has not called in to request inspections on this work.

Chairman Brinkley declared the public hearing closed at 7:15 p.m.

There was a discussion regarding fines and assessment. The Orders issued on September gave the property owner thirty days to complete the repairs. At the end of that period, the lien holders were given an additional thirty day period. From the end of that period to yesterday is a total of twenty-seven days that fines can be assessed for each violation.

There was a lengthy discussion regarding the extensive problems with the roof. Also discussed were pictures taken yesterday showing an ineffective attempt to make temporary repairs to the roof.

Motion was made by Vice Chairman Flory with a second by Member Sedberry in regard to Case#: BBA-0911-02 (Building 181 – All Units) to assess fines of \$100.00 per day (total of twenty-seven days) on each of the eleven items stated. Motion carried unanimously. 4-0-0-3

For: Chairman Brinkley, Vice Chairman Flory, Members Larson and Sedberry

Against: None

Abstain: None

Absent: Members Flippo, McCraw, and del Muro

- (6) BBA-1211-03
Public Hearing – Substandard Building Abatement Proceedings, including possible action, against property Located at 101 Hialeah Park Street, Rancho North Addition, Block A3A, Lot 17, **Building 185 – All Units**, which Has Been Determined by the Building Official to be Substandard, Consider Compliance with Prior Order Dated September 15, 2011, and Consider Assessment of Civil Penalties (Case#: BBA-0911-03)

Chairman Brinkley declared the public hearing opened at 7:29 p.m.

Building Official McMillin explained in regard to the interior items on the checklist for Units 41, 42, 43, and 44, all items have been addressed and completed except three items on Unit 42 and one item on Unit 44. The incomplete items are as follows.

Unit 42

5. Missing smoke detectors in bedrooms.
6. Missing carbon monoxide detector.
12. Missing disconnect. (loose)

Unit 44

4. Hole in wall under kitchen sink.

Building Official McMillin explained that the exterior items were included in those addressed in the prior item on tonight's agenda.

Chairman Brinkley declared the meeting recessed at 7:31 p.m.

Chairman Brinkley declared the meeting back in session/public hearing at 7:35 p.m.

Mr. Stroud stated that during the inspection yesterday, the smoke detectors were in the unit but needed new batteries. He stated that both are back up and working. He added that the carbon monoxide detector has been replaced and is working also. In regarding to the hole in the wall, he stated that it has been completed.

Mr. German stated that the loose disconnect has been re-attached. He explained that the incomplete items were minor issues and they were addressed following the inspection yesterday.

Chairman Brinkley declared the public hearing closed at 7:43 p.m.

Motion was made by Vice Chairman Flory with a second by Member Sedberry to not assess fines on this case based on the property owner's word that the items listed have been addressed and completed. Motion carried 3-1-0-3

For: Vice Chairman Flory, Members Larson and Sedberry

Against: Chairman Brinkley

Abstain: None

Absent: Members Flippo, McCraw, and del Muro

- (7) BBA-1211-04
Public Hearing – Substandard Building Abatement Proceedings, including possible action, against property Located at 101 Hialeah Park Street, Rancho North Addition, Block A3A, Lot 17, **Building 189 – All Units**, which Has Been Determined by the Building Official to be Substandard, Consider Compliance with Prior Order Dated September 15, 2011, and Consider Assessment of Civil Penalties (Case#: BBA-0911-04)

Chairman Brinkley declared the public hearing for this item opened at 7:45 p.m.

In regard to Building 189 – All Units, Building Official McMillin stated that all items have been addressed and completed by the property owner.

There was no public input. Chairman Brinkley declared the public hearing closed at 7:45 p.m. Due to the items being completed, there was no action taken by the Board.

- (8) BBA-1211-05
Public Hearing – Substandard Building Abatement Proceedings, including possible action, against property Located at 101 Hialeah Park Street, Rancho North Addition, Block A3A, Lot 17, **Building 169 – Unit 60 Only**, which Has Been Determined by the Building Official to be Substandard, Consider Compliance with Prior Order Dated September 15, 2011, and Consider Assessment of Civil Penalties (Case#: BBA-0911-05)

Chairman Brinkley declared the public hearing for this item opened at 7:46 p.m.

In regard to Building 169 – Unit 60 only, Building Official McMillin stated that all items have been addressed and completed by the property owner.

There was no public input. Chairman Brinkley declared the public hearing closed at 7:46 p.m. Due to the items being completed, there was no action taken by the Board.

- (9) BBA-1211-06
Public Hearing – Substandard Building Abatement Proceedings, including possible action, against property Located at 101 Hialeah Park Street, Rancho North Addition, Block A3A, Lot 17, **Building 165 – Unit 63 Only**, which Has Been Determined by the Building Official to be Substandard, Consider Compliance with Prior Order Dated September 15, 2011, and Consider Assessment of Civil Penalties (Case#: BBA-0911-06)

Chairman Brinkley declared the public hearing for this item opened at 7:46 p.m.

In regard to Building 165, Unit 63 only, Building Official McMillin stated that all items have been addressed and completed by the property owner.

There was no public input. Chairman Brinkley declared the public hearing closed at 7:47 p.m. Due to the items being completed, there was no action taken by the Board.

(10) BBA-1211-07

Public Hearing – Substandard Building Abatement Proceedings, including possible action, against property Located at 101 Hialeah Park Street, Rancho North Addition, Block A3A, Lot 17, **Building 129 – Unit 70 Only**, which Has Been Determined by the Building Official to be Substandard, Consider Compliance with Prior Order Dated September 15, 2011, and Consider Assessment of Civil Penalties (Case#: BBA-0911-07)

Chairman Brinkley declared the public hearing for this item opened at 7:47 p.m.

Building Official McMillin explained that there were four items on the checklist for Unit 70 and all four of the items remain incomplete. He briefly explained the items. He added that some work has been done but it is unacceptable and does not pass inspection. This unit is currently unoccupied.

The four items are as follows.

1. Replace rotted and decayed wood in exterior wall.
2. Replace damaged insulation in exterior wall.
3. Replace damaged drywall.
4. Treat mildew on interior and exterior walls.

Fire Marshall Davenport informed that Board that in addition to the items mentioned, this particular unit has been used to store old mattresses, furniture and other items. He stated that he has given the property owner until Friday to remove the items or this unit will be marked with a no entry allowed placard.

Mr. German agreed that there are problems with this unit. He explained that the former tenant was evicted for non-payment and following the eviction, they found the damage. He stated that repair work was started but more extensive problems were discovered. He explained that the items have not been completed because of the expanding scope of problems. He submitted a letter to the Board from Mr. Chris Parshall of NYTEX Construction regarding the status of the reconstruction work at the complex.

There was a discussion of some of the work that has been done on this unit, and will not pass inspection. Mr. German stated that they want the contractor to do the work properly. He added that they have not signed off on the work and will not do so until it is completed correctly and passes inspection.

Chairman Brinkley declared the public hearing closed at 8:02 p.m.

Motion was made by Member Larson with a second by Vice Chairman Flory in regard to Case#: BBA-0911-07 (Building 129 – Unit 70 Only) to assess fines of \$100 per day (total of twenty-seven days) on each of the four items stated. Motion carried unanimously. 4-0-0-3

For: Chairman Brinkley, Vice Chairman Flory, Members Larson and Sedberry

Against: None

Abstain: None

Absent: Members Flippo, McCraw, and del Muro

(11) Executive Session

1 § 551.071. Consultation with Attorney. The Building Board of Appeals may convene in executive session to conduct a private consultation with its attorney on any legally posted agenda item, when the Building Board of Appeals seeks the advice of its attorney about pending or contemplated litigation, a settlement offer, or on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with the provisions of Chapter 551, including the following items:

- a. Any Posted Item

(12) Adjournment

Motion was made by Member Sedberry with a second by Vice Chairman Flory to adjourn the meeting. Motion carried unanimously. 4-0-0-3

For: Chairman Brinkley, Vice Chairman Flory, Members Larson and Sedberry

Against: None

Abstain: None

Absent: Members Flippo, McCraw, and del Muro

Chairman Brinkley declared the Building Board of Appeals Meeting of December 13, 2011 adjourned at 8:04 p.m.

ATTEST:

APPROVED:

City Secretary

Chairman