A|B|D|M
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August 21, 2019

Via Email:andrew.rice@austintexas.gov
Commission Members
c/o Andrew Rice
Historic Landmark Commission
One Texas Center, 505 Barton Springs Rd.
Austin, Texas 78704

Via Email:steve.sadowsky@austintexas.gov
Steve Sadowsky
Historic Preservation Officer
One Texas Center, 505 Barton Springs Rd.
Austin, Texas 78704

Re: 1705 Haskell Street – Rendon House

Dear Commissioners and Mr. Sadowsky:

I represent Rose Rubio with respect to her ownership interest in the property located at 1705 Haskell Street, Austin, Texas 78702 (the "Property"). Mrs. Rubio's parents were Edward (also known as Eulalio) and Concepcion Rendon, and she is an owner of the Property and heir of their estates. On or about July 11, 2019, Gravity 14 Enterprise ("Gravity") filed a Demolition Permit Application ("Demolition Application") for the Property. The Property is currently under contract to be sold, and Gravity filed its Demolition Application as part of the sale. I understand that Gravity's Demolition Application will be considered by the Commission at its meeting on August 26, 2019. As an owner of the Property, Mrs. Rubio supports Gravity's Demolition Application and requests that the Historic Landmark Commission approve Gravity's Demolition Application. Mrs. Rubio is opposed to any effort to initiate a historic zoning case related to the Property.

I. BACKGROUND INFORMATION:

During the Commission's meeting on July 22, 2019, Bertha Delgado and Elisa Montoya spoke in opposition of Gravity's Demolition Application, and the Commission placed the Property on its August Agenda so that a public hearing could be held. The following is intended to provide the Commission and Mr. Sadowsky with insight into Ms. Delgado's and Ms. Montoya's motivation in opposing Gravity's Demolition Application.

Mrs. Rubio owns the majority interest in the Property, and the heirs of Edward and Concepcion Rendon own small fractional interests in the Property. All of Edward and Concepcion Rendon heirs, <u>except Ms. Montoya</u>, support Gravity's Demolition Application because they want the current sale of the Property to proceed and close. Although Ms. Montoya and her daughter, Ms. Delgado, would lead the Commission to believe that their opposition to Gravity's Demolition Application is based on their desire to preserve the Property and Mr. Rendon's legacy, that is simply false. Ms. Montoya's sole motivation is to delay and/or attempt to stop the sale of the Property because she has been entirely unsuccessful in obtaining a larger ownership interest in the Property through the litigation that she filed against Mrs. Rubio in the Travis County Probate Court.

Since 2018, Mrs. Rubio has been involved in litigation with Ms. Montoya over the Property in Cause No. C-1-PB-18-001609; *Elisa R. Montoya, Individually and as Independent Executor of the Estate of Eulalio Eduardo Rendon*, in the Probate Court No. 1 of Travis County, Texas. Ms. Montoya refuses to accept the fact that Mrs. Rubio agreed to purchase their father's interest in the Property so that he could remain living in the home throughout his life. Ms. Montoya alleged a variety of frivolous and baseless claims against Mrs. Rubio, but the Travis County Probate Court has dismissed ***all*** of Ms. Montoya's claims against Mrs. Rubio. In fact, the Travis County Probate Court determined that Ms. Montoya is required to pay a portion of Ms. Rubio's attorneys' fees because Ms. Montoya's claims had no merit. A copy of the Court's Order dismissing Ms. Montoya's claims is enclosed herein for your review. Therefore, the only remaining issue in the litigation is the sale of the Property.

On April 15, 2019, the Travis County Probate Court ordered that the Property should be sold and appointed Brian Potter to serve as Receiver to take immediate action to sell the Property. Mr. Potter entered an agreement with Rehabbing Austin, LLC to sell the Property. Once the Property is sold the Court will determine what funds each of the eighteen (18) heirs of Eulalio and Concepcion Rendon are entitled to receive. However, Ms. Montoya is advocating against Gravity's Demolition Application because she is simply trying once again to delay and/or prevent the sale of the Property.

II. THE PROPERTY DOES NOT MEET THE CRITERIA FOR HISTORIC LANDMARK ZONING:

Section 25-2-352 of the Land Development Code provides that the "counsel may designate a structure or site as a historic landmark (H) combining district if it meets the criteria in Section 25-2-352 (a)(1)-(3). In this case, the Property fails to meet the criteria set out in (a)(1) and (a)(2). Therefore, the Property does not qualify for such a designation.

As referenced in Commissioner Koch's email to Mr. Sadowsky from July 1, 2019, the Property has undergone "extensive alterations" over the years. A copy of Commissioner Koch's email is attached hereto for your review. That opinion was also shared by the consultants retained by the City of Austin in 2016 to evaluate the Property, along with many others located in the same neighborhood, to determine the eligibility for historic designation. Specifically, Hardy Heck Moore, Inc. ("HHM") made the following findings in its Final Report to the City dated October 24, 2016:

a. The Property had no stylistic influences;
b. The alterations to the Property included replacement of exterior wall materials, windows were replaced and the door was replaced;
c. HHM recommended that the Property was not eligible for a local designation; and
d. HHM recommended that the Property was not eligible for NRHP designation.

A copy of the relevant portions of HHM's Final Report is also enclosed herein for your review.

Additionally, the following photographs demonstrate the extent of the alterations and changes made to the Property since Mr. and Mrs. Rendon purchased it. The Property did not retain a high degree of integrity and the additions/alterations significantly compromised its integrity. Therefore, it does not comply with the requirements under Section 25-2-352(a)(2). Moreover, the additions/alternations are less than fifty (50) years old so they do not comply with the requirements of Section 25-2-352(a)(1).

Below is a photograph of the Property when Mr. and Mrs. Rendon purchased it in the 1960s.

The next photograph is a photograph of the Property in 1973 after Mr. Rendon removed the small roof structure on the front of the house, the small porch, and created a porch that extended across the front of the home. Additionally, the photograph shows the stone that Mr. Rendon put on the exterior of the house.

The next photograph is a picture of the Property in the 1980s when Mr. Rendon built a stone/iron wall around the front yard of the house.

The final photograph shows the current state of the house. It also reflects the large addition to the left side of house that was done in 1989, which included closing in one window on the front porch, removing and replacing the front door, additional another window, creating an additional bedroom on the left side of the house, and changing the slope of the front roof structure over the porch. Additionally, the photograph reflects the carport on the right side of the house.

III. CONCLUSION

The Property has been the central issue in the litigation between the parties for almost two (2) years and it needs to be sold immediately. Given the number of heirs and the conflict among the heirs, it is impossible to come to any agreement to maintain the Property or keep it from sitting vacant and deteriorating further. That is one of the many reasons the Travis County Probate Court recognized there was an immediate need to sell the home and that is why Mr. Potter was appointed to act as Receiver. Ms. Montoya's latest attempts to use this Commission to delay and/or prevent the sale should not be permitted. Rather, Mrs. Rubio and the other sixteen (16) heirs should be allowed to sell the Property and obtain closure.

Additionally, the Property does not meet the Historic Designation Criteria in Section 25-2-352 of the Land Development Code. That issue was alluded to by Commissioner Koch in his email of July 1, 2019, and it was acknowledged by Hardy Heck Moore, Inc. in its Final Report on October 24, 2016. Therefore, Ms. Rubio would respectfully request that the Commission grant Gravity's Demolition Application and deny any request to initiate a historic zoning case related to the Property.

I will be present at the meeting on August 26, 2019 and be available to answer any questions the Commission may have regarding this matter. If you have any questions or need any additional information before the meeting, please do not hesitate to contact me.

Sincerely,

Noel L. Stout

NLS:xob

Enclosures (as stated)

FILED FOR RECORD
2018 NOV 20 PM 01:25
DANA DEBEAUVOIR
COUNTY CLERK
TRAVIS COUNTY, TEXAS

Cause No. C-1-PB-18-001609

ELISA R. MONTOYA, AS INDEPENDENT EXECUTOR OF THE ESTATE OF EULALIO EDUARDO RENDON Plaintiff	§ § § §	IN THE PROBATE COURT
v.	§ §	NO. ONE
ROSE RUBIO Defendant	§ §	TRAVIS COUNTY, TEXAS

ORDER GRANTING ROSE RUBIO'S TRADITIONAL MOTION FOR PARTIAL SUMMARY JUDGMENT

On November 19, 2018, the Court considered Rose Rubio's Traditional Motion for Partial Summary Judgment (the "Motion"), Elisa R. Montoya's response, which was filed pro se despite her obligation to be represented by an attorney due to her being an Independent Executor, and the arguments of counsel. The Court finds that Elisa R. Montoya's response should be stricken for failure to have an attorney. Notwithstanding, the Court, even in considering her response, is of the opinion that the Motion should be granted in its entirety.

It is THEREFORE ORDERED, ADJUDGED AND DECREED that Rose Rubio's Traditional Motion for Partial Summary Judgment is GRANTED in its entirety.

It is THEREFORE, ORDERED, ADJUDGED AND DECREED that Elisa R. Montoya, Independent Executor of the Estate of Eulalio Eduardo Rendon, breached the settlement agreement that Eulalio Eduardo Rendon ("Decedent") entered with Rose Rubio prior to his death by failing to enter the formal settlement agreement and by refusing to dismiss the lawsuit against Rose Rubio. Therefore, the Court finds that all claims or causes of action asserts by either Decedent or Elisa R. Montoya, Independent Executor of Decedent's Estate, against Rose Rubio in the above-referenced cause are dismissed with prejudice, including the declaratory judgment action and trespass to try title action asserted by Elisa R. Montoya, Independent Executor of Decedent's Estate.

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The Court further finds that Decedent and Rose Rubio settled and mutually released each other from any and all claims, both known and unknown, between them related to the property 1705 Haskell Street, Austin, Texas 78702 (the "Property").

It is FURTHER, ORDERED, ADJUDGED AND DECREED each cause of action, including the declaratory judgment action and trespass to try title action, asserted by Elisa R. Montoya against Rose Rubio is barred by the statute of limitations.

It is FURTHER, ORDERED, ADJUDGED AND DECREED that Rose Rubio purchased Decedent's one-half community property interest in the Property based on the purchase contract that Rose Rubio entered with Decedent on or about November 1, 2004 and that Rose Rubio acquired Decedent's one-half community property interest in the Property based on the Special Warranty Deed (Document Number 2013180460) executed by Decedent and filed in the Travis County Real Property Records on or about October 1, 2013.

It is FURTHER, ORDERED, ADJUDGED AND DECREED that judgment is awarded in favor of Rose Rubio against Elisa R. Montoya and Edward Rendon, Jr. for Rose Rubio's reasonable and necessary attorneys' fees pursuant to §37.009 of the Texas Civil Practice and Remedies Code, which were incurred to obtain: (a) a judicial determination of Rose Rubio's rights under the contract that she entered with Decedent to purchase the Property; and (b) a judicial determination that Rose Rubio acquired Decedent's one-half interest in the Property as a result of the contract that she entered with Decedent and the Special Warranty Deed (Document Number 2013180460) executed by Decedent and filed in the Travis County Real Property Records on or about October 1, 2013. Such attorneys' fees will be determined by this Court at a later time.

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11/20/2018

Judge Presiding

HONORABLE PROBATE JUDGE
TRAVIS COUNTY PROBATE COURT

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Yes, I agree with Commissioner Koch and would like to request this item be placed on our agenda for discussion.

-----Original Message-----
From: Koch, Kevin - BC
Sent: Monday, July 01, 2019 5:36 PM
To: Sadowsky, Steve <Steve.Sadowsky@austintexas.gov>
Cc: Koch, Kevin - BC <BC-Kevin.Koch@austintexas.gov>
Subject: 1705 Haskell

Hi Steve, I understand 1705 Haskell is being marketed as a tear-down, and while the historic resources survey notes the extensive alterations that seems to justify its not being listed as a potential landmark, there are historical associations to consider.

Given the publicized assertion of the tear-down status of this historic age structure—which would be due a hearing upon an application for demolition—I would like to see this placed on next month's agenda so we can discuss the merits of the case and provide some clarity for both the seller and owner.

Kevin Koch
Boards and Commissions

City of Austin
Historic Resources Survey

Contract No. MA 6800 NA160000013

Final Report
Volume III

October 24, 2016

Prepared for the City of Austin

Prepared by Hardy·Heck·Moore, Inc.
Austin, Texas

1701 HASKELL ST — HHMID 0475

Type	Stylistic influences	Year built	History notes	Alterations	Additions	Integrity notes	Previous and recommended local designations	Previous and recommended NRHP designations
Residential - Single-Family House - Bungalow	Minimal Traditional	1947	None	None visible	None visible	None	No previous local designations; Recommended not eligible for a local designation	No previous NRHP designations; Recommended not eligible for a NRHP designation

1702 HASKELL ST — HHMID 0476

Type	Stylistic influences	Year built	History notes	Alterations	Additions	Integrity notes	Previous and recommended local designations	Previous and recommended NRHP designations
Residential - Single-Family House - Bungalow	Mission Revival	1935	None	Windows replaced	None visible	None	No previous local designations; Recommended not eligible for a local designation	No previous NRHP designations; Recommended not eligible for a NRHP designation

1703 HASKELL ST — HHMID 0481

Type	Stylistic influences	Year built	History notes	Alterations	Additions	Integrity notes	Previous and recommended local designations	Previous and recommended NRHP designations
Residential - Single-Family House - Bungalow	Craftsman	1928	None	Porch enclosed, Windows replaced	None visible	None	No previous local designations; Recommended not eligible for a local designation	No previous NRHP designations; Recommended not eligible for a NRHP designation

1704 HASKELL ST — HHMID 0482

Type	Stylistic influences	Year built	History notes	Alterations	Additions	Integrity notes	Previous and recommended local designations	Previous and recommended NRHP designations
Residential - Single-Family House	Contemporary	2006	None	None visible	None visible	None	No previous local designations; Recommended not eligible for a local designation	No previous NRHP designations; Recommended not eligible for a NRHP designation

1705 HASKELL ST — HHMID 0483

Type	Stylistic influences	Year built	History notes	Alterations	Additions	Integrity notes	Previous and recommended local designations	Previous and recommended NRHP designations
Residential - Single-Family House - Bungalow	No style	1928	None	Exterior wall materials replaced, Windows replaced, Doors replaced	Side additions	None	No previous local designations; Recommended not eligible for a local designation	No previous NRHP designations; Recommended not eligible for a NRHP designation

1706 HASKELL ST — HHMID 0679

Type	Stylistic influences	Year built	History notes	Alterations	Additions	Integrity notes	Previous and recommended local designations	Previous and recommended NRHP designations
Residential - Outbuilding - Back House	No style	1978	None	None visible	None visible	None	No previous local designations; Recommended not eligible for a local designation	No previous NRHP designations; Recommended not eligible for a NRHP designation

1706 HASKELL ST — HHMID 0489

Type	Stylistic influences	Year built	History notes	Alterations	Additions	Integrity notes	Previous and recommended local designations	Previous and recommended NRHP designations
Residential - Duplex House	No style	1978	None	None visible	None visible	None	No previous local designations; Recommended not eligible for a local designation	No previous NRHP designations; Recommended not eligible for a NRHP designation

1707 HASKELL ST — HHMID 0493

Type	Stylistic influences	Year built	History notes	Alterations	Additions	Integrity notes	Previous and recommended local designations	Previous and recommended NRHP designations
Residential - Single-Family House - Bungalow	No style	ca. 1990	None	Windows replaced, Doors replaced	Side addition	None	No previous local designations; Recommended not eligible for a local designation	No previous NRHP designations; Recommended not eligible for a NRHP designation

1708 HASKELL ST — HHMID 0498

Type	Stylistic influences	Year built	History notes	Alterations	Additions	Integrity notes	Previous and recommended local designations	Previous and recommended NRHP designations
Residential - Single-Family House - Modified Hipped-Roof Square-Plan	Craftsman	1925	None	Windows replaced, Porch post material replaced	None visible	None	No previous local designations; Recommended not eligible for a local designation	No previous NRHP designations; Recommended not eligible for a NRHP designation

1709 HASKELL ST — HHMID 0499

Type	Stylistic influences	Year built	History notes	Alterations	Additions	Integrity notes	Previous and recommended local designations	Previous and recommended NRHP designations
Residential - Single-Family House - Bungalow	Craftsman	1928	None	Windows replaced, Doors replaced	None visible	None	No previous local designations; Recommended not eligible for a local designation	No previous NRHP designations; Recommended not eligible for a NRHP designation