

TO: JAMES L. APP, CITY MANAGER
FROM: ROBERT A. LATA, COMMUNITY DEVELOPMENT DIRECTOR
SUBJECT: SEISMIC SAFETY ORDINANCE UPDATE
DATE: MAY 18, 2004

Needs: For the City Council to consider an update to the City's Seismic Safety Ordinance.

- Facts:
1. At their meeting of March 16, 2004, the City Council set April 29, 2004 as the date of a workshop to discuss a draft ordinance to amend the City's Seismic Safety Code.
 2. The Council directed that owners of unreinforced masonry (URM) buildings, architects and structural engineers, and the general public be invited to the workshop to give their comments on the draft ordinance.
 3. On March 29 and 31, letters transmitting a copy the draft were mailed to all 39 owners of unreinforced masonry (URM) buildings and to 29 architectural and structural engineering firms. Additionally, press releases were made to the media about 2 weeks in advance of the workshop.
 4. The April 29 workshop was attended by one member of the public, Mr. Nick Gilman, a local architect, who provided comment on the draft ordinance.
 5. Additionally, the City has received one letter from Mr. Ken Harris (copy attached) offering comments on the proposed ordinance.
 6. At the close of the April 29 workshop, the Council directed that the draft ordinance be revised to include the provisions listed below and that a public hearing and first reading of the ordinance be set for May 18.
 - a. Building permits for the necessary retrofit work shall be obtained within one year of the date of the letter of notice from the City Building Official;
 - b. Structural analyses and construction plans for the retrofit improvements shall be submitted to the City Building Official not later than 105 calendar days prior to the deadline for obtaining a building permit;
 - c. Construction of retrofit improvements shall be completed within 30 months of the date of the letter of notice from the City Building Official;
 - d. Should a building owner fail to have engineering plans accepted by the City within one year of the date of the letter of notice from the City Building Official, the City Building Official will issue an order to vacate the building;
 - e. Should a building owner fail to complete construction of the seismic retrofit improvements within 30 months of the date of the letter of notice from the City Building Official, the City Building Official will issue an order to vacate the building;

- f. Staff will provide a written report to the Council one year from the date of the letter of notice from the City Building Official and again at 30 months from that same date.
- 7. Written notice May 18 hearing and copies of the revised draft ordinance were mailed to all owners of URM buildings on May 3. A copy of that letter is attached.
- 8. The City Council approved \$101,000 in 2004 CDBG funds for a seismic mitigation fund for making of loans or grants to owners of URM buildings for the preparation of structural analyses and construction plans for seismic strengthening improvements. Attached is a summary of facts about a previous CDBG-funded grant program for this purpose.

Analysis and
Conclusion:

Purpose of Seismic Code

The purpose of the City's Seismic Safety Code is to protect lives during major seismic events. There is no code (yet) that can guarantee that a building will not suffer some damage in the event of an earthquake.

The City's current Seismic Safety Code is based upon the 1994 Uniform Code for Building Conservation. The proposed revised seismic code would adopt the 2003 International Existing Building Code, which incorporates newer standards, including structural lessons learned from the 1994 Northridge Earthquake.

Revised Time for Compliance

The current Seismic Safety Code prescribes the following deadlines for compliance (completion of retrofit work):

- December 31, 2008 for full strengthening of essential and high risk URM buildings (those designed/used for occupancy by 100 or more persons) or for bracing of parapets (portion of the exterior wall that projects above the roof line).
- December 31, 2018 for full strengthening of all other buildings.

The proposed revised Seismic Safety Code would include the following deadlines for compliance:

- One year * for owners of URM buildings to obtain a building permit to construct the necessary improvements to seismically strengthen their buildings.
- Thirty months * for owners of URM buildings to complete construction of those improvements necessary to seismically strengthen their buildings.

* *From the date of a letter to be sent by the City's Building Official to all owners of URM buildings following adoption of the amended Seismic Code.*

The table on the next page illustrates a possible time line to implement the proposed revisions.

Date	Event	Time Elapsed
May 18, 2004	1 st Reading of Seismic Code Update Ordinance	
June 1, 2004	2 nd Reading and adoption of ordinance	
July 1, 2004	Effective date of ordinance; date of service of order (to URM building owners to retrofit their buildings)	Day 0
March 15, 2005	Deadline to submit structural analyses and construction plans for retrofit improvements	105 days prior to 1 year deadline
July 1, 2005	Deadline for issuance of a building permit to construct retrofit improvements	1 year
December 31, 2006	Deadline to complete retrofit work	30 months
Assumptions:		
<ol style="list-style-type: none"> 1. City staff solicits Statements of Qualification for structural engineers and architects in May and completes list in June. 2. CDBG funds are disbursed upon completion of seismic structural analysis and plans, not upon completion of retrofit work. 		

As indicated in Assumption #1, above, the City proposes to pre-qualify several structural engineers to aid URM building owners prepare CDBG-funded structural analyses and construction plans.

The proposed schedule would provides the best chance of protecting lives from future seismic events (as the probability of future events increases with the passage of time). The Council may consider longer time frames at its discretion.

Mr. Harris' letter suggests that a longer time frame would allow for work to be done in between the periods of existing tenant leases, thereby assuring less disruption of work. At the April 29 meeting, Council discussed this suggestion and concluded that, not only is it impractical to manage a staggered schedule of completion dates based on individual leases, but also that any additional extensions of time beyond 30 months increases the hazards to public safety from future seismic events to an unacceptable level.

Disruption of Business Operations

Some URM building owners and business owners have expressed concern that the necessary retrofit work will disrupt business operations, as was articulated when the retrofit deadlines were last extended. It should be noted that each building has its unique set of structural circumstances. For example, some URM buildings have only one wall that is unreinforced, others have several unreinforced walls. In some cases, it may be possible to do retrofit work by pulling merchandise away from a wall that is being strengthened without having to empty the building or suspend business operations.

Consequences of Non-Compliance with the City's Seismic Code

Regardless of the actual timing of the deadlines, should the owner of a URM building fail to comply with the deadlines specified in the Seismic Code, the City would have the authority to post a building for non entry, requiring that it not be occupied until such time that it is brought into compliance.

CDBG Funds for Seismic Structural Analyses and Construction Plans

The previous CDBG-funded program made grants to URM building owners without requiring them to do the retrofit work. There has been a suggestion to make assistance under the new program in the form of a grant that would be paid as a reimbursement for the structural analyses and construction plans upon completion of the seismic retrofit work. Such a condition will create one regulatory bottleneck and may cause another major problem.

The US Department of Housing and Urban Development (HUD), which supervises the CDBG Program, has informed the City and County that a grant program that requires completion of the work as a condition of payment will need to provide that construction plans be reviewed by the State Historic Preservation Officer (SHPO) prior to issuance of a building permit. Based on the City's experience with similar conditions for other CDBG-funded rehabilitation of commercial buildings, this review process can add several months of time, and potentially result in higher retrofit costs if SHPO determines that a proposed retrofit design does not adequately protect the historic value of a building, including the value of the interior improvements.

The other "major problem" referred to above, is that a grant program that requires the retrofit work to be completed first may trigger a requirement to comply with the federal Davis-Bacon (prevailing wage) Law. The City is awaiting an opinion from HUD on this matter.

The City could structure the CDBG grant program as it did in 1997 and disburse the funds directly to the engineers upon completion of the study. The City would then rely upon the new deadline dates and its authority to enforce the code, including posting a building for non-entry if necessary to ensure that the seismic retrofit work is completed.

Policy

Reference: Existing Seismic Safety Code (Chapter 17.18 of the Municipal Code); 2003 International Existing Building Code; 1997 Uniform Code for Building Conservation; federal regulations governing the CDBG Program

Fiscal

Impact: Adoption of new standards would create a fiscal impact on owners of unreinforced masonry buildings but would address public safety concerns that cannot be easily quantified

- Options:
- a. Introduce for first reading Ordinance No. XXX N.S. amending Chapter 17.18 of the Municipal Code; and set June 1, 2004; as the date for adoption of said ordinance.
 - b. Amend, modify, or reject the above option.

Attachments:

1. Draft Ordinance
2. Letter to owners of URM Buildings re: May 18 Hearing
3. Letter from Ken Harris dated April 2, 2004
4. Seismic Structural Design Study Grant Facts
5. Memo Dated March 30, 2004 Regarding Seismic Retrofit Incentives



CITY OF EL PASO DE ROBLES

"The Pass of the Oaks"

May 3, 2004

To: Owners of Commercial Unreinforced Masonry Buildings in Paso Robles

The Paso Robles City Council will conduct a public hearing to consider an ordinance amending its Seismic Code (Chapter 17.18 of the Municipal Code) to update the City's regulations for the strengthening (retrofitting) of commercial unreinforced masonry (URM) buildings.

The public hearing will be conducted on Tuesday, May 18, 2004 at 7:30 pm in the Library Conference Center at Library/City Hall, 1000 Spring Street, Paso Robles, CA. *You are invited to attend and be heard on the matter of the proposed Seismic Code Amendment.*

At a workshop meeting conducted on April 29, 2004, the City Council directed that the deadlines to comply with the proposed new regulations be further refined as follows:

1. *Within* twelve (12) months from the date of a letter from the City's Building Official * notifying owners of URM buildings to comply with the new ordinance, *owners must obtain* one of the following from the City:
 - a. A building permit to construct the seismic retrofit improvements identified in a structural analysis and plans for structural alteration of the building to comply with this Chapter; or
 - b. A letter from the Building Official stating that he/she concurs with a structural analysis, which demonstrates that the building meets the minimum requirements of the new seismic regulations (i.e. has no statutory need for seismic retrofitting); or
 - c. A permit for the demolition of the building.

* *It is anticipated that this letter would be sent by the City's Building Official on or about July 1, 2004.*

In order to meet the deadline set forth above, owners must submit structural analyses, plans for structural alteration of the building, and/or applications to demolish their buildings at least 105 calendar days prior to the "twelve month" deadline to allow for the City Building Official to review the analyses, plans and/or applications to demolish and find them to be in compliance with this Chapter.

2. Within thirty (30) months from the date of the same letter, owners must complete construction of those improvements necessary to strengthen URM buildings in accordance with the new regulations.

As an example for a building that will need to be retrofitted, if the letter of notification is sent on July 1, 2004, owners must submit structural analyses and retrofit plans to the City no later than March 15, 2005 to ensure that a building permit may be issued by July 1, 2005. Construction of the seismic retrofit improvements must then be completed no later than January 1, 2007.

The proposed amended ordinance provides that, should an owner fail to meet either deadline, the City may cause the building to be vacated until such time that the building is brought into compliance with the new regulations.

A copy of the revised draft ordinance is enclosed for your review.

If you cannot attend the public hearing, you may submit a letter with your comments to the address indicated below, provided that the letter is received by the City prior to the date and time of the public hearing.

City of Paso Robles
ATTN: Ed Gallagher
1000 Spring Street
Paso Robles, CA 93446

If you have any questions about the draft Seismic Code Amendment, please contact either Ed Gallagher, Housing Programs Manager at (805) 237-3970 (e-mail: ed@prcity.com) or Doug Monn, Building Official at (805) 237-3970 (e-mail: dmonn@prcity.com).

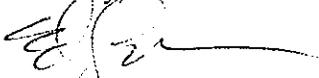
* * * * *

As the owner of a URM building, you may be aware that the City Council has authorized the use of federal Community Development Block Grant (CDBG) Funds as grants or loans to owners of URM buildings to offset the costs of preparing structural analyses and retrofit plans (construction drawings). Please be aware that CDBG funds are subject to several federal regulations that must be complied with before engineers or architects may be hired to prepare such analyses and plans.

If you plan to obtain a loan or grant of CDBG funds for this purpose, it will be necessary that you do *not* enter into any contractual agreement with an engineer or architect until the City has completed the necessary regulatory steps, which is expected to occur by July 1, 2004. The City will send a letter in June notifying all URM building owners about the parameters of the CDBG grant or loan program.

If you enter into a such a contract before the City has completed the necessary regulator steps, you will not be able to be reimbursed for the costs of preparing the structural analyses and construction plans.

Sincerely,



Ed Gallagher
Housing Programs Manager

Chong D Byon
2816 Spring St
Paso Robles, CA 93446-1256

Gene & Lois M Rauch Trust
6450 Marchant Ave
Atascadero, CA 93422-5120

Buchheim Family Inc
2983 Tulare St
Fresno, CA 93721-1429

Swanson Family Trust
212 Greenbriar Drive
Buffalo, MN 55313

Eugene & Wonja Keem Living Trust
11855 Santa Ana Rd
Atascadero, CA 93422-7731

Mari P. Webb
C/O Terry & Susan Webb
4999 Shadow Canyon Rd
Templeton, CA 93465-9714

Claire L Macklin
725 Ivy Ln
Paso Robles, CA 93446-2316

Jerry L & Kim L Felgenhauer
402 Experimental Sta Rd
Paso Robles, CA 93446

Betty A Baldwin Revocable Trust
196 Edgewater Lane
Paso Robles, CA 93446-2449

Christine C Henderson Family Trust
PO Box 600
Paso Robles, CA 93447-600

Lana D Atkinson
c/o Thomas Harper
742 Trigo Ln
Paso Robles, CA 93446-2349

Robert F Hansen
PO Box 76
Anahola, HI 96703

Bridge Living Trust
1319 Spring Street
Paso Robles, CA 93446-2272

Robert F Hansen
c/o David C. Peterson
7730 Morro Rd, Ste 207
Atascadero, CA 93422-4413

Margo Maggiani
278-22 Monroe Dr
Mountain View, CA 94040

Olive M Caletti
23 University Dr
Menlo Park, CA 94025

Kathy McIntire
1229 Park St
Paso Robles, CA 93446-2234

Anthony B Horzen
7350 Benton
Paso Robles, CA 93446

Lamas Family Trust
3440 Monterey Rd
Atascadero, CA 93422-1869

Ali Salmanzadeh
1245 Park Ave
Paso Robles, CA 93446-2234

Rover C. Lyon
PO Box 922
San Luis Obispo, CA 93406-922

William Jacobson
1401 Valley View Rd #120
Glendale, CA 91202

On The Park LLC
1160 Summit Rd
Santa Barbara, Ca 93108-2452

Martin & Hobbs LLC
PO Box 12060
San Luis Obispo, CA 93406-2060

Joseph P. Ontiveros
1027 Olivia Court
Paso Robles, CA 93446

Clark Cali
1031 Pine Street
Paso Robles, CA 93446

Hunter Family Trust
501 Riverside Ave
Paso Robles, CA 93446

Silva Martha J 1966 Trust
PO Box 366
Paso Robles, CA 93447-366

Kenneth G Harris Trust
PO Box 636
Paso Robles, CA 93447-636

Heirs of Charles H Schinbine
c/o William Schinbine
228 - 42nd St
Manhattan Beach, CA 90266

Pioneer Auto Parts
c/o Steve Encell
Route 2, Box 178A
Templeton, CA 93465

Richard Woodland
3945 Buena Vista Drive
Paso Robles, CA 93446

Bonita Peterson Trust
1414 Pine Street
Paso Robles, CA 93446

HARRIS INVESTMENTS

P. O. Box 636 TELEPHONE (A/C 805) 238-0115
PASO ROBLES, CALIFORNIA 93446

April 2, 2004

The City of Paso Robles
ATTN: Ed Gallagher
1000 Spring Street
Paso Robles, CA 93446

Gentlemen:

Re: Seismic Code Amendment

I am the owner of the property at 1306-1316 Pine Street in Paso Robles. Neither building sustained damage from the December 2003 earthquake and both buildings were approved for occupancy almost immediately. However, the building at 1316 is unreinforced masonry and will need to be retrofitted under the existing City Ordinance.

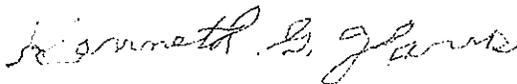
I am writing this letter because I am faced with a dilemma, and one which may be facing other owners of buildings that are required to be retrofitted. My building is occupied by three tenants, each with a lease that has a different termination date. The last one ends in March 12, 2006.

If the City Council decides to use the two-year deadline for completion of the retrofit, I, or someone else, could be forced to pay the tenants in order to either work around their leasehold, or to have the work done after hours (which could be very expensive). Or, in the event that an owner should decide to sell the property to someone else, and the new property owner had plans that did not include the current tenants, one could imagine that the new owner might have severe problems completing the retrofit. I do not know what the answer is to this particular problem, but perhaps lease termination dates might be taken into consideration along with the other factors involved in the retrofit schedule.

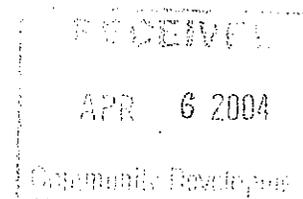
Perhaps the two-year deadline could be applied first to the buildings where the conditions of the building and the danger to the occupants have been determined to be the most grave. The balance of the buildings could be phased in according to the severity of their condition, in 6-9 month segments. This extension of the timeline would allow local contractors and property owners to schedule repairs without the crush of everything having to be finished at once, and the additional costs of securing outside help would be mitigated.

Thank you for your consideration.

Sincerely yours,



Kenneth G. Harris



Seismic Structural Design Study Grant Facts

- ❑ Between 1997 and 2001, a total of about \$126,000 in CDBG funds were used to provide grants to owners of 25 unreinforced masonry (URM) buildings to have seismic studies prepared.
- ❑ “Seismic studies” included structural analyses and construction plans with which the necessary seismic strengthening improvements could be built. The City conducted plan check on all of the 25 plans.
- ❑ The grants were never made directly to the URM building owners. The studies were prepared under grant agreements in which the City paid the consulting engineers directly.
- ❑ Of the 25 buildings that received grants, two have been retrofitted (Paso Robles Inn and Bistro Laurent), two are presently being retrofitted (Kuehl-Nicolay Funeral Chapel and “Julia’s Building at 835 – 12th Street), two were demolished (Acorn and Marlow Buildings) and three were found not to be unreinforced after all. This leaves 16 buildings with completed studies that have not yet been retrofitted.
- ❑ At one time (ca 1996), up to \$200,000 in CDBG funds had been allocated for this program. The City sent letters to owners of all URM buildings inviting them to participate in the grant program. However, the owners of 19 URM buildings elected not to participate in the grant program and the unused CDBG funds were re-allocated to other projects.
- ❑ The average grant over 25 buildings came to \$5,039.
- ❑ Attached is a sheet that shows three tables for the following categories of URM buildings: (1) those which received grants but have yet to retrofit; (2) those which either retrofitted, are being retrofitted, were demolished, or were found not to be unreinforced; and (3) those that did not participate in the program. The first two tables show the amount of grant funds per building.
- ❑ The current City Seismic Code, upon which the 25 studies were prepared, is based on 1994 Uniform Code for Building Conservation.
- ❑ Of the 19 URM buildings for which seismic studies were not prepared, two have been approved for demolition (Richard Woodland’s 2 buildings on Pine Street) and one may no longer be required to be retrofitted as it is presently being used as a residence (1527 Park Street).
- ❑ If the Council decides to adopt the 2003 IEBC, then the 16 remaining CDBG-funded seismic studies will need to be updated (i.e., reviewed by a structural engineer and revised, if necessary, to comply with the newer code). It is estimated that the cost of updating the seismic studies will be about \$1,000 each.
- ❑ At its meeting of March 11, 2004, the City Council allocated about \$101,000 in 2004 CDBG funds to a Seismic Mitigation Program, which could include making additional seismic study grants. Under such a program, existing seismic studies could be updated and new studies (for the 16 remaining buildings that did not participate in the previous grant program) could be funded.
- ❑ If the \$101,000 in 2004 CDBG funds proves to be insufficient to meet the demand, the City could advance General Funds to the grant program and be reimbursed with 2005 CDBG funds. This would ensure that all URM owners could participate and comply with the new deadlines, if they are adopted.

UNREINFORCED MASONRY BUILDINGS and CDBG-FUNDED SEISMIC STUDIES

A. Seismic Studies Completed; Building Not Yet Retrofitted

#	Situs Address	APN	Businesses in Building	Owner	Grant
1	1031 Pine Street	009-104-005	Clark Land Co	Cali Clark	3,711
2	1211 Park Street	009-042-017	The Blenders	Lamas Family Trust	3,317
3	1221 Park Street	009-042-016	Paris Restaurant	A. & K. Horzen	4,936
4	1229 Park Street	009-042-004	Hair Merchants	Kathy McIntire	4,518
5	1305 Spring Street, 631 - 13th Street	009-037-011	Antiques, La Mexicana	R. F. Hansen	3,617
6	1316 Pine Street	009-045-004	The Computer Shop	K. G. Harris Trust	4,312
7	1317 Spring Street	009-037-010	Bridge's Sporting Goods	Bridge Living Trust	7,585
8	1320 Pine Street	009-045-001	Sentimental Journey Antiques	Martha Silva Trust	2,297
9	1321 Spring Street	009-037-009	used clothing sales	R. F. Hansen	3,237
10	1405 Spring Street	008-316-010	Paso Robles Radiator	E & W Keem	4,787
11	1420 Spring Street	008-322-005	Paso Robles Safe & Lock	J & K Felgenhauer	4,918
12	1518 Spring Street	008-321-005	Tienda Nueva	Mari P. Webb	5,128
13	2816 Spring Street	008-081-009	Appy's Liquor	Chong & Kum Byon	3,241
14	608 - 12th Street	009-093-036	Joe's Restaurant	Joseph Ontiveros	4,744
15	839 - 12th Street	009-044-012	A&R Furniture	Martin & Hobbs	5,836
16	849 - 13th Street	009-043-008	Vic's Café, Phone Store, etc.	Roger Lyon	6,913

Average Grant
Over 25 buildings
\$5,039

(1997 - 2001)

B. Seismic Studies Completed; Building Retrofitted, Demolished or Found not to be URM

#	Address	APN	Businesses in Building	Owner	Grant	Status of Building
1	1212 Pine	009-046-006	Bistro Laurent	Elizabeth Hastings	3,941	Retrofitted
2	1103 Spring Street	009-093-047	Paso Robles Inn	Martin Resorts	15,818	Retrofitted
3	1703 Spring Street	008-283-015	Kuehl-Nicolay	Buchheim Family Inc.	7,343	Being Retrofitted
4	835 - 12th Street	009-044-011	Julia's	Martin & Hobbs	6,795	Being Retrofitted
5	739 - 12th Street	009-042-018	Marlow Building	Mary Mastagni	6,971	Demolished
6	801 - 12th Street	009-044-007	Acorn Building	Mary Mastagni	7,232	Demolished
7	521 Spring Street	009-257-021	Century 21 Realty	Donald Nelson	1,065	found not to be URM
8	1032 Pine Street	009-106-002	Dining With Andre	J&J Bertoni	1,190	found not to be URM
9	1226 Park Street	009-044-006	McLintock's	PM&D	2,525	found not to be URM

C. URM Buildings Whose Owners Did Not Participate in the Grant Program

#	Situs Address	APN	Businesses in Building	Present Owner	Notes
1	1213 Vine Street	009-034-013	K. Shapiro, MD	Henderson	
2	1224 Pine Street	009-046-008	Pan Jewelers, Gibson Co	C.H.Schinbine Heirs	
3	1236 Pine Street	009-046-009	formerly Pine Street Saloon	Richard Woodland	to be demolished
4	1237 Park Street	009-042-027	Alliance Board Co	Ali Salmanzadeh	
5	1238 Pine Street	009-046-009	formerly Old Paso Pub	Richard Woodland	to be demolished
6	1240 Paso Robles St	009-052-001	Water Yard	City Of Paso Robles	
7	1307 Park Street	009-041-013	Antique Emporium Mall	Caletti Family Trust	
8	1311 Park Street	009-041-012	Awfully Civilized	M. Maggiani	
9	1421 Spring Street	008-316-008	O'Grady's Pub	Swanson Fam Trust	
10	1427 Spring Street	008-316-012	O'Grady's Pub	Swanson Fam Trust	
11	1446 Spring Street	008-322-014	Battery Exchange	Betty Baldwin Trust	
12	1527 Park Street	008-321-009	single fam res (former office)	Claire L. Macklin	may no longer be subj to retrofit *
13	608 - 13th Street	009-036-023	Family Medical Group	Lana Atkinson	
14	614 - 13th Street	009-036-008	Family Medical Group	Lana Atkinson	
15	729 Spring Street	009-195-018	Spring Street Automotive	Hunter Family Trust	
16	800 - 12th Street	009-101-001	Carnegie Library	City of Paso Robles	
17	817 - 12th Street	009-044-010	formerly Kahuna's	On the Park LLC	
18	840 - 13th Street	009-044-005	Pine Street Plaza	William Jacobson	
19	841 - 21st Street	008-227-011	Gene's Upholstery	G. Rough Trust	

* since the building is being used as a residence and not for commercial use.

TO: Jim App, City Manager
FROM: Ed Gallagher, Housing Programs Manager
SUBJECT: Seismic Retrofit Incentives
DATE: March 30, 2004

The Council recently suggested that they send a letter to State and Federal legislators requesting sponsoring legislation to provide tax relief for owners of commercial unreinforced masonry buildings who are required to retrofit their buildings.

Existing Incentives

Tax incentives already exist at both the State and Federal levels as follows:

1. Federal (Income Tax): There are two tiers of income tax credits:
 - a. Owners of buildings listed on the National Register of Historic Places or included within a National Register Historic District * may be eligible for a federal income tax credit equal to 20% of the cost of rehabilitation provided that the work complies with the Secretary of the Interior's Standards for Preservation of Historic Buildings and that the cost of the rehabilitation work (which may be more than just the retrofit work) exceeds the pre-rehabilitation value of the building.
 - * Buildings that have been determined by the State Historic Preservation Office for individual listing in the National Register or that may be included in a local certified historic district or in a historic district that is potentially eligible for listing in the National Register may also qualify for the credit.
 - b. Owners of non-historic, commercial buildings built before 1936 may be eligible for a federal income tax credit equal to 10% of the cost of construction work provided that the cost of the rehabilitation work exceeds \$5,000.

The following should be noted:

- Applications for tax credits should be applied for prior to undertaking the rehabilitation work, or the tax credit may be invalidated.
- The 20% and 10% tax credits are not available to owners of buildings that have been demolished and rebuilt, even if rebuilt to replicate the historic building.

Applications for listing on the National Register and for an income tax credit may be filed with the California Office of Historic Preservation.

2. State (Property Tax): Sections 70 and 74.5 of the Revenue and Taxation Code provide that the value (cost) of seismic retrofit work be exempt from property tax assessment for 15 years.

To ensure that owners receive the property tax exemption, the Building Division needs to indicate on the Building Permit that the purpose of the permit is for seismic retrofitting. If a building permit includes more work than just seismic retrofitting (e.g. other tenant improvements or non-seismic rehab work), separate valuations need to be provided so that the Assessor can identify the value associated with just the retrofit work.

3. State (Property Tax): The Mills Act provides that owners of buildings listed on the National Register of Historic Places or on a State or local historic property register may be eligible for annual property tax savings of approximately 50% if they pledge to rehabilitate and maintain the historical and architectural character for a minimum of 10 years. Contracts are renewed annually but may be cancelled by the owner (in a manner similar

to Williamson Act Agricultural Preserve Contracts) or by local government if it believes the contract has been breached. Contracts run with the land and automatically transfer with sale of the property. Under the Mills Act, properties are assessed using the "capitalization of income method" rather than on market value. (NOTE: The County Assessor's Office reports that, because of the way the capitalization of income method works, if the Base Year for a property's assessment is 1975 or earlier, the Mills Act will not provide any appreciable tax relief.)

To apply for a Mills Act Contract, owners must first request that the City Council approve their request for a Mills Act contract. Once such approval has been granted, the owner files an application for a Mills Act contract with the County Assessor. (NOTE: There are presently 19 Mills Act contracts in the City of San Luis Obispo, but none other contracts in the County.)

Caveats for Incentives

Having a building listed on the National Register of Historic Places, or even a state or local register, subjects the property to additional governmental review (by the State Historic Preservation Office) and potentially limitations on design of renovation, rehabilitation, or even demolition work should the owner seek state or federal funding for such work. For example, in order to use CDBG funds to install an elevator in the IOOF Building, the State Historic Preservation Office mandated that the elevator be placed in a location that would not interfere with the light that would ordinarily be seen from existing windows. (i.e. The owners could not place the elevator behind windows – even if the window panes were made to be opaque glass.)

Additionally, Public Resources Code Section 5028 provides that a listed building that is damaged as a result of a natural disaster (e.g. earthquake) may not be demolished, destroyed, or significantly altered, except for restoration to preserve or enhance its historical values, unless the building presents an imminent threat to the public of bodily harm or of damage to adjacent property, or unless the State Office of Historic Preservation determines, via a process involving City Council review, that the building may be demolished, destroyed, or significantly altered.

If the City should opt to form a historic district, the restrictions discussed above could extend to non-URM or non-historic buildings located within the district that seek to obtain state or federal funds for renovation, rehabilitation, or demolition. The State Historic Preservation Office will be concerned with the impact of new construction on the character of the district.

Opportunities for Expanded Incentives

Although there appear to be substantial federal and state tax incentives for assisting owners of URM buildings, the Federal Tax Credit and Mills Act incentives were created for the purpose of preserving historic buildings. Although most URM buildings may ultimately qualify for historic building status, there are limitations that may serve as disincentives. Those incentives were not created with the objective of protecting the public safety. Only the property tax exemptions in the Revenue and Taxation Code address the public safety objective.

Letters to legislators could request that the state and federal government develop tax incentives for retrofit work related directly to protecting people and property from natural disasters without having to qualify as historic properties.

ORDINANCE NO. XXX N.S.

AN ORDINANCE OF THE CITY OF EL PASO DE ROBLES
REPEALING AND REPLACING CHAPTER 17.18 REGARDING
SEISMIC STRENGTHENING PROVISIONS FOR UNREINFORCED
MASONRY BEARING WALL BUILDINGS

WHEREAS, the City desires to promote public safety and welfare by reducing the risk of death or injury that may result from the effects of earthquakes on existing unreinforced masonry bearing wall buildings; and

WHEREAS, the establishment of minimum standards for structural seismic resistance may reduce the risk of such life loss or injury;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EL PASO DE ROBLES DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1: Chapter 17.18 of the City of El Paso de Robles Municipal Code as adopted by Ordinance 646, N.S. and as amended by Ordinances 699 N.S. and 740 N.S. is hereby repealed and replaced to read as shown on the attached Exhibit A of this ordinance.

SECTION 2. Publication. The City Clerk shall cause this ordinance to be published once within fifteen (15) days after its passage in a newspaper of general circulation, printed, published and circulated in the City in accordance with Section 36933 of the Government Code.

SECTION 3. Severability. If any section, subsection, sentence, clause, or phrase of the Ordinance is, for any reason, found to be invalid or unconstitutional, such finding shall not affect the remaining portions of this Ordinance.

The City Council hereby declares that it would have passed this ordinance by section, subsection, sentence, clause, or phrase irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases are declared unconstitutional.

SECTION 4. Inconsistency. To the extent that the terms of provisions of this Ordinance may be inconsistent or in conflict with the terms or conditions of any prior City ordinance(s), motion, resolution, rule, or regulation governing the same subject matter thereof and such inconsistent and conflicting provisions of prior ordinances, motions, resolutions, rules, and regulations are hereby repealed.

SECTION 5. Effective Date. This Ordinance shall go into effect and be in full force and effect at 12:01 a.m. on the 31st day after its passage.

Introduced at a regular meeting of the City Council held on May 18, 2004, and passed and adopted by the City Council of the City of El Paso de Robles on the 1st day of June, 2004 by the following roll call vote, to wit:

AYES:
NOES:
ABSTAIN:
ABSENT:

Mayor Frank R. Mecham

ATTEST:

Sharilyn M. Ryan, Deputy City Clerk

EXHIBIT A

Chapter 17.18

AMENDMENTS TO THE INTERNATIONAL EXISTING BUILDINGS CODE

17.18.010 Purpose.

- A. The purpose of this chapter is to promote public safety and welfare by reducing the risk of death or injury that may result from the effects of earthquakes on existing unreinforced masonry bearing wall buildings.
- B. The provisions of this chapter are intended as minimum standards for structural seismic resistance and established primarily to reduce the risk of life loss or injury. Compliance with these provisions will not necessarily prevent loss of life or injury, or prevent earthquake damage to rehabilitated buildings.

17.18.020 International Existing Building Code.

The 2003 Edition and subsequent editions of the International Existing Building Code, Appendix A, Chapter A1, entitled Seismic Strengthening Provisions for Unreinforced Masonry Bearing Wall Buildings, with the amendments set forth in this Chapter, is adopted.

17.18.030 Scope.

- A. The provisions of this Chapter shall apply to all existing buildings having at least one unreinforced masonry bearing wall. Except as provided herein, all other provisions of the California Building Code shall apply.
- B. Exceptions. Detached one- or two-family dwellings and detached apartment houses containing less than five dwelling units and used solely for residential purposes.

17.18.040 Definitions.

For the purpose of this chapter, the following applicable definitions shall be in addition to those contained in the International Existing Buildings Code Section A103 as adopted and modified by the City of El Paso de Robles:

- A. “Qualified historical building” means any structure included on the National Register of Historic Buildings, the state list of Significant Historic Buildings.

- B. “Seismic zone(s)” means that zone or geographic area referenced under the State Building Code establishing the potential earthquake hazard of a given area.
- C. “Seismic Retrofit” means all work necessary to comply with the requirements of this chapter.

17.18.050 Compliance Requirements.

- A. The owner of each building within the scope of this chapter shall, upon service of an order and within the time limits set forth in this Chapter, cause a structural analysis to be made of the building by an engineer or architect licensed by the state to practice as such and, if the building does not comply with earthquake standards specified in this chapter, the owner shall cause it to be structurally altered to conform to such standards or shall cause the building to be demolished.
- B. Within ~~one year~~ ***twelve (12) months*** of the date of service of the order, the owner of a building within the scope of this Chapter shall ~~comply with the requirements set forth above by submitting to the Building Official for review~~ ***obtain one of the following from the Building Official:***
 - 1. ***A building permit to construct the seismic retrofit improvements identified in a structural analysis and plans for structural alteration of the building to comply with this Chapter; or***
 - 2. A ***letter from the Building Official stating that he/she concurs with a structural analysis, which is subject to approval by the Building Official and which shall demonstrate that the building meets the minimum requirements of this Chapter (i.e. has no statutory need for seismic retrofitting); or***
 - 3. ***A permit*** ~~Application and plans~~ for the demolition of the building. Issuance of a permit for demolition of a building shall be subject to compliance with the provisions of Chapter 17.16 (Demolition of Buildings and Structures) of this Title.

In order to meet the deadline set forth above, owners of buildings within the scope of this Chapter must submit structural analyses, plans for structural alteration of the building, and or applications to demolish their buildings at least 105 calendar days prior to the deadline to allow for the City Building Official to review the analyses, plans and/or applications to demolish and find them to be in compliance with this Chapter.

- C. Within ~~two years~~ ***thirty (30) months*** of the date of service of the order, the owner of a building within the scope of this Chapter shall complete construction of structural alterations or complete demolition of the building, as applicable.

17.18.060 Historical Buildings.

Alterations or repairs to qualified historical buildings shall comply with the State Historical Building Code (Title 24, Building Standards, Part 8), in addition to this Chapter.

17.18.070 Order - Service.

The building official shall issue an order as provided in this section to the owner of each building within the scope of this Chapter.

17.18.080 Order - Contents.

The order shall be in writing and shall be served either personally or by certified or registered mail upon the owner as shown on the last equalized assessment roll, and upon the person, if any, in apparent charge or control of the building. The order shall specify that the building has been determined by the Building Official to be within the scope of this Chapter and, therefore, is required to meet the minimum seismic standards of this Chapter. The order shall be accompanied by a copy of Section 17.18.050, which sets forth time limits for compliance.

17.18.090 Appeal from Order.

The owner of the building may appeal the Building Official's initial determination that the building is within the scope of this Chapter to the Board of Appeals established by Section 17.04.020(C) of this Title. Such appeal shall be filed with the board within sixty (60) days from the service date of the order described in Section 17.18.090. Any such appeal shall be decided by the board no later than ninety (90) days after writing and the grounds thereof shall be stated clearly and concisely. Appeals or requests for modifications from any other determinations, orders or actions by the Building Official pursuant to this Chapter shall be made in accordance with the procedures established in Sections 105.1 and 105.2 of the California Building Code.

17.18.100 Recordation.

At the time that the Building Official serves the aforementioned order, the Building Official shall also file with the San Luis Obispo County Clerk-Recorder's Office a certificate stating that the subject building is within the scope of this chapter and is a potentially earthquake hazardous building. The certificate shall also state that the owner thereof has been ordered to structurally analyze the building and to structurally alter or demolish it where compliance with this Chapter has not been demonstrated.

If the building is either demolished, found not be within the scope of this Chapter or is structurally capable of resisting minimum seismic forces required by this Chapter as a result of structural alterations or an analysis, the Building Official shall file with the San Luis Obispo

County Clerk-Recorder's Office a form terminating the status of the subject building as being classified within the scope of this Chapter.

17.18.110 Enforcement.

- A. If the owner in charge or control of the subject building fails to comply with any order issued by the Building Official pursuant to this Chapter within the time limits set forth in Section 17.18.050, the Building Official shall verify that the recorded owner of this building has been properly served.
- B. If the order has been served on the record owner, then the Building Official shall order that the entire building be vacated and that the building remain vacated until such order has been complied with.
- C. If compliance with such order has not been accomplished within ninety (90) days after the date the building has been ordered vacated or such additional time as may have been granted by the Board of Appeals, the Building Official may order its demolition in accordance with the provisions of Section 102 of the California Building Code. Any demolition would be subject to those conditions set forth in the Chapter 17.16 (Demolition of Buildings and Structures) of this Title.

17.18.120 Full strengthening required prior to time frames provided for under Section 17.18.050.

The Building Official shall require full compliance with the minimum seismic standards contained within this Chapter and the International Existing Building Code before the time frames set forth under Section 17.18.050, subject to the following conditions:

- A. Any change or conversion of an unreinforced masonry structure from its existing use to that of a more intensive use.
- B. The remodel of a structure covered by this Chapter, in an amount equaling fifty percent of the structure's replacement value as determined using the latest edition of the Building Standards Valuation, published by the International Conference of Building Officials.
- C. The Building Official may, upon receipt of a written request from the owner, order such owner to bring his building into compliance with this code prior to the normal service date for such building set forth in this chapter.

17.18.130 Certificate of compliance.

- A. In accordance with Chapter 3, Section 70(d)(3) of the Revenue and Taxation Code, the Building Division shall, upon the completion of a seismic retrofit, file a certificate of compliance with the County Assessor's Office on or before the following April 15th.
- B. The certificate of compliance shall establish that the work associated with the seismic retrofit was the result of a local ordinance related to seismic safety, and therefore shall not add value to the assessment role.

17.18.140 Requirements for plans-- Structural engineering.

The following construction information shall be included in the plans required by this Chapter:

1. Dimensioned floor and roof plans showing existing walls and the size and spacing of floor and roof framing member and sheathing materials. The plans shall indicate all existing and new crosswalls and their materials of construction. The location of the crosswalls and their openings shall be fully dimensioned or drawn to scale on the plans;
2. Dimensioned wall elevations showing openings, thicknesses, heights, the type of veneer, its thickness and its bonding and/or ties to the structural wall masonry shall also be reported;
3. The extent and type of existing wall anchorage to floors and roof when used in the design;
4. The extent and type of parapet corrections which were previously performed, if any;
5. Repair details, if any, of cracked or damaged unreinforced masonry walls.

17.18.150 Material requirements.

- A. General. All materials permitted by this Chapter, including their appropriate allowable design values substantiated by testing may be utilized to meet the requirements of this chapter.
- B. Existing Materials. All existing materials utilized as part of the required vertical load-carrying or lateral force-resisting system shall be tested or shall be repaired or removed and replaced with new materials.

17.18.160 Upgrade design--Requirements for expanded or continued use of a structure.

- A. Except as modified herein, the analysis and design relating to the alteration of, or addition to, an existing building shall be in accordance with the California Building Code.
- B. Contractors providing structural upgrades shall be licensed by the State of California in the trade(s) being performed to accomplish the upgrade.
- C. Design documents and specifications pertaining to structural upgrades shall be prepared by an architect, structural engineer or civil engineer specializing in structural work, licensed by the State of California to practice as such.
- D. Design documents and specifications shall comply with the International Existing Building Code, Appendix A, Chapter A1.

17.18.170 Special requirements for qualified historical buildings.

- A. Plans for seismic upgrading of qualified historical buildings shall be reviewed by the Development Review Committee. The basis of review shall be the design guidelines established by the City and the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitation of Historic Properties, with the following special requirements:
 - 1. Features of architectural or historical significance shall be retained and reattached, braced or stabilized, as required by applicable codes and/or the Building Official.
 - 2. In-wall anchors shall be used on qualified historical buildings instead of through-wall anchors, especially on the principal facade.
 - 3. Through-wall anchors on other facades may be permitted, provided that their locations and treatment are approved by the Development Review Committee.
 - 4. Closure of historic openings on the principal facade shall not be permitted and shall be discouraged on secondary facades. If closure of such openings on secondary facades is unavoidable, the materials used shall be compatible with the existing exterior materials of the secondary facade wall.
 - 5. Historic parapets shall be braced rather than removed.
 - 6. Historic architectural veneer posing a safety hazard shall be stabilized and re-anchored to the building.
- B. The purpose and intent of the plan review and guidelines shall be to minimize the effects of seismic strengthening on the exterior appearance of the building.

- C. 1. In order to minimize the effect on the exterior appearance of a qualified historical building, plans showing proposed shear-test locations shall be submitted for review and approval by the Community Development Director or his/her designee, prior to any testing of the structure taking place.
2. Repairs after testing shall match the original adjacent existing building facade materials.

17.18.180 Buildings with brick veneers, cornice work and/or parapets.

- A. 1. The owner of each building constructed prior to 1972 with a brick veneer shall, upon service of an order and within the time limits set forth in this Chapter, cause an analysis to be made of the veneer by an engineer or architect licensed by the state to practice as such have such veneer examined to determine if it is anchored to the building structure in a manner consistent with the anchorage requirements contained in the International Existing Building Code Section A113.7.
2. Within ~~one year~~ **twelve (12) months** of the date of service of the order, the owner of a building within the scope of this Subsection shall ~~submit a report of said veneer examination to the Building Official for review~~ **obtain from the Building Official a building permit to construct the seismic retrofit improvements identified in a structural analysis and plans for structural alteration of the brick veneer to comply with this Subsection.**
3. Within ~~two years~~ **thirty (30) months** of the date of service of the order, the owner of a building within the scope of this Subsection shall ~~obtain a building permit and~~ complete anchoring of the brick veneer if indicated by said report.

In order to meet the deadline set forth above, owners of buildings within the scope of this Subsection must submit structural analyses, plans for structural alteration of the building, and or applications to demolish their buildings at least 105 calendar days prior to the deadline to allow for the City Building Official to review the analyses, plans and/or applications to demolish and find them to be in compliance with this Chapter.

- B. 1. Each owner of a building from which brick veneers, cornice work and/or parapets were removed as a result of the December 22, 2003 earthquake shall replace said veneers, cornices, and/or parapets.
2. The owners of buildings within the scope of this Subsection shall be served written orders informing them of the requirement to replace said veneers, cornices, and/or parapets in the manner set forth in Sections 17.18.070 and 17.18.080. Said order shall inform building owners that veneers, cornice work and/or parapets shall be replaced with materials providing the same architectural/historical features originally removed.

3. Within ~~one year~~ **twelve (12) months** of the date of service of the order, the owner of a building within the scope of this Subsection shall **obtain from the Building Official a building permit to construct the seismic retrofit improvements identified in a structural analysis and plans for structural alteration of the brick veneer, cornice and or parapet to comply with this Subsection.**
4. Within ~~two years~~ **thirty (30) months** of the date of service of the order, the owner of a building within the scope of this Subsection shall ~~obtain a building permit and~~ complete all replacement work.

In order to meet the deadline set forth above, owners of buildings within the scope of this Subsection must submit structural analyses, plans for structural alteration of the building, and or applications to demolish their buildings at least 105 calendar days prior to the deadline to allow for the City Building Official to review the analyses, plans and/or applications to demolish and find them to be in compliance with this Chapter.

- C. The owners of buildings within the scope of this Section shall be served written orders in the manner set forth in Sections 17.18.070 and 17.18.080.
- D. Appeals of orders specified in this Section shall be handled in the manner set forth in Section 17.18.090.

17.18.190 Report to City Council.

Within 30 days of the deadlines established in Sections 17.18.050 and 17.18.180, the Building Official shall make a written report to the City Council explaining the status of compliance for each building served notice as set forth in Section 17.18.070.