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C-10019
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CITY OF GLENDALE,

Plaintiff,

vs.

**VO LANDHOLDINGS, INC. and
VICTOR ARMENDARIZ,**

Respondents.

City of Glendale Docket No. 2013-IBC-001

**FINDINGS AND ORDER OF
HEARING OFFICER**

This matter came before the City of Glendale's Hearing Officer on an appeal of a written Notice of Violation issued to the Respondents, VO Landholdings, Inc. and Victor Armendariz ordering Respondents to undertake immediate action to abate unsafe conditions and imminent hazards found at 6221 - 6351 N. 55th Avenue, Glendale, Arizona ("the Property"). VO Landholdings, Inc. a/k/a VO Holdings, Inc. owns some or all of the parcels located at the site.

Background

The Property is a series of parcels located along the railroad right of way along 55th Avenue in Glendale, Arizona. It is a mixed use site, with various permitted and unpermitted businesses that repair and re-paint automobiles, build, store and sell wooden pallets, store construction equipment, store, sell and dispose of tires, and sell fiberglass products. A number of these businesses and parcels have been to subject of prior City Code inspections, violations and cease and desist orders. Respondents own approximately 7 acres of property, where these businesses are located, but do not have written leases with any of them for the rental and use of its property.

On September 5, 2012, the City of Glendale's Building Safety Department conducted an inspection of the Property at the request of the Glendale Fire Department. During the course of this inspection, the Senior Building Safety Inspector, Mark Ptashkin, identified numerous unsafe conditions and determined that structures and equipment present at the Property posed incipient hazards as defined in Section 115.2 of the International Building Code as adopted by the City of Glendale. Such hazards included: improper trusses or support beams holding up temporary and

1 permanent structures such as painting booths and canopies; improper electrical service; inadequate
2 sanitary facilities; and possible chemical and waste oil handling and spillage. As a result of this
3 inspection, on September 19, 2012, the City issued a Notice of Violation requiring Respondents to
4 abate the identified hazards no later than November 18, 2012. Respondents appealed the issuance of
5 this NOV in an October 5, 2012 letter from its counsel, Douglas G. Martin, and requested additional
6 time to bring the Property into compliance with the City Code.

7 FINDINGS

8 A hearing was held on December 4, 2012 in accordance with Section 115.6 of the City Code.
9 The Hearing Officer took opening arguments from Counsel for the Parties and testimony from Mr.
10 Mark Ptashkin, the City's Senior Building Safety Inspector regarding the condition of the structures
11 and building service equipment at the Property. This testimony clarified the activities occurring on
12 each parcel, including abatement actions that have already been taken by the Respondent and/or its
13 tenants to remedy any hazardous conditions. Respondents' Counsel informed the Hearing Officer
14 that 7 structures have already been remedied.

15 After a break in the proceedings, the Parties reached a stipulated settlement on the process
16 for undertaking further abatement actions.

17 In accordance with Section 115.6.5 of the IBC, I therefore find:

- 18 1. Conditions or defects exist related to: (1) the electrical distribution system (*e.g.*, exposed or
19 faulty electrical wires, fixtures, junction boxes or grounds); (2); water distribution and
20 sanitary sewer system; (3) Fire Code violations (improper storage and spacing of wood
21 pallets and waste tires); (4) unsafe structural supports such as trusses and beams; and (5)
22 improper use of the Property as a residence.
- 23 2. Those conditions or defects currently pose an "incipient hazard" as defined in Section
24 115.5.2 of the Glendale City Code and may pose an "imminent hazard" should such hazards
25 remain unabated;
- 26 3. Respondent owns or has a recorded interest in the Property; and
27
28

1 4. Respondent is therefore required to abate the conditions or defects causing the “incipient
2 hazard” pursuant to the Notice of Violation issued by the City on September 19, 2012.
3 Respondent failed to abate those hazards by the date required in the NOV.

4 **ORDER**

5 Based on the oral testimony, photographs and written documentation, and the Hearing
6 Officer’s FINDINGS above and the STIPULATION of the Parties, IT IS ORDERED:

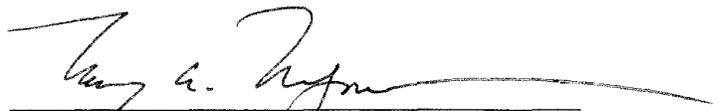
- 7 1. Respondent will meet with Mr. Ptashkin at the Property as soon as possible, but no later
8 than December 31, 2012. During this meeting, the City shall be given access to all
9 parcels at the site so that it can fully inspect and identify all conditions at the Property
10 than may be out of compliance with the City Code. As a result of this meeting, the
11 Parties will generate a “punch-list” of all violations that pose an imminent hazard and
12 need to be immediately corrected. This “imminent hazard punch-list” may include, but
13 need not be limited to, abatement activities required to immediately address hazards
14 posed by the electrical system, the water and wastewater facilities, and building
15 components and structural supports such as trusses and beams;
- 16 2. No later than February 15, 2013, Respondent and Mr. Ptashkin shall also generate a
17 second “punch-list” which will identify all violations that pose an “incipient hazard” that
18 can be corrected over the course of the next 6 months. This list shall include items which
19 can be remediated on a longer-term basis and a description of when and how the work on
20 each of the items on this “incipient hazard punch-list” shall be performed;
- 21 3. The Parties shall provide the Hearing Officer with a status report every 60 days on the
22 progress of the work being performed in accordance with each punch-list. The Status
23 Reports shall be submitted on or before February 28, 2013 and April 30, 2013;
- 24 4. Respondent shall obtain any and all necessary building, water, zoning, Fire Department
25 and environmental permits before beginning abatement work at the Property. It is the
26 burden of the Respondents to determine what federal, state or City permits may be
27 necessary to undertake an complete the abatement work and to obtain and comply with
28 all terms and conditions of those permits;

- 1 5. Respondent shall also engage the services of registered professional structural and design
2 engineers, as necessary, and use duly-licensed contractors for all work performed on the
3 Property;
- 4 6. Respondent and/or duly-licensed contractors shall address all items on both "punch-lists"
5 and completely abate any violations of the Glendale Building Code no later than June 30,
6 2013;
- 7 7. Should the Respondent fail or refuse to abate any unsafe building, structure or building
8 service equipment at the Property on or before June 30, 2013, the City is hereby
9 authorized to cause the unsafe building, structure or building service equipment to be
10 demolished and to assess the costs of such action against the Property in accordance with
11 Section 115.6.5(d) of the IBC; and
- 12 8. If the Respondents believe that they will be unable to meet the June 30, 2013 deadline for
13 completing the abatement work, Respondents may petition the City and/or the Hearing
14 Office to extend said deadline. Respondents have the burden of proof to show "good
15 cause" exists to extend this deadline for completing the work. Nothing in this Order,
16 however, requires the City or the Hearing Officer to agree to grant Respondents' request
17 to extend such deadline.

18 Failure to comply with any of the requirements of this Order may be a further violation of
19 the City Code and may subject Respondents to additional monetary penalties and/or injunctive
20 remedies.

21 Respondents are advised that any determination made herein by the Hearing Officer may be
22 appealed to the superior court.

23 Issued this 5th day of February, 2013.

24 

25
26 NANCY A. MANGONE
27 Hearing Officer
28 City of Glendale
5850 W. Glendale Avenue
Glendale, AZ 85301

1 A Copy of the foregoing Findings and Order of the Hearing Officer was served electronically and by
2 regular U.S. Mail on the following persons this 5th day of February, 2013 to:

3 Mr. Mark Ptashkin
4 Senior Building Inspector
5 City of Glendale
6 5850 W. Glendale Avenue, 2nd Floor
7 Glendale, AZ 85301

8 Mr. K. Russell Romney
9 Deputy City Attorney
10 City of Glendale
11 5850 W. Glendale Avenue, Suite 450
12 Glendale, AZ 85301

13 Mr. Douglas G. Martin
14 Martin & Bell, L.L.C.
15 365 East Coronado Road, Suite 200
16 Phoenix, Arizona 85004

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By: 

NANCY A. MANGOME