

CITY OF ALBUQUERQUE

ALBUQUERQUE, NEW MEXICO

INTER-OFFICE CORRESPONDENCE

December 2, 1983

REF. NO. _____

TO: Bernie Montoya, Engineering, Hydrology
FROM: Jim Fitzgerald, Assistant City Attorney
SUBJECT: 1113 Rhode Island NE.

Reference your memo of September 15, 1983 to Charles Volz regarding this matter. Does the existing non-compliance with the original approved drainage plan for this site constitute an actual or potential hazard to the public health, safety or welfare? If it does, please provide me with a detailed report concerning the hazard, and I will initiate legal proceedings to abate it.

JPF/lg

cc: Charles Volz, Code Administration Division

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DEC 05 1983
ENGINEERING

CITY OF ALBUQUERQUE

ALBUQUERQUE, NEW MEXICO

INTER-OFFICE CORRESPONDENCE

November 4, 1983

REF. NO. _____

TO: James P. Fitzgerald, Assistant City Attorney
FROM: Charles W. Volz, Chief Building Official, Code Administration Div. *CWP*
SUBJECT: 1113 Rhode Island NE (Certificate of Occupancy)

Thank you for your memo of August 9, 1983. Please be advised that the Refuse Department has since approved issuance of the Certificate of Occupancy realizing that they would probably not win a court suit based on the provisions of their ordinance. My continued interest in this matter is:

1. The Uniform Administrative Code, 1980 Edition (City Ordinance 63-1980), Section 202 POWERS AND DUTIES OF BUILDING OFFICIAL (a) General states: "The Building Official is hereby authorized and directed to enforce all of the provisions of this code and the referenced technical codes".
2. The UAC Section 308 (a) Use or Occupancy states: "No building or structure of Groups A, E, I, H, B, or R, Division 1 Occupancy, shall be used or occupied, and no change in the existing occupancy classification of a building or structure or portion thereof shall be made until the Building Official has issued a Certificate of Occupancy therefore as provided herein".

The only remaining City agency left to approve the Certificate of Occupancy is City Engineering (Hydrology). Attached is correspondence from Bernie J. Montoya, Hydrologic Engineering Technician, indicating the substance of the drainage violations. Please contact Bernie or Fred Aguirre, City Engineer (Hydrology) for information concerning the drainage violation(s).

Please notify me of the disposition of this matter, thank you for your continued assistance.

CWV/cc

cc: Bernie J. Montoya, Hydrologic Engineering Technician ✓
Fred Aguirre, City Engineer (Hydrology)
Dwayne Sheppard, Acting City Engineer

Attachments (3): July 18, 1983 Memo-Charles W. Volz to Jim Fitzgerald
August 9, 1983 Memo-James P. Fitzgerald to Charles Volz
September 15, 1983 Memo-Bernie J. Montoya to Charles Volz

CITY OF ALBUQUERQUE

ALBUQUERQUE, NEW MEXICO

FILE COPIES ✓
#35

INTER-OFFICE CORRESPONDENCE

September 15, 1983

REF. NO. _____

TO: Charles Volz, Chief Building Official
FROM: Bernie J. Montoya, Hydrologic Engineering Technician *Bjm*
SUBJECT: 1113 Rhode Island N.E.

At the time the construction plans were submitted for review, Drainage Resolution 1972-2 (A.M.A.F.C.A.) was in effect. The requirements are stated under Section 6 A,B,&C of the Resolution. Requirement of a drainage plan submittal to the A.M.A.F.C.A. Designee (City Engineer) for review was met and the plan was approved on 6-26-80.

On 6-22-83 an inspection was requested by the owner at the building (almost three years later). The site was inspected for compliance of the original approved drainage plan, and was found to be in non-compliance. The owner was advised at our concerns at the time of inspection. We were advised by the owner that he would not take corrective measures to comply, and that the City wasn't going to tell him how to build. Therefore, he is in violation of Section 11-8, which states that no Certificate of Completion or Occupancy may be issued unless the applicable state or local governmental agency or department administering and enforcing the applicable building code has certified that inspections were made and accepted.

BH/ccg

CITY OF ALBUQUERQUE

ALBUQUERQUE, NEW MEXICO

INTER-OFFICE CORRESPONDENCE

August 9, 1983

REF. NO. _____

TO: Charles Volz, Chief Building Official
FROM: James P. Fitzgerald, Assistant City Attorney
SUBJECT: 1113 Rhode Island, N.E.

Regarding your memorandum of July 18, 1983, I have researched this matter with an eye toward determining the most effective means of enforcing City ordinance provisions regarding this property. I have determined that filing a Court action pursuant to provisions of the Uniform Administrative Code is probably not the best way to address this situation.

As I understand the situation concerning Mr. Shelton and 1113 Rhode Island, N.E., the property owner failed to receive final inspections and approvals pursuant to the Refuse Collection and Drainage Ordinances. The Drainage and Refuse Collection Ordinances are not Technical Codes of the City of Albuquerque, and, therefore, the City is not authorized to undertake enforcement action for violation of those ordinances pursuant to the Uniform Administrative Code. I am aware that UAC Section 3008(c) states: "A request for a Certificate of Occupancy shall be made by the owner or his agent after final inspection approvals have been secured from all City departments or divisions involved in the enforcement of pertinent codes, ordinances, or laws." It is arguable that the quoted language authorizes the City to withhold Certificates of Occupancy when final inspection approvals have not been received not only from the Technical Code, but also from related City ordinances. However, that authority is not clear.

Therefore, it is my recommendation that concerning the situation at 1113 Rhode Island, N.E., a Court action to abate ordinance violations be initiated based directly on whatever violations of the Refuse Ordinance and Drainage Ordinance exists at these premises. If you will promptly forward information to me concerning the substance of those Ordinance violations, I will file such a Court action as soon as possible.

Charles Volz, Chief Building Official
August 9, 1983
Page Two

Please do not hesitate to call me to discuss this matter
further.

JPF:gs

CITY OF ALBUQUERQUE

ALBUQUERQUE, NEW MEXICO

INTER-OFFICE CORRESPONDENCE

July 18, 1983

REF. NO. _____

TO: Jim Fitzgerald, Assistant City Attorney

FROM: Charles W. Volz, Chief Building Official, Code Administration Div. (CWV)

SUBJECT: 1113 Rhode Island NE, Non-Compliance with Section 307 (a) and
307 (c) of the New Mexico Building Code, 1982 Edition; or Section
308 (a) and 308 (c) of the 1979 Edition

Mr. William Shelton, the owner of the building at subject address has been notified, by letters, mailed July 1, 1982, November 15, 1982, January 5, 1983 and by hand delivery of a letter dated June 15, 1983 of his non-compliance with the two (2) referenced Sections of the New Mexico Building Code.

Mr. Shelton is determined that he does not have to comply with the provisions of the code that requires a Certificate of Occupancy, in regard to Flood Control and Refuse. I request that you explore the legal means, at the disposal of you office, to force Mr. Shelton to comply.

CWV/cc

Attachments (file of correspondence that relate to the project)

cc: Cleo Hughes
Tony Reynolds ✓
Carl P. Rodolph, Director/MDD

CITY OF ALBUQUERQUE

ALBUQUERQUE, NEW MEXICO

INTER-OFFICE CORRESPONDENCE

September 15, 1983

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FROM: Bernie J. Montoya, Hydrologic Engineering Technician *BM*
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BM/ccg

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TO: Jim Fitzgerald, Assistant City Attorney

FROM: Charles W. Volz, Chief Building Official, Code Administration Div. CWV

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Tony Reynolds ✓
Carl P. Rodolph, Director/MDD

6/22/83

CITY OF ALBUQUERQUE

ALBUQUERQUE, NEW MEXICO

INTER-OFFICE CORRESPONDENCE

August 9, 1983

REF. NO. _____

TO: Charles Volz, Chief Building Official
FROM: James P. Fitzgerald, Assistant City Attorney
SUBJECT: 1113 Rhode Island, N.E.

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Charles Volz, Chief Building Official
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