

CAUSE NO. 15-002326-CV-361

MIRIAM ALVARADO
Plaintiff

VS.

CITY OF BRYAN, TEXAS
Defendant

§
§
§
§
§
§
§

IN THE DISTRICT COURT FOR

THE 361ST JUDICIAL DISTRICT

BRAZOS COUNTY, TEXAS

JOINT MOTION FOR AGREED JUDGMENT

TO THE HONORABLE JUDGE OF SAID COURT:

Comes Now Plaintiff Luis Pedroza and Defendant City of Bryan and hereby move that the Court enter an Agreed Judgment in final resolution of this matter and in support hereof, the parties would respectfully show unto the Court the following:

I. Parties

1. The Plaintiff, Luis Pedroza, is a resident of Brazos County, Texas, and was substituted for the original plaintiff, Miriam Alvarado, on June 27th, 2016.
2. The Defendant is the City of Bryan ("City"), a Texas home-rule municipal corporation, acting by and through the Building and Standards Commission ("Commission"), a quasi-judicial body created, and operating, pursuant to Chapter 54 of the Texas Local Government Code.

II. Procedural History

3. On August 24, 2015, the City held a hearing before the Commission regarding the dangerous condition of the structure at 200 S. Brazos Ave., Bryan, Texas, the property that is the subject of this lawsuit ("Property"). No one was present at the hearing to represent the owner and the staff recommendation for demolition was accepted by the Commission.
4. Unbeknownst to the City, the owner was in negotiations with Mr. Pedroza for him to purchase the Property and bring it up to code. The sale took place on or about the same time as

the Commission hearing. This appeal was filed in order to preserve the status quo and argue in favor of allowing the new owner to make repairs to the Property. After Mr. Pedroza was substituted as the Plaintiff in this appeal, the parties negotiated a proposed list of repairs needed for the house, and a schedule of repairs. At the regularly scheduled meeting of the Commission on the 22nd day of August, 2016, they discussed a recommendation to this court and the schedule for repairs was approved by the Commission unanimously.

III. Motion

5. Based on the foregoing, the parties jointly move the Court to enter a new order, revising the Commission's order from August 24th, 2015 to find that repair of the structure is feasible, and order Mr. Pedroza to complete repairs in accordance with the schedule in the draft order submitted with this motion. Specifically, the parties request that the court order the following:

- a. Mr. Pedroza is required to obtain a building permit within sixty days of this court's order, and if he fails to do so the City may enter the Property, demolish the structure, remove the debris, and file a lien for the costs of same against the Property.
- b. If Mr. Pedroza obtains a building permit, he must complete the repairs within 100 days of obtaining the building permit, and that if he fails to complete such repairs he be required to appear before the court to show cause why the repairs have not been completed.

The parties believe that the attached order is a reasonable settlement of the issues in this case.

IV. Prayer

WHEREFORE, PREMISES CONSIDERED, the parties respectfully request this Court to order the following:

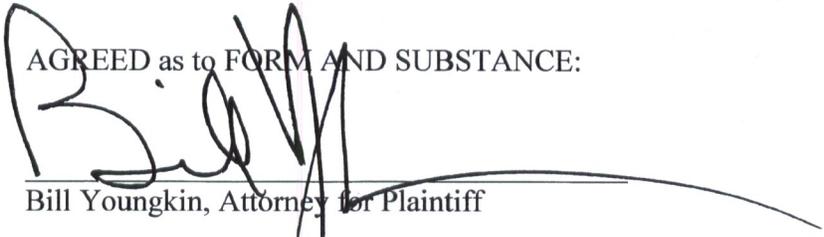
- a. the order of the Commission dated August 24, 2015 be revised to require the Plaintiff to obtain a building permit within 60 days and complete the agreed upon repairs of the structure within 100 days; and
- b. if the Plaintiff fails to obtain a building permit within 60 days, the City may petition the court for a warrant to enter the property, demolish the structure, remove the debris and file a lien against the property for the cost of same and this appeal shall be dismissed; and
- c. if the Plaintiff should fail to complete such repairs and obtain a certificate of occupancy within 100 days, the Plaintiff be required to appear before the Court and show cause why the repairs have not been completed; and
- d. if the Plaintiff successfully completes repairs and obtains a certificate of occupancy, this appeal shall be dismissed; and
- e. that all costs of Court be taxed against the party by whom incurred, for which let execution issue.

Respectfully submitted,

The City of Bryan, a Municipal Corporation

By: _____
Thomas A. Leeper, First Assistant City Attorney
State Bar No.: 12074720
tleeper@bryantx.gov
Jonathan T. Koury, Assistant City Attorney
SBOT: 24050892
jkoury@bryantx.gov
300 South Texas Avenue
Bryan, Texas 77803
Telephone: (979) 209-5150
Facsimile: (979) 209-5160

AGREED as to FORM AND SUBSTANCE:


Bill Youngkin, Attorney for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that in accordance with the Rules of Civil Procedure that a true and correct copy of the foregoing has been served on counsel of record in the manner stated below on this the ___ day of _____, 2016.

Bill Youngkin
VIA FACSIMILE at 979-776-1315

Jonathan T. Koury, Assistant City Attorney
