



CITY OF EMERYVILLE

INCORPORATED 1896

1333 PARK AVENUE
EMERYVILLE, CALIFORNIA 94608-3517

TEL: (510) 596-4300 FAX: (510) 658-8095

BOARD MEMBERS:

Steven Keller, Chair
Lawrence C. (Buzz) Cardoza, Vice Chair
Philip Banta, Board Member
John J. Bauters, Board Member
Gail Donaldson, Board Member
Sam Kang, Board Member

AGENDA SPECIAL MEETING EMERYVILLE BOARD OF APPEALS CITY COUNCIL CHAMBERS 1333 PARK AVENUE EMERYVILLE, CALIFORNIA TUESDAY, AUGUST 23, 2016 6:30 P.M.

A complete copy of the agenda packet will be available for public viewing at the information counter, Emeryville City Hall, 1333 Park Avenue, Emeryville, CA from the Monday before the Board meeting. All writings that are public records and relate to an agenda item below which are distributed to a majority of the Board of Appeals (including writings distributed to a majority of the Board of Appeals less than 72 hours prior to this meeting) will be made available at the information counter, 1333 Park Avenue, Emeryville, CA during normal business hours (9:00 a.m. to 5:00 p.m., Monday through Friday, excluding legal holidays).

If you challenge the adequacy of the subject application in court, you will be limited to raising only those issues or alleged inadequacies which you presented to the Emeryville Board of Appeals, orally or in writing, at or prior to the public hearing. You may not be entitled to maintain a legal action against the application unless you object to it, orally or in writing, at or prior to the public hearing.

In compliance with the Americans with Disabilities Act (ADA), a person requiring an accommodation, auxiliary aid, or service to participate in this meeting should contact the City Clerk's Office or ADA Coordinator at (510) 596-4300, as far in advance as possible, but no later than 72 hours before the scheduled event. The best effort to fulfil the request will be made. Assistive listening devices are available for anyone with hearing difficulty from the City Clerk prior to the meeting, and must be returned to the City Clerk at the end of the meeting.

No dogs, cats, birds or any other animal or fowl shall be allowed at or brought in to a public meeting by any person except (i) as to members of the public or City staff utilizing the assistance of a service animal, which defined as a guide dog, or other animal individually trained to provide assistance to an individual with a disability, or (ii) as to police officers utilizing the assistance of a dog(s) in law enforcement duties.

Persons who wish to speak on matters set for PUBLIC HEARINGS will be heard when the Presiding Officer calls for comments from those persons who are in support of or in opposition thereto. After persons have spoken, the Hearing is closed and brought back to Board level for discussion and action. There is no further comment permitted from the audience unless requested by the Board.

The speaker's time is limited to 3 minutes and can only be extended upon approval of the Presiding Officer. Any person who desires to address the Board of Appeals on a matter not on the Agenda which item is within the subject matter jurisdiction of the Board of Appeals, may do so during that portion of the Agenda called Public Comment.

The AGENDA for this special meeting is as follows:

- I. CONVENE AND ROLL CALL**
- II. PUBLIC COMMENT**
- III. ACTION RECAP – December 10, 2015**
- IV. ADMINISTRATIVE ITEMS**
 - A. Adoption of Administrative Hearing Procedures**
 - B. Consideration of Recommended Decision by Board of Examiners on Appeal of Notice and Order to Abate and Demolish Structure –1264 Ocean Avenue, Emeryville, CA 94608 (APN 049-1469-008)**
- V. ADJOURNMENT**

**EMERYVILLE BOARD OF APPEALS
ACTION RECAP
December 10, 2015**

I. CONVENE AND ROLL CALL

The meeting was called to order at 6:32 p.m. by Chair Brad Gunkel. Board Members present: John J. Bauters, Lawrence C. (Buzz) Cardoza, Gail Donaldson, Sam Kang, Sean Moss, Vice Chair Steven Keller, and Chair Brad Gunkel.

II. PUBLIC COMMENT – None

III. ADMINISTRATIVE ITEM

A. Appeal of Notice and Order to Abate and Demolish Structure – Designation of Hearing Examiner to Conduct Hearing on Appeal - 1264 Ocean Avenue, Emeryville, CA 94608 (APN 049-1469-008)

City Attorney Michael Guina made the staff presentation, explained the process, and noted that there is a deadline of January 18, 2016 to hold a hearing on the matter. He responded to questions from the Board.

Board members discussed whether the entire Board should hold the hearing or appoint a panel of Hearing Examiners consisting of a subset of the Board.

A motion was made to appoint a panel of Hearing Examiners consisting of Board Members Bauters, Cardoza, and Gunkel.

Moved: Cardoza
Seconded: Kang
Vote: Ayes: Bauters, Cardoza, Donaldson, Kang, Moss
Noes: Keller
Abstain: Gunkel

It was agreed that a hearing would be held by the panel of Hearing Examiners on Tuesday, January 12, 2016.

Andre Carpiaux, 1264 Ocean Avenue, addressed the Board and said that he objected to Board Member Cardoza being involved with his case.

IV. ADJOURNMENT – 6:52 p.m.

City of Emeryville

Administrative Appeal Hearing Procedures

For

Dangerous Building Code Determinations

A. INTRODUCTION.

One of the purposes of the Board of Appeals (Appeals Board) is to hear appeals by persons aggrieved by any administrative decisions in the application of the Abatement of Dangerous Buildings Code of the City. The City Council designated the City Planning Commission to fulfill this function in Chapter 12A of Title 8 of the Emeryville Municipal Code (hereafter “EMC”) entitled Board of Appeals.

The 1994 Uniform Code for Abatement of Dangerous Buildings (hereafter “UCADB”), was adopted and incorporated by reference by the City Council in EMC Section 8-6.01. Section 601.1 of the UCABD provides that the Appeals Board can appoint one or more of its members to conduct the hearings. If appointed, this subcommittee, known as the Hearing Examiners, shall conduct the hearing, obtain and hear all the evidence, and submit a report to the Appeals Board containing a brief summary of the evidence considered, as well as the findings, conclusions and recommendations of the Hearing Examiners. The report shall include a proposed decision for the Appeals Board to consider for adoption. The Appeals Board may accept, reject, or modify the proposed decision without taking additional evidence, or may refer the case back to the Hearing Examiners for further evidence.

These Procedures are intended to be used by the Hearing Examiners (and Appeals Board) in conducting the appeal hearing and are required by Section 205 of UCADB. The Hearing Examiners may refer to Chapter 6 of the ADBC for any matter not covered in these Procedures. In any conflict between these Procedures and the UCADB, the UCADB provisions shall prevail.

B. CONDUCTING AN ADMINISTRATIVE HEARING.

1. Importance of Impartial Hearing Examiners and Appeals Board.

Both the federal and state constitutions require that no person be deprived of life, liberty or property without due process of law.¹ Among other things, a person is entitled to “procedural due process”, which means a person has the right to notice and an opportunity to be heard. The hearing must be fair, and both the Hearing Examiners and the Appeals Board impartial and unbiased.²

To preserve due process rights, a Hearing Examiner or Appeals Board member should disqualify himself or herself if he or she has any financial or other personal interest in the matter, if any of the parties involved are family members or friends, or if the Hearing Examiner or Appeals Board member feels he or she cannot be impartial.

In addition, the Board of Examiners should conduct the hearing with fairness and respect for both sides, without even the *appearance* of partiality or favoritism. This applies not only at the hearing, but before and after the hearing.

¹ U.S. Const. 14th Amendment; Cal. Const. art I, §7.

² See generally, 7 Witkin Summary of California Law (10th Edition), §§657 – 673.

2. Scope of Hearing on Appeal.

Pursuant to Section 503 of the UCADB, only those matters or issues specifically raised by the appellant shall be considered in the hearing of the appeal.

3. Conducting the Hearing.

The objective is for the Hearing Examiners to conduct a fair and orderly hearing, to hear the evidence from both sides, determine the facts, and make a decision whether to recommend upholding, modifying or denying the appeal. Formal rules of evidence do not apply. However, the Hearing Examiners are in charge of the proceedings. The Chairperson for the Hearing Examiners decides who speaks and when, and when and if to take a break.

- If a situation becomes tense, the Board Chair can announce that there will be a break (for a specified time, usually 5 or 10 minutes).
- If witnesses are called by either side, the Board may request that witnesses wait outside the hearing room until it is time for their testimony. A suggested checklist for the hearing is Attachment "A".

A suggested sequence for the hearing to ensure that the hearing is conducted fairly and in an orderly manner is as follows:

Introduction

Hearing Examiners introduce themselves. All others in attendance introduce themselves. The introductions should include the person's role (Building Official, appellant, friend of the appellant, etc.). A sign in sheet should be circulated that includes this information as well as contact information for any necessary follow-up and for distribution of the Hearing Examiners proposed decision.

The Chair shall briefly explain the hearing process: how the hearing will be conducted, when a proposed decision will be made, the fact that the proposed decision will be in writing and a copy provided to the parties, etc. That the proposed decision will be subsequently considered by the Board of Appeals, and may be accepted, rejected, modified or remanded for additional evidence. The decision of the Board of Appeals will be in writing with copies provided to the parties. The Chair should inquire whether anyone has questions about the process itself.

Documentary Evidence

It is recommended that the parties submit documentation at the beginning of the hearing to the other side and to the Examiners. However, documentation may also be submitted at the hearing by either side. The Chair shall make any determinations on objections to the introduction of documents at the hearing. When rendering its proposed decision, the Hearing Examiners shall determine whether the documentation

submitted is relevant and material to the hearing and give it whatever consideration is due.

City's Case

City staff (Building Official /Code enforcement officer) presents his/her case: what happened, what the violation is, steps taken by City during the process. City staff may introduce documentary evidence and present witnesses.

- The appellant may ask questions of each witness when City staff has completed their questions.
- The Examiners may ask questions of any witness when the appellant has completed his/her cross-examination questioning.
- City staff may ask the witness additional questions to rebut or clarify testimony.

Appellant's Case

When City staff is finished presenting the case, the appellant proceeds with his/her side of the case by introducing documentary evidence, presenting witnesses, or providing his/her own testimony.

- City staff may ask questions of each witness when the appellant has completed asking questions or providing his/her own testimony.
- The Examiners may ask questions of any witness when City staff has completed its cross-examination questioning.
- Appellant may ask the witness additional questions or provide additional testimony to rebut or clarify his/her case.

Rebuttal/Closing Arguments

If needed, City staff may want to offer a rebuttal at the end, to refute information presented by the appellant or make a closing argument.

The appellant may then want to rebut what City staff has offered or to make a closing argument.

The Board shall determine whether the documentation submitted is relevant and material to the hearing and give it whatever consideration is due.

4. Deliberations and Rendering Proposed Hearing Decision.

After both parties have completed presenting the case, the Chairperson for the Hearing Examiners shall close the evidentiary portion of the hearing and the Hearing Examiners shall discuss and evaluate the evidence and render a decision. When evaluating the evidence, the Hearing Examiners shall determine whether the documentation submitted is relevant and material to the hearing and give it whatever consideration is due. The

discussion, evaluation and proposed decision needs to be done during the noticed meeting.

If the matter is complicated or Hearing Examiners need more information from someone, or time to read documents that were presented at the hearing, the hearing may be continued to another time or day and establish time limits and deadlines for the submission of additional documentation or information requested by the Hearing Examiners can be established.

The Hearing Examiners, through a simple majority, should reach a proposed decision and issue a written report of such decision within the time specified by the UCADB (not to exceed 90 days from the date the hearing is closed, unless otherwise mutually agreed by the parties). The Hearing Examiners may choose to recommend that the Appeals Board approve, modify or deny the appeal (which will in essence either deny, modify or uphold the City's action). Any modifications to Building Official's Order should be specific about what is expected and the timelines for any required compliance.

5. Written Report by Hearing Examiners to Appeals Board

If the Appeals Board appointed Hearing Examiners, the proposed decision of the Hearing Examiners shall be presented in a written report to the Appeals Board. It shall contain a brief summary of the evidence considered and state the Examiners' findings, conclusions and recommendations. The report shall also contain a proposed decision in such a form that it may be adopted by the Appeals Board as its decision in the case. A copy of the report and proposed decision shall be mailed to the appellant and provided to City staff on the date they are filed with the Appeals Board.

C. CONSIDERATION OF WRITTEN REPORT BY APPEALS BOARD.

1. Notice of meeting:

The Appeals Board shall fix the date, time and place to consider the Hearing Examiners' written report and proposed decision. Notice of the meeting shall be mailed to each interested party not less than five days prior to the date of the meeting.

All meetings of the Appeals Board are subject to the Brown Act. The deliberations of the Appeals Board, must take place during a noticed meeting. If the deliberations cannot be completed during the initial noticed meeting, another noticed meeting for continuing the hearing will need to be set.

- Exceptions to Report: Any party may file exceptions to any or all of the report and may provide a different proposed decision with written argument in support of it. This must be filed with the Appeals Board no later than two (2) days prior to the date of the meeting to consider the Report. The Appeals Board may by consensus allow any party to present oral arguments to the Board.

2. Decision by Appeals Board:

The Appeals Board may adopt or reject the proposed decision in its entirety, or may modify the proposed decision, with or without taking additional evidence.

The Appeals Board may choose to remand the case back to the Hearing Examiners to take additional evidence. In such a case, the Hearing Examiners would need to follow these procedures and provide another written report to the Appeals Board which would be considered by the Appeals Board as set forth in these procedures.

The decision of the Appeals Board shall be in writing and shall contain findings of fact, a determination of the issues presented and any requirements that must be complied with. The written decision shall order the appeal either granted, denied, or modified and specify any conditions or limitations imposed. The effective date of the decision and any required compliance shall be stated in the decision. The written decision of the Appeals Board is the final decision of the City and not subject to appeal to the City Council.

3. Distribution of Written Decision by Appeals Board:

A copy of the decision shall be delivered to the appellant personally or sent by certified mail, postage prepaid, return receipt requested. A copy of the written decision shall be maintained by the City Clerk.

Attachment "A" - Checklist for Hearing Examiners

- 1. Disqualification. Consider whether there are any reasons for a member of the Hearing Examiners to disqualify himself or herself.
- 2. Timely appeal. Determine whether the appeal or request for hearing was filed within the time period allowed for filing.
- 3. Setting date and time for hearing; Sending notice. At a special meeting of the Board of Appeals, choose Examiners to hear the appeal and set the time, place and date for the hearing and send out a notice to the appellant and to the Building Official. Be sure this is done in a timely manner.
- 4. Report and background information. The Hearing Examiners should review all of the relevant information, including: the Building Official's report, background information (which is also provided to the appellant), and copies of the Code sections cited.
- 5. Procedural requirements satisfied. Based on the particular Municipal Code sections cited for the violation, determine whether the Building Official has met all of the procedural requirements in a timely way, for example, has the Building Official given adequate notice of the violation to the person and did it contain the required elements.
- 6. Conduct the hearing. Conduct the hearing in accordance with its adopted Procedures and any requirements under the UCADB which apply.
 - Open hearing.
 - Introductions.
 - Explanation of the hearing process.
 - The Building Official (or City staff) presents case and all evidence.
 - Appellant may cross examine witnesses
 - Hearing Examiners may ask questions
 - Building Official may ask rebuttal or clarifying questions
 - Appellant presents case and any evidence.
 - The Building Official may cross-examine any witnesses.
 - Hearing Examiners may ask questions
 - Appellant may ask rebuttal or clarifying questions
 - Rebuttal or closing argument by the Building Official (if necessary).
 - Rebuttal or closing argument by appellant (if necessary).
 - Close evidentiary portion of hearing
 - Deliberate and render decision and advise parties when written report will be provided.

City of Emeryville
(Draft) Board of Appeals - Administrative Appeal Hearing Procedures

- 7. Render proposed decision. Evaluate the evidence and render a recommendation and proposed decision in a written report to Appeals Board. If the Hearing Examiners recommend modifying the conclusion of the Building Official, it must be very specific about what is now required (i.e. new time for performance, etc.) Send a copy of the written report to the appellant and the Building Official at the same time it is filed with the Appeals Board.

- 8. Appeals Board Makes Final Decision: Appeals Board properly notices meeting to consider written report and shall render its final decision in writing



CITY OF EMERYVILLE

INCORPORATED 1896

1333 PARK AVENUE
EMERYVILLE, CALIFORNIA 94608-3517

TEL: (510) 596-4381 FAX: (510) 596-3724

To: Chair and Members of the Board of Appeals

From: Michael Guina, City Attorney
Andrea Visveshwara, Assistant City Attorney

Date: August 23, 2016

Subject: **Consideration of Recommended Decision From Board of Examiners:
Appeal of Notice and Order to Abate and Demolish Structure – 1264
Ocean Avenue, Emeryville, CA 94608 (APN 049-1469-008)**

RECOMMENDATION

Staff recommends that the Board of Appeals adopt the Hearing Procedures and then review and consider the Recommended Decision from the Examiners on the appeal of the Notice and Order to Abate and Demolish the Structure. The Board may adopt or reject the Recommended Decision in its entirety, or may modify the Recommended Decision.

BACKGROUND

The City initiated a code enforcement action against 1264 Ocean Avenue, Emeryville, CA 94608 (APN 049-1469-008), owned by Mr. Andre Carpiaux, alleging that the property and structure on it violates several provisions of the Uniform Code for the Abatement of Dangerous Buildings (“**Code**”), adopted by section 8-6.01 of the Emeryville Municipal Code (See Attachment A). Under the Code, the Chief Building Official issued a notice and order to abate the alleged violations and to demolish the structure on the property (“**Order**”) (See Attachment B). Under the Code, Mr. Carpiaux filed an appeal of that Order on November 18, 2015 (“**Appeal**”) (See Attachment C.)

Section 205.1 of the Code creates a Board of Appeals (“**Board**”) to hear appeals of orders of the Chief Building Official, such as the one filed by Mr. Carpiaux. Pursuant to Section 8-12A.02 of the Emeryville Municipal Code, the Planning Commission serves as the Board of Appeals for Code violations. At its meeting on December 15, 2015, pursuant to Section 601.1 of the Code, the Board of Appeals designated a subcommittee of its members (John Bauters, Brad Gunkel and Lawrence (Buzz) Cardoza) to be the Board of Examiners (“**Examiners**”) to conduct a hearing on Mr. Carpiaux’s Appeal and to provide a written report to the Board, summarizing the

IV.B.

evidence submitted at the hearing, the Examiners' findings, conclusions and recommendations.

DISCUSSION

Hearing Process. The Examiners held a hearing on the Appeal on February 17, 2016. A site visit to view the outside of the structure was made by the Examiners and the parties on March 5, 2016, the hearing was concluded that evening. The Examiners submitted a Recommended Decision that was provided to the parties on May 27, 2016.

After receiving the Recommended Decision, Mr. Carpiaux informed Chair Bauters via email that he had not been able to understand the City's structural engineer Giyan Senaratne's testimony due to his hearing impairment and because Mr. Senaratne spoke too fast and with an accent. The City Attorney's Office provided Mr. Carpiaux with a copy of the audio tape and transcript. Mr. Carpiaux was also provided with the opportunity to request additional cross-examination of Mr. Senaratne. He did not make such request. The Examiners' Recommended Decision includes a Supplement adding the correspondence and documents that were generated as a result of the additional steps taken after the hearing had been closed on March 5, 2016 to comply with any needed reasonable accommodation for Mr. Carpiaux.

Exceptions to Report: Either party has two days prior to the Appeals Board meeting to consider the Recommended Decision, to file written exceptions to any part of all of the Examiner's report, and may provide an alternative proposed decision together with written argument in support of such decision. Written exceptions, if filed by either party, should be reviewed and considered by the Board. The parties have been provided with notice of this opportunity.

Disposition of the Board: The Board may adopt or reject the Recommended Decision in its entirety, or may modify the Recommended Decision.

If the Recommended Decision is not adopted, the Board may decide the case upon the entire record provided, with or without taking additional evidence, or it may refer the case back to the Examiners to take additional evidence. If referred back, the Examiners will conduct further hearing on any designated issues and will prepare a report and proposed decision which will be once again submitted to the Board for consideration and adoption pursuant to the Hearing Procedures.

CONCLUSION

Staff recommends that the Board adopt the Hearing Procedures, formalizing the process set forth in the Code which the Board is currently following, and after reviewing the Recommended Decision, and any written Exceptions that may be submitted by the parties, consider the Examiners' Recommended Decision upholding the City's Notice and Order to Abate and Demolish the Structure.

- Attachments:
- A. 1994 Abatement of Dangerous Buildings Code
 - B. Recommended Decision with Appendix of Exhibits
 - C. Notice of Supplement to Recommended Decision
 - D. Notice of Appeals Board Meeting

1994

**UNIFORM CODE
FOR THE
ABATEMENT OF
DANGEROUS
BUILDINGS™**

Attachment A



1994

**UNIFORM CODE
FOR THE
ABATEMENT OF
DANGEROUS
BUILDINGS™**



Item No. 105S94

INTERNATIONAL CODE COUNCIL®

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First Printing

Publication date: May 1, 1994

ISSN 0896-971X

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Preface

The provisions of this code were developed in order to afford jurisdictions reasonable procedures for the classification and abatement of dangerous buildings.

This code is designed to be compatible with the *Uniform Building Code*™ and the *Uniform Housing Code*™. While the Housing Code is applicable only to residential buildings, the *Uniform Code for the Abatement of Dangerous Buildings*™ is designed to apply to all types of buildings and structures. The notices, orders and appeals procedures specified have been found to be workable and are referenced by the *Uniform Building Code*.

If properly followed, the provisions of this code will provide the building official with the proper legal steps in abating dilapidated, defective buildings which endanger life, health, property and public safety within concepts of fair play and justice.

Vertical lines in margins indicate a change in the requirements from the 1991 edition. An analysis of changes between editions is published by the Conference.

Deletion indicators (ⓓ) are provided in the margin where a paragraph or item listing has been deleted if the deletion resulted in a change of requirements.

CODES AND RELATED PUBLICATIONS

The International Conference of Building Officials (ICBO) publishes the family of Uniform Codes, each correlated with the *Uniform Building Code*™ to provide jurisdictions with a complete set of building-related regulations for adoption. Other reference materials and related codes are available to improve knowledge of code enforcement and administration of building inspection programs. Publications are continually being added, so inquiries should be directed to Conference headquarters for a listing of available products. The following publications are available from ICBO:

UNIFORM CODES

Uniform Building Code, Volumes 1, 2 and 3. The most widely adopted model building code in the United States, the performance-based *Uniform Building Code* is a proven document, meeting the needs of government units charged with the enforcement of building regulations. Volume 1 contains administrative, fire- and life-safety and field inspection provisions; Volume 2 contains structural engineering design provisions; and Volume 3 contains material, testing and installation standards.

Uniform Mechanical Code™. Provides a complete set of requirements for the design, construction, installation and maintenance of heating, ventilating, cooling and refrigeration systems; incinerators and other heat-producing appliances.

Uniform Fire Code™, Volumes 1 and 2. The premier model fire code in the United States, the *Uniform Fire Code* sets forth provisions necessary for fire prevention and fire protection. Published by the International Fire Code Institute, the *Uniform Fire Code* is endorsed by the Western Fire Chiefs Association, the International Association of Fire Chiefs and ICBO. Volume 1 contains code provisions compatible with the *Uniform Building Code*, and Volume 2 contains standards referenced from the code provisions.

Uniform Housing Code™. Provides complete requirements affecting conservation and rehabilitation of housing. Its regulations are compatible with the *Uniform Building Code*.

Uniform Code for the Abatement of Dangerous Buildings™. A code compatible with the *Uniform Building Code* and the *Uniform Housing Code* which provides equitable remedies consistent with other laws for the repair, vacation or demolition of dangerous buildings.

Uniform Sign Code™. Dedicated to the development of better sign regulation, its requirements pertain to all signs and sign construction attached to buildings.

Uniform Administrative Code™. This code covers administrative areas in connection with adoption of the *Uniform Building Code*, *Uniform Mechanical Code* and related codes. It contains provisions which relate to site preparation, construction, alteration, moving, repair and use and occupancies of buildings or structures and building service equipment, including plumbing, electrical and mechanical regulations. The code is compatible with the administrative provisions of all codes published by the Conference.

Uniform Building Security Code™. This code establishes minimum standards to make dwelling units resistant to unlawful entry. It regulates swinging doors, sliding doors, windows and hardware in connection with dwelling units of apartment houses or one- and two-family dwellings. The code gives consideration to the concerns of police, fire and building officials in establishing requirements for resistance to burglary which are compatible with fire and life safety.

Uniform Code for Building Conservation™. A building conservation guideline presented in code format which will provide a community with the means to preserve its existing buildings while achieving appropriate levels of safety. It is formatted in the same manner as the *Uniform Building Code*, is compatible with other Uniform Codes, and may be adopted as a code or used as a guideline.

Uniform Zoning Code™. This newest addition to the Uniform Codes family is dedicated to intelligent community development and to the benefit of the public welfare by providing a means of promoting uniformity in zoning laws and enforcement.

Dwelling Construction under the Uniform Building Code™. Designed primarily for use in home building and apprentice training, this book contains requirements applicable to the construction of one- and two-story dwellings based on the requirements of the *Uniform Building Code*. Available in English or Spanish.

Dwelling Construction under the Uniform Mechanical Code™. This publication is for the convenience of the homeowner or contractor interested in installing mechanical equipment in a one- or two-family dwelling in conformance with the *Uniform Mechanical Code*.

Quick-reference Occupancy Guidelines to the 1994 U.B.C. Code requirements are compiled in this publication by occupancy groups for quick access. These tabulations assemble requirements for each occupancy classification in the code. Provisions, such as fire-resistive ratings for occupancy separations in Table 3-B, exterior wall and opening

protection requirements in Table 5-A-1, and fire-resistive ratings for types of construction in Table 6-A, are tabulated for quick reference and comparison.

Supplements to U.B.C. and related codes. Published each of the two years between editions, the Supplements contain all changes approved during that year, plus an analysis of those changes.

Metricated Tables and Figures of the 1994 Uniform Codes. The tables presented in the 1994 Uniform Codes tabulate values in inch-pound units system and are provided with multiplying factors to convert values to the SI equivalent. This publication provides all the tables and figures of the Uniform Codes completely metricated. All tabulated values will be presented in SI units without reference to the inch-pound equivalent.

Uniform Building Code—1927 Edition. A special 60th anniversary printing of the first published *Uniform Building Code*.

CABO CODES

CABO One and Two Family Dwelling Code. Jointly sponsored by ICBO and the other model building code organizations, this code eliminates conflicts and duplications among the model codes to achieve national uniformity. Covers mechanical and plumbing requirements as well as construction and occupancy.

Application and Commentary on CABO One and Two Family Dwelling Code. An interpretative commentary on the *CABO One and Two Family Dwelling Code* intended to enhance uniformity of interpretation and application of the code nationwide. Developed by the three model code organizations, this document includes numerous illustrations of code requirements and the rationale for individual provisions.

CABO Model Energy Code. This code includes minimum requirements for effective use of energy in the design of new buildings and structures and additions to existing buildings. It is based on American Society of Heating, Refrigeration and Air-conditioning Engineers Standard 90A-1980 and was originally developed jointly by ICBO, BOCA, SBCCI and the National Conference of States on Building Codes and Standards under a contract funded by the United States Department of Energy. The code is now maintained by CABO and is adopted by reference in the *Uniform Building Code*.

TECHNICAL REFERENCES AND EDUCATIONAL MATERIALS

Analysis of Revisions to the Uniform Codes™. An analysis of changes between the previous and new editions of the Uniform Codes is provided. Changes between code editions are noted either at the beginning of chapters or in the margins of the code text.

1991 to 1994 Cross-reference Directory of the Reformatted U.B.C. and U.M.C. Both the U.B.C. and U.M.C. have been reformatted and reorganized for the 1994 editions. This publication provides two directories for both the U.B.C. and U.M.C. to cross-reference the provisions from the 1991 format to the 1994 format. The first cross-reference for each code lists the 1991 section numbers and indicates where provisions from the 1991 U.B.C. and U.M.C. are located in the 1994 editions. Other cross-reference tables list the 1994 U.B.C. and U.M.C. section numbers and refer to their origin in the 1991 codes.

Handbook to the Uniform Building Code. The handbook is a completely detailed and illustrated commentary on the *Uniform Building Code*, tracing historical background and rationale of the codes through the current edition. Also included are numerous drawings and figures clarifying the application and intent of the code provisions. Also available in electronic format.

Handbook to the Uniform Mechanical Code. An indispensable tool for understanding the provisions of the current U.M.C., the handbook traces the historical background and rationale behind the U.M.C. provisions, includes 160 figures which clarify the intent and application of the code, and provides a chapter-by-chapter analysis of the U.M.C.

Uniform Building Code Application/Interpretation Manual. This manual discusses sections of the *Uniform Building Code* with a question-and-answer format, providing a comprehensive analysis of the intent of the code sections. Most sections include illustrative examples. The manual is in loose-leaf format so that code interpretations published in *Building Standards* magazine may be inserted. Also available in electronic format.

Uniform Mechanical Code Application/Interpretation Manual. As a companion document to the *Uniform Mechanical Code*, this manual provides a comprehensive analysis of the intent of a number of code sections in an easy-to-use question-and-answer format. The manual is available in a loose-leaf format and includes illustrative examples for many code sections.

Plan Review Manual. A practical text that will assist and guide both the field inspector and plan reviewer in applying the code requirements. This manual covers the nonstructural and basic structural aspects of plan review.

Field Inspection Manual. An important fundamental text for courses of study at the community college and trade or technical school level. It is an effective text for those studying building construction or architecture and includes sample forms and checklists for use in the field.

Building Department Administration. An excellent guide for improvement of skills in departmental management and in the enforcement and application of the Building Code and other regulations administered by a building inspection department. This textbook will also be a valuable aid to instructors, students and those in related professional fields.

Building Department Guide to Disaster Mitigation. This new, expanded guide is designed to assist building departments in developing or updating disaster mitigation plans. Subjects covered include guidelines for damage mitigation, disaster-response management, immediate response, mutual aid and inspections, working with the media, repair and recovery policies, and public information bulletins. This publication is a must for those involved in preparing for and responding to disaster.

Building Official Management Manual. This manual addresses the unique nature of code administration and the managerial duties of the building official. A supplementary insert addresses the budgetary and financial aspects of a building department. It is also an ideal resource for those preparing for the management module of the CABO Building Official Certification Examination.

Legal Aspects of Code Administration. A manual developed by the three model code organizations to inform the building official on the legal aspects of the profession. The text is written in a logical sequence with explanation of legal terminology. It is designed to serve as a refresher for those preparing to take the legal module of the CABO Building Official Certification Examination.

U.M.C. Workbook. Designed for independent study or use with instructor-led programs based on the *Uniform Mechanical Code*, this comprehensive study guide consists of 16 learning sessions, with the first two sessions reviewing the purpose, scope, definitions and administrative provisions and the remaining 14 sessions progressively exploring the requirements for installing, inspecting and maintaining heating, ventilating, cooling and refrigeration systems.

Concrete Manual. A publication for individuals seeking an understanding of the fundamentals of concrete field technology and inspection practices. Of particular interest to concrete construction inspectors, it will also benefit employees of concrete producers, contractors, testing and inspection laboratories and material suppliers.

Reinforced Concrete Masonry Construction Inspector's Handbook. A comprehensive information source written especially for masonry inspection covering terminology, technology, materials, quality control, inspection and standards. Published jointly by ICBO and the Masonry Institute of America.

You Can Build It! Sponsored by ICBO in cooperation with CABO, this booklet contains information and advice to aid "do-it-yourselfers" with building projects. Provides guidance in necessary procedures such as permit requirements, codes, plans, cost estimation, etc.

Guidelines for Manufactured Housing Installations. A guideline in code form, implementing the *Uniform Building Code* and its companion code documents to regulate the permanent installation of a manufactured home on a privately owned, nonrental site. A commentary is included to explain specific provisions, and codes applying to each component part are defined.

Accessibility Reference Guide. This guide will be a valuable resource for architects, interior designers, plan reviewers and others who design and enforce accessibility provisions. Features include accessibility requirements, along with detailed commentary and graphics to clarify the provisions; cross-references to other applicable sections of the U.B.C. and the Americans with Disabilities Act Accessibility Guidelines; a checklist of U.B.C. provisions on access and usability requirements; and many other useful references.

U.B.C. Field Inspection Workbook. A comprehensive workbook for studying the provisions of the U.B.C. Divided into 12 sessions, this workbook focuses on the U.B.C. combustible construction requirements for the inspection of wood-framed construction.

Educational and Technical Reference Materials. The Conference has been a leader in the development of texts and course material to assist in the educational process. These materials include vital information necessary for the building official and subordinates in carrying out their responsibilities and have proven to be excellent references in connection with community college curricula and higher-level courses in the field of building construction technology and inspection and in the administration of building departments. A full line of videotapes and automated products are also available.

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Chapter 1 TITLE AND SCOPE

SECTION 101 — TITLE

These regulations shall be known as the *Uniform Code for the Abatement of Dangerous Buildings*, may be cited as such, and will be referred to herein as “this code.”

SECTION 102 — PURPOSE AND SCOPE

102.1 Purpose. It is the purpose of this code to provide a just, equitable and practicable method, to be cumulative with and in addition to any other remedy provided by the Building Code, Housing Code or otherwise available by law, whereby buildings or structures which from any cause endanger the life, limb, health, morals, property, safety or welfare of the general public or their occupants may be required to be repaired, vacated or demolished.

The purpose of this code is not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this code.

102.2 Scope. The provisions of this code shall apply to all dangerous buildings, as herein defined, which are now in existence or which may hereafter become dangerous in this jurisdiction.

SECTION 103 — ALTERATIONS, ADDITIONS AND REPAIRS

All buildings or structures which are required to be repaired under the provisions of this code shall be subject to the provisions of Section 3403 of the Building Code.

Chapter 2 ENFORCEMENT

SECTION 201 — GENERAL

201.1 Administration. The building official is hereby authorized to enforce the provisions of this code.

The building official shall have the power to render interpretations of this code and to adopt and enforce rules and supplemental regulations in order to clarify the application of its provisions. Such interpretations, rules and regulations shall be in conformity with the intent and purpose of this code.

201.2 Inspections. The health officer, the fire marshal and the building official are hereby authorized to make such inspections and take such actions as may be required to enforce the provisions of this code.

201.3 Right of Entry. When it is necessary to make an inspection to enforce the provisions of this code, or when the building official or the building official's authorized representative has reasonable cause to believe that there exists in a building or upon a premises a condition which is contrary to or in violation of this code which makes the building or premises unsafe, dangerous or hazardous, the building official may enter the building or premises at reasonable times to inspect or to perform the duties imposed by this code, provided that if such building or premises be occupied that credentials be presented to the occupant and entry requested. If such building or premises be unoccupied, the building official shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry. If entry is refused, the building official shall have recourse to the remedies provided by law to secure entry.

“Authorized representative” shall include the officers named in Section 201.2 and their authorized inspection personnel.

SECTION 202 — ABATEMENT OF DANGEROUS BUILDINGS

All buildings or portions thereof which are determined after inspection by the building official to be dangerous as defined in this code are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedure specified in Section 401 of this code.

SECTION 203 — VIOLATIONS

It shall be unlawful for any person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy or maintain any building or structure or cause or permit the same to be done in violation of this code.

SECTION 204 — INSPECTION OF WORK

All buildings or structures within the scope of this code and all construction or work for which a permit is required shall be subject to inspection by the building official in accordance with and in the manner provided by this code and Sections 108 and 1701 of the Building Code.

SECTION 205 — BOARD OF APPEALS

205.1 General. In order to hear and decide appeals of orders, decisions or determinations made by the building official relative to the application and interpretations of this code, there shall be and is hereby created a board of appeals consisting of members who are qualified by experience and train-

ing to pass upon matters pertaining to building construction and who are not employees of the jurisdiction. The building official shall be an ex officio member and shall act as secretary to said board but shall have no vote upon any matter before the board. The board of appeals shall be appointed by the governing body and shall hold office at its pleasure. The board shall adopt rules of procedure for conducting its business and shall render all decisions and findings in writing to the appellant, with a duplicate copy to the building official. Appeals to the board shall be processed in accordance with the provisions contained in Section 501 of this code. Copies of all rules or regulations adopted by the board shall be delivered to the building official, who shall make them freely accessible to the public.

205.2 Limitations of Authority. The board of appeals shall have no authority relative to interpretation of the administrative provisions of this code nor shall the board be empowered to waive requirements of this code.

Chapter 3 DEFINITIONS

SECTION 301 — GENERAL

For the purpose of this code, certain terms, phrases, words and their derivatives shall be construed as specified in either this chapter or as specified in the Building Code or the Housing Code. Where terms are not defined, they shall have their ordinary accepted meanings within the context with which they are used. *Webster's Third New International Dictionary of the English Language, Unabridged*, copyright 1986, shall be construed as providing ordinary accepted meanings. Words used in the singular include the plural and the plural the singular. Words used in the masculine gender include the feminine and the feminine the masculine.

BUILDING CODE is the *Uniform Building Code* promulgated by the International Conference of Building Officials, as adopted by this jurisdiction.

DANGEROUS BUILDING is any building or structure deemed to be dangerous under the provisions of Section 302 of this code.

HOUSING CODE is the *Uniform Housing Code* promulgated by the International Conference of Building Officials, as adopted by this jurisdiction.

SECTION 302 — DANGEROUS BUILDING

For the purpose of this code, any building or structure which has any or all of the conditions or defects hereinafter described shall be deemed to be a dangerous building, provided that such conditions or defects exist to the extent that the life, health, property or safety of the public or its occupants are endangered:

1. Whenever any door, aisle, passageway, stairway or other means of exit is not of sufficient width or size or is not so arranged as to provide safe and adequate means of exit in case of fire or panic.
2. Whenever the walking surface of any aisle, passageway, stairway or other means of exit is so warped, worn, loose, torn or otherwise unsafe as to not provide safe and adequate means of exit in case of fire or panic.
3. Whenever the stress in any materials, member or portion thereof, due to all dead and live loads, is more than one and one half times the working stress or stresses allowed in the Building Code for new buildings of similar structure, purpose or location.
4. Whenever any portion thereof has been damaged by fire, earthquake, wind, flood or by any other cause, to such an extent that the structural strength or stability thereof is materially less than it was before such catastrophe and is less than the minimum requirements of the Building Code for new buildings of similar structure, purpose or location.
5. Whenever any portion or member or appurtenance thereof is likely to fail, or to become detached or dislodged, or to collapse and thereby injure persons or damage property.
6. Whenever any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting a wind pressure of one half of that specified in the Building Code for new buildings of similar structure, purpose or location without exceeding the working stresses permitted in the Building Code for such buildings.
7. Whenever any portion thereof has wracked, warped, buckled or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction.

8. Whenever the building or structure, or any portion thereof, because of (i) dilapidation, deterioration or decay; (ii) faulty construction; (iii) the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building; (iv) the deterioration, decay or inadequacy of its foundation; or (v) any other cause, is likely to partially or completely collapse.

9. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.

10. Whenever the exterior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one third of the base.

11. Whenever the building or structure, exclusive of the foundation, shows 33 percent or more damage or deterioration of its supporting member or members, or 50 percent damage or deterioration of its nonsupporting members, enclosing or outside walls or coverings.

12. Whenever the building or structure has been so damaged by fire, wind, earthquake or flood, or has become so dilapidated or deteriorated as to become (i) an attractive nuisance to children; (ii) a harbor for vagrants, criminals or immoral persons; or as to (iii) enable persons to resort thereto for the purpose of committing unlawful or immoral acts.

13. Whenever any building or structure has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the building regulations of this jurisdiction, as specified in the Building Code or Housing Code, or of any law or ordinance of this state or jurisdiction relating to the condition, location or structure of buildings.

14. Whenever any building or structure which, whether or not erected in accordance with all applicable laws and ordinances, has in any nonsupporting part, member or portion less than 50 percent, or in any supporting part, member or portion less than 66 percent of the (i) strength, (ii) fire-resisting qualities or characteristics, or (iii) weather-resisting qualities or characteristics required by law in the case of a newly constructed building of like area, height and occupancy in the same location.

15. Whenever a building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air or sanitation facilities, or otherwise, is determined by the health officer to be unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease.

16. Whenever any building or structure, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire-resistive construction, faulty electric wiring, gas connections or heating apparatus, or other cause, is determined by the fire marshal to be a fire hazard.

17. Whenever any building or structure is in such a condition as to constitute a public nuisance known to the common law or in equity jurisprudence.

18. Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

Chapter 4

NOTICES AND ORDERS OF BUILDING OFFICIAL

SECTION 401 — GENERAL

401.1 Commencement of Proceedings. When the building official has inspected or caused to be inspected any building and has found and determined that such building is a dangerous building, the building official shall commence proceedings to cause the repair, vacation or demolition of the building.

401.2 Notice and Order. The building official shall issue a notice and order directed to the record owner of the building. The notice and order shall contain:

1. The street address and a legal description sufficient for identification of the premises upon which the building is located.

2. A statement that the building official has found the building to be dangerous with a brief and concise description of the conditions found to render the building dangerous under the provisions of Section 302 of this code.

3. A statement of the action required to be taken as determined by the building official.

3.1 If the building official has determined that the building or structure must be repaired, the order shall require that all required permits be secured therefor and the work physically commenced within such time (not to exceed 60 days from the date of the order) and completed within such time as the building official shall determine is reasonable under all of the circumstances.

3.2 If the building official has determined that the building or structure must be vacated, the order shall require that the building or structure shall be vacated within a time certain from the date of the order as determined by the building official to be reasonable.

3.3 If the building official has determined that the building or structure must be demolished, the order shall require that the building be vacated within such time as the building official shall determine is reasonable (not to exceed 60 days from the date of the order); that all required permits be secured therefor within 60 days from the date of the order; and that the demolition be completed within such time as the building official shall determine is reasonable.

4. Statements advising that if any required repair or demolition work (without vacation also being required) is not commenced within the time specified, the building official (i) will order the building vacated and posted to prevent further occupancy until the work is completed, and (ii) may proceed to cause the work to be done and charge the costs thereof against the property or its owner.

5. Statements advising (i) that any person having any record title or legal interest in the building may appeal from the notice and order or any action of the building official to the board of appeals, provided the appeal is made in writing as provided in this code and filed with the building official within 30 days from the date of service of such notice and order; and (ii) that failure to appeal will constitute a waiver of all right to an administrative hearing and determination of the matter.

401.3 Service of Notice and Order. The notice and order, and any amended or supplemental notice and order, shall be served upon the record owner and posted on the property; and one copy thereof shall be served on each of the following if known to the building official or disclosed from official public records: the holder of any mortgage or deed of trust or other lien or encumbrance of record; the owner or holder of any lease of record; and the holder of any other estate or legal interest of record in or to the building or the land on which it is located. The failure of the building official to serve any person required herein to be served shall not invalidate any proceedings hereunder as to any other person duly served or relieve any such person from any duty or obligation imposed by the provisions of this section.

401.4 Method of Service. Service of the notice and order shall be made upon all persons entitled thereto either personally or by mailing a copy of such notice and order by certified mail, postage prepaid, return receipt requested, to each such person at their address as it appears on the last equalized assessment roll of the county or as known to the building official. If no address of any such person so appears or is known to the building official, then a copy of the notice and order shall be so mailed, addressed to such person, at the address of the building involved in the proceedings. The failure of any such person to receive such notice shall not affect the validity of any proceedings taken under this section. Service by certified mail in the manner herein provided shall be effective on the date of mailing.

401.5 Proof of Service. Proof of service of the notice and order shall be certified to at the time of service by a written declaration under penalty of perjury executed by the persons effecting service, declaring the time, date and manner in which service was made. The declaration, together with any receipt card returned in acknowledgment of receipt by certified mail shall be affixed to the copy of the notice and order retained by the building official.

SECTION 402 — RECORDATION OF NOTICE AND ORDER

If compliance is not had with the order within the time specified therein, and no appeal has been properly and timely filed, the building official shall file in the office of the county recorder a certificate describing the property and certifying (i) that the building is a dangerous building and (ii) that the owner has been so notified. Whenever the corrections ordered shall thereafter have been completed or the building demolished so that it no longer exists as a dangerous building on the property described in the certificate, the building official shall file a new certificate with the county recorder certifying that the building has been demolished or all required corrections have been made so that the building is no longer dangerous, whichever is appropriate.

SECTION 403 — REPAIR, VACATION AND DEMOLITION

The following standards shall be followed by the building official (and by the board of appeals if an appeal is taken) in ordering the repair, vacation or demolition of any dangerous building or structure:

1. Any building declared a dangerous building under this code shall be made to comply with one of the following:
 - 1.1 The building shall be repaired in accordance with the current building code or other current code applicable to the type of substandard conditions requiring repair; or
 - 1.2 The building shall be demolished at the option of the building owner; or
 - 1.3 If the building does not constitute an immediate danger to the life, limb, property or safety of the public it may be vacated, secured and maintained against entry.
2. If the building or structure is in such condition as to make it immediately dangerous to the life, limb, property or safety of the public or its occupants, it shall be ordered to be vacated.

SECTION 404 — NOTICE TO VACATE

404.1 Posting. Every notice to vacate shall, in addition to being served as provided in Section 401.3, be posted at or upon each exit of the building and shall be in substantially the following form:

**DO NOT ENTER
UNSAFE TO OCCUPY**

It is a misdemeanor to occupy this building, or to remove or deface this notice.

Building Official
..... of

404.2 Compliance. Whenever such notice is posted, the building official shall include a notification thereof in the notice and order issued under Section 401.2, reciting the emergency and specifying the conditions which necessitate the posting. No person shall remain in or enter any building which has been so posted, except that entry may be made to repair, demolish or remove such building under permit. No person shall remove or deface any such notice after it is posted until the required repairs, demolition or removal have been completed and a certificate of occupancy issued pursuant to the provisions of the Building Code.

Chapter 5 APPEAL

SECTION 501 — GENERAL

501.1 Form of Appeal. Any person entitled to service under Section 401.3 may appeal from any notice and order or any action of the building official under this code by filing at the office of the building official a written appeal containing:

1. A heading in the words: “Before the board of appeals of the of”
2. A caption reading: “Appeal of,” giving the names of all appellants participating in the appeal.
3. A brief statement setting forth the legal interest of each of the appellants in the building or the land involved in the notice and order.
4. A brief statement in ordinary and concise language of the specific order or action protested, together with any material facts claimed to support the contentions of the appellant.
5. A brief statement in ordinary and concise language of the relief sought and the reasons why it is claimed the protested order or action should be reversed, modified or otherwise set aside.
6. The signatures of all parties named as appellants and their official mailing addresses.
7. The verification (by declaration under penalty of perjury) of at least one appellant as to the truth of the matters stated in the appeal.

The appeal shall be filed within 30 days from the date of the service of such order or action of the building official; provided, however, that if the building or structure is in such condition as to make it immediately dangerous to the life, limb, property or safety of the public or adjacent property and is ordered vacated and is posted in accordance with Section 404, such appeal shall be filed within 10 days from the date of the service of the notice and order of the building official.

501.2 Processing of Appeal. Upon receipt of any appeal filed pursuant to this section, the building official shall present it at the next regular or special meeting of the board of appeals.

501.3 Scheduling and Noticing Appeal for Hearing. As soon as practicable after receiving the written appeal, the board of appeals shall fix a date, time and place for the hearing of the appeal by the board. Such date shall not be less than 10 days nor more than 60 days from the date the appeal was filed with the building official. Written notice of the time and place of the hearing shall be given at least 10 days prior to the date of the hearing to each appellant by the secretary of the board either by causing a copy of such notice to be delivered to the appellant personally or by mailing a copy thereof, postage prepaid, addressed to the appellant at the address shown on the appeal.

SECTION 502 — EFFECT OF FAILURE TO APPEAL

Failure of any person to file an appeal in accordance with the provisions of Section 501 shall constitute a waiver of the right to an administrative hearing and adjudication of the notice and order or any portion thereof.

SECTION 503 — SCOPE OF HEARING ON APPEAL

Only those matters or issues specifically raised by the appellant shall be considered in the hearing of the appeal.

SECTION 504 — STAYING OF ORDER UNDER APPEAL

Except for vacation orders made pursuant to Section 404, enforcement of any notice and order of the building official issued under this code shall be stayed during the pendency of an appeal therefrom which is properly and timely filed.

Chapter 6

PROCEDURES FOR CONDUCT OF HEARING APPEALS

SECTION 601 — GENERAL

601.1 Hearing Examiners. The board may appoint one or more hearing examiners or designate one or more of its members to serve as hearing examiners to conduct the hearings. The examiner hearing the case shall exercise all powers relating to the conduct of hearings until it is submitted to the board for decision.

601.2 Record. A record of the entire proceedings shall be made by tape recording or by any other means of permanent recording determined to be appropriate by the board.

601.3 Reporting. The proceedings at the hearing shall also be reported by a phonographic reporter if requested by any party thereto. A transcript of the proceedings shall be made available to all parties upon request and upon payment of the fee prescribed therefor. Such fees may be established by the board, but shall in no event be greater than the cost involved.

601.4 Continuances. The board may grant continuances for good cause shown; however, when a hearing examiner has been assigned to such hearing, no continuances may be granted except by the examiner for good cause shown so long as the matter remains before the examiner.

601.5 Oaths—Certification. In any proceedings under this chapter, the board, any board member, or the hearing examiner has the power to administer oaths and affirmations and to certify to official acts.

601.6 Reasonable Dispatch. The board and its representatives shall proceed with reasonable dispatch to conclude any matter before it. Due regard shall be shown for the convenience and necessity of any parties or their representatives.

SECTION 602 — FORM OF NOTICE OF HEARING

The notice to appellant shall be substantially in the following form, but may include other information:

“You are hereby notified that a hearing will be held before (the board of appeals or name of hearing examiner) at on the day of, 19, at the hour, upon the notice and order served upon you. You may be present at the hearing. You may be, but need not be, represented by counsel. You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You may request the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by filing an affidavit therefor with (board of appeals or name of hearing examiner).”

SECTION 603 — SUBPOENAS

603.1 Filing of Affidavit. The board or examiner may obtain the issuance and service of a subpoena for the attendance of witnesses or the production of other evidence at a hearing upon the request of a member of the board or upon the written demand of any party. The issuance and service of such subpoena shall be obtained upon the filing of an affidavit therefor which states the name and address of the proposed witness; specifies the exact things sought to be produced and the materiality thereof in detail to the issues involved; and states that the witness has the desired things in possession or under control. A subpoena need not be issued when the affidavit is defective in any particular.

603.2 Cases Referred to Examiner. In cases where a hearing is referred to an examiner, all subpoenas shall be obtained through the examiner.

603.3 Penalties. Any person who refuses without lawful excuse to attend any hearing or to produce material evidence which the person possesses or controls as required by any subpoena served upon such person as provided for herein shall be guilty of a misdemeanor.

SECTION 604 — CONDUCT OF HEARING

604.1 Rules. Hearings need not be conducted according to the technical rules relating to evidence and witnesses.

604.2 Oral Evidence. Oral evidence shall be taken only on oath or affirmation.

604.3 Hearsay Evidence. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence, but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions in courts of competent jurisdiction in this state.

604.4 Admissibility of Evidence. Any relevant evidence shall be admitted if it is the type of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions in courts of competent jurisdiction in this state.

604.5 Exclusion of Evidence. Irrelevant and unduly repetitious evidence shall be excluded.

604.6 Rights of Parties. Each party shall have these rights, among others:

1. To call and examine witnesses on any matter relevant to the issues of the hearing;
2. To introduce documentary and physical evidence;
3. To cross-examine opposing witnesses on any matter relevant to the issues of the hearing;
4. To impeach any witness regardless of which party first called the witness to testify;
5. To rebut the evidence;
6. To be represented by anyone who is lawfully permitted to do so.

604.7 Official Notice.

604.7.1 What may be noticed. In reaching a decision, official notice may be taken, either before or after submission of the case for decision, of any fact which may be judicially noticed by the courts of this state or of official records of the board or departments and ordinances of the city or rules and regulations of the board.

604.7.2 Parties to be notified. Parties present at the hearing shall be informed of the matters to be noticed, and these matters shall be noted in the record, referred to therein, or appended thereto.

604.7.3 Opportunity to refute. Parties present at the hearing shall be given a reasonable opportunity, on request, to refute the officially noticed matters by evidence or by written or oral presentation of authority, the manner of such refutation to be determined by the board or hearing examiner.

604.7.4 Inspection of the premises. The board or the hearing examiner may inspect any building or premises involved in the appeal during the course of the hearing, provided that (i) notice of such inspection shall be given to the parties before the inspection is made, (ii) the parties are given an opportunity to be present during the inspection, and (iii) the board or the hearing examiner shall state for the record upon completion of the inspection the material facts observed and the conclusions drawn therefrom. Each party then shall have a right to rebut or explain the matters so stated by the board or hearing examiner.

SECTION 605 — METHOD AND FORM OF DECISION

605.1 Hearing before Board Itself. When a contested case is heard before the board itself, a member thereof who did not hear the evidence or has not read the entire record of the proceedings shall not vote on or take part in the decision.

605.2 Hearing before Examiner. If a contested case is heard by a hearing examiner alone, the examiner shall within a reasonable time (not to exceed 90 days from the date the hearing is closed) submit a written report to the board. Such report shall contain a brief summary of the evidence considered and state the examiner's findings, conclusions and recommendations. The report also shall contain a proposed decision in such form that it may be adopted by the board as its decision in the case. All examiner's reports filed with the board shall be matters of public record. A copy of each such report and proposed decision shall be mailed to each party on the date they are filed with the board.

605.3 Consideration of Report by Board—Notice. The board shall fix the time, date and place to consider the examiner's report and proposed decision. Notice thereof shall be mailed to each interested party not less than five days prior to the date fixed, unless it is otherwise stipulated by all of the parties.

605.4 Exceptions to Report. Not later than two days before the date set to consider the report, any party may file written exceptions to any part or all of the examiner's report and may attach thereto a proposed decision together with written argument in support of such decision. By leave of the board, any party may present oral argument to the board.

605.5 Disposition by the Board. The board may adopt or reject the proposed decision in its entirety, or may modify the proposed decision.

605.6 Proposed Decision Not Adopted. If the proposed decision is not adopted as provided in Section 605.5, the board may decide the case upon the entire record before it, with or without taking additional evidence, or may refer the case to the same or another hearing examiner to take additional evidence. If the case is reassigned to a hearing examiner, the examiner shall prepare a report and proposed decision as provided in Section 605.2 hereof after any additional evidence is submitted. Consideration of such proposed decision by the board shall comply with the provisions of this section.

605.7 Form of Decision. The decision shall be in writing and shall contain findings of fact, a determination of the issues presented, and the requirements to be complied with. A copy of the decision shall be delivered to the appellant personally or sent by certified mail, postage prepaid, return receipt requested.

605.8 Effective Date of Decision. The effective date of the decision shall be as stated therein.

Chapter 7
ENFORCEMENT OF THE ORDER
OF THE BUILDING OFFICIAL
OR THE BOARD OF APPEALS

SECTION 701 — COMPLIANCE

701.1 General. After any order of the building official or the board of appeals made pursuant to this code shall have become final, no person to whom any such order is directed shall fail, neglect or refuse to obey any such order. Any such person who fails to comply with any such order is guilty of a misdemeanor.

701.2 Failure to Obey Order. If, after any order of the building official or board of appeals made pursuant to this code has become final, the person to whom such order is directed shall fail, neglect or refuse to obey such order, the building official may (i) cause such person to be prosecuted under Section 701.1 or (ii) institute any appropriate action to abate such building as a public nuisance.

701.3 Failure to Commence Work. Whenever the required repair or demolition is not commenced within 30 days after any final notice and order issued under this code becomes effective:

1. The building official shall cause the building described in such notice and order to be vacated by posting at each entrance thereto a notice reading:

DANGEROUS BUILDING
DO NOT OCCUPY

It is a misdemeanor to occupy this building, or to remove or deface this notice.

Building Official
..... of

2. No person shall occupy any building which has been posted as specified in this subsection. No person shall remove or deface any such notice so posted until the repairs, demolition or removal ordered by the building official have been completed and a certificate of occupancy issued pursuant to the provisions of the Building Code.

3. The building official may, in addition to any other remedy herein provided, cause the building to be repaired to the extent necessary to correct the conditions which render the building dangerous as set forth in the notice and order; or, if the notice and order required demolition, to cause the building to be sold and demolished or demolished and the materials, rubble and debris therefrom removed and the lot cleaned. Any such repair or demolition work shall be accomplished and the cost thereof paid and recovered in the manner hereinafter provided in this code. Any surplus realized from the sale of any such building, or from the demolition thereof, over and above the cost of demolition and of cleaning the lot, shall be paid over to the person or persons lawfully entitled thereto.

SECTION 702 — EXTENSION OF TIME TO PERFORM WORK

Upon receipt of an application from the person required to conform to the order and by agreement of such person to comply with the order if allowed additional time, the building official may grant an extension of time, not to exceed an additional 120 days, within which to complete said repair, rehabilitation or demolition, if the building official determines that such an extension of time will not create or perpetuate a situation imminently dangerous to life or property. The building official's authority to extend time is limited to the physical repair, rehabilitation or demolition of the premises and will not in any way affect the time to appeal the notice and order.

**SECTION 703 — INTERFERENCE WITH REPAIR OR DEMOLITION WORK
PROHIBITED**

No person shall obstruct, impede or interfere with any officer, employee, contractor or authorized representative of this jurisdiction or with any person who owns or holds any estate or interest in any building which has been ordered repaired, vacated or demolished under the provisions of this code; or with any person to whom such building has been lawfully sold pursuant to the provisions of this code, whenever such officer, employee, contractor or authorized representative of this jurisdiction, person having an interest or estate in such building or structure, or purchaser is engaged in the work of repairing, vacating and repairing, or demolishing any such building, pursuant to the provisions of this code, or in performing any necessary act preliminary to or incidental to such work or authorized or directed pursuant to this code.

Chapter 8

PERFORMANCE OF WORK OF REPAIR OR DEMOLITION

SECTION 801 — GENERAL

801.1 Procedure. When any work of repair or demolition is to be done pursuant to Section 701.3, Item 3, of this code, the building official shall issue an order therefor to the director of public works and the work shall be accomplished by personnel of this jurisdiction or by private contract under the direction of said director. Plans and specifications therefor may be prepared by said director, or the director may employ such architectural and engineering assistance on a contract basis as deemed reasonably necessary. If any part of the work is to be accomplished by private contract, standard public works contractual procedures shall be followed.

801.2 Costs. The cost of such work shall be paid from the repair and demolition fund, and may be made a special assessment against the property involved, or may be made a personal obligation of the property owner, whichever the legislative body of this jurisdiction shall determine is appropriate.

SECTION 802 — REPAIR AND DEMOLITION FUND

802.1 General. The legislative body of this jurisdiction shall establish a special revolving fund to be designated as the repair and demolition fund. Payments shall be made out of said fund upon the demand of the director of public works to defray the costs and expenses which may be incurred by this jurisdiction in doing or causing to be done the necessary work of repair or demolition of dangerous buildings.

802.2 Maintenance of Fund. The legislative body may at any time transfer to the repair and demolition fund, out of any money in the general fund of this jurisdiction, such sums as it may deem necessary in order to expedite the performance of the work of repair or demolition, and any sum so transferred shall be deemed a loan to the repair and demolition fund and shall be repaid out of the proceeds of the collections hereinafter provided for. All funds collected under the proceedings hereinafter provided for shall be paid to the treasurer of this jurisdiction who shall credit the same to the repair and demolition fund.

Chapter 9

RECOVERY OF COST OF REPAIR OR DEMOLITION

SECTION 901 — ACCOUNT OF EXPENSE, FILING OF REPORT

The director of public works shall keep an itemized account of the expense incurred by this jurisdiction in the repair or demolition of any building done pursuant to the provisions of Section 701.3, Item 3, of this code. Upon the completion of the work of repair or demolition, said director shall prepare and file with the clerk of this jurisdiction a report specifying the work done, the itemized and total cost of the work, a description of the real property upon which the building or structure is or was located, and the names and addresses of the persons entitled to notice pursuant to Section 401.3.

SECTION 902 — NOTICE OF HEARING

Upon receipt of said report, the clerk of this jurisdiction shall present it to the legislative body of this jurisdiction for consideration. The legislative body of this jurisdiction shall fix a time, date and place for hearing said report and any protests or objections thereto. The clerk of this jurisdiction shall cause notice of said hearing to be posted upon the property involved, published once in a newspaper of general circulation in this jurisdiction, and served by certified mail, postage prepaid, addressed to the owner of the property as the owner's name and address appears on the last equalized assessment roll of the county, if such so appears, or as known to the clerk. Such notice shall be given at least 10 days prior to the date set for the hearing and shall specify the day, hour and place when the legislative body will hear and pass upon the director's report, together with any objections or protests which may be filed as hereinafter provided by any person interested in or affected by the proposed charge.

SECTION 903 — PROTESTS AND OBJECTIONS

Any person interested in or affected by the proposed charge may file written protests or objections with the clerk of this jurisdiction at any time prior to the time set for the hearing on the report of the director. Each such protest or objection must contain a description of the property in which the signer thereof is interested and the grounds of such protest or objection. The clerk of this jurisdiction shall endorse on every such protest or objection the date of receipt. The clerk shall present such protests or objections to the legislative body of this jurisdiction at the time set for the hearing, and no other protests or objections shall be considered.

SECTION 904 — HEARING OF PROTESTS

Upon the day and hour fixed for the hearing, the legislative body of this jurisdiction shall hear and pass upon the report of the director together with any such objections or protests. The legislative body may make such revision, correction or modification in the report or the charge as it may deem just; and when the legislative body is satisfied with the correctness of the charge, the report (as submitted or as revised, corrected or modified) together with the charge, shall be confirmed or rejected. The decision of the legislative body of this jurisdiction on the report and the charge, and on all protests or objections, shall be final and conclusive.

SECTION 905 — PERSONAL OBLIGATION OR SPECIAL ASSESSMENT

905.1 General. The legislative body of this jurisdiction may thereupon order that said charge shall be made a personal obligation of the property owner or assess said charge against the property involved.

905.2 Personal Obligation. If the legislative body of this jurisdiction orders that the charge shall be a personal obligation of the property owner, it shall direct the attorney for this jurisdiction to collect the same on behalf of this jurisdiction by use of all appropriate legal remedies.

905.3 Special Assessment. If the legislative body of this jurisdiction orders that the charge shall be assessed against the property, it shall confirm the assessment, cause the same to be recorded on the assessment roll, and thereafter said assessment shall constitute a special assessment against and a lien upon the property.

SECTION 906 — CONTEST

The validity of any assessment made under the provisions of this chapter shall not be contested in any action or proceeding unless the same is commenced within 30 days after the assessment is placed upon the assessment roll as provided herein. Any appeal from a final judgment in such action or proceeding must be perfected within 30 days after the entry of such judgment.

SECTION 907 — AUTHORITY FOR INSTALLMENT PAYMENT OF ASSESSMENTS WITH INTEREST

The legislative body of this jurisdiction, in its discretion, may determine that assessments in amounts of \$500.00 or more shall be payable in not to exceed five equal annual installments. The legislative body's determination to allow payment of such assessments in installments, the number of installments, whether they shall bear interest, and the rate thereof shall be by a resolution adopted prior to the confirmation of the assessment.

SECTION 908 — LIEN OF ASSESSMENT

908.1 Priority. Immediately upon its being placed on the assessment roll the assessment shall be deemed to be complete, the several amounts assessed shall be payable, and the assessments shall be liens against the lots or parcels of land assessed, respectively. The lien shall be subordinate to all existing special assessment liens previously imposed upon the same property and shall be paramount to all other liens except for state, county and property taxes with which it shall be upon a parity. The lien shall continue until the assessment and all interest due and payable thereon are paid.

908.2 Interest. All such assessments remaining unpaid after 30 days from the date of recording on the assessment roll shall become delinquent and shall bear interest at the rate of 7 percent per annum from and after said date.

SECTION 909 — REPORT TO ASSESSOR AND TAX COLLECTOR: ADDITION OF ASSESSMENT TO TAX BILL

After confirmation of the report, certified copies of the assessment shall be given to the assessor and the tax collector for this jurisdiction, who shall add the amount of the assessment to the next regular tax bill levied against the parcel for municipal purposes.

SECTION 910 — FILING COPY OF REPORT WITH COUNTY AUDITOR

If the county assessor and the county tax collector assess property and collect taxes for this jurisdiction, a certified copy of the assessment shall be filed with the county auditor on or before August 10th. The descriptions of the parcels reported shall be those used for the same parcels on the county assessor's map books for the current year.

SECTION 911 — COLLECTION OF ASSESSMENT: PENALTIES FOR FORECLOSURE

The amount of the assessment shall be collected at the same time and in the same manner as ordinary property taxes are collected; and shall be subject to the same penalties and procedure and sale

in case of delinquency as provided for ordinary property taxes. All laws applicable to the levy, collection and enforcement of property taxes shall be applicable to such assessment.

If the legislative body of this jurisdiction has determined that the assessment shall be paid in installments, each installment and any interest thereon shall be collected in the same manner as ordinary property taxes in successive years. If any installment is delinquent, the amount thereof is subject to the same penalties and procedure for sale as provided for ordinary property taxes.

SECTION 912 — REPAYMENT OF REPAIR AND DEMOLITION FUND

All money recovered by payment of the charge or assessment or from the sale of the property at foreclosure sale shall be paid to the treasurer of this jurisdiction, who shall credit the same to the repair and demolition fund.

RECOMMENDED DECISION

CITY OF EMERYVILLE, CALIFORNIA

RECEIVED

MAY 26 2016

CITY CLERK
CITY OF EMERYVILLE

In the Matter of the Appeal From
Notice and Order of Intention to
Demolish Property
Owned by Andre Carpiaux

Case No. ADBC 15-001

1264 Ocean Avenue
Emeryville, CA 94608
APN -049-1469-008

RECOMMENDED DECISION BY
BOARD OF EXAMINERS

INTRODUCTION

On February 17 and March 2, 2016, an appeal hearing was conducted by the Board of Examiners¹ regarding a Notice and Order of Intention to Demolish Property issued by the City of Emeryville's Chief Building Official (hereafter "the City") pursuant to the 1994 Uniform Code for the Abatement of Dangerous Buildings (hereafter "UCADB").² The appeal was filed by Andre Carpiaux, the owner of the single-family residence located at 1264 Ocean Avenue in Emeryville, which was the subject of the Notice and Order.

Pursuant to Section 504 of the UCABD, enforcement of any notice and order issued by the building official is stayed during the pendency of a properly and timely filed appeal.

SUMMARY OF RECOMMENDED DECISION

For the reasons outlined below, the Board of Examiners recommends that the City's Notice and Order to Demolish the Property located at 1264 Ocean Avenue dated October 19, 2015 be upheld. The Board further recommends that enforcement of the Order to Demolish be stayed for a period of forty-five (45) days to afford Mr. Carpiaux an appropriate amount of additional time to obtain housing and social services information from the appropriate city staff, remove his personal affects from the property and make any other arrangements, as necessary. The 45-day stay shall not begin until such date that the City has offered to hold a meeting with Mr. Carpiaux to provide him with this information. This opportunity is voluntary for Mr. Carpiaux to accept and it must remain available for him to accept throughout the 45-day stay. Likewise, the offer to provide him with this information must continue throughout the stay period, even if he initially rejects the invitation.

¹ See Section 8-12A.02 of Chapter 12 A of Title 8 of the Emeryville Municipal Code (EMC) designating the Planning Commission to be the Appeals Board, and Section 601.1 of the 1994 Uniform Code or the Abatement of Dangerous Buildings, allowing the Appeals Board to designate Hearing Examiners to conduct the hearing and make a recommended decision to the Appeals Board.

² See EMC Section 8-6.01 adopting the 1994 ACADB.

1 **HEARING INFORMATION AND PARTICIPANTS**

2
3 **Board of Examiners**

4 Chief Examiner: John Bauters
5 Board Examiner: Lawrence "Buzz" Cardoza
6 Board Examiner: Brad Gunkel
7 Counsel: Kat Wellman, Counsel for the Board of Examiners

8
9 **Appearances on behalf of the City**

10 City witnesses: Victor Gonzales, Chief Building Official, City of Emeryville
11 Giyan Senaratne, Civil & Structural Engineer
12 Counsel: Lance Bayer, Special Counsel for the City of Emeryville

13
14 **Appearances on behalf of Appellant**

15 Appellant: Andre Carpiaux
16 Appellant witnesses: Linda Walker, Friend of Andre Carpiaux
17 Frank Walker, Friend of Andre Carpiaux
18 Counsel: The Appellant was not represented by counsel

19
20 **BURDEN OF PROOF**

21
22 The City has the burden of proving sufficiency of the Notice and Order for Demolition of
23 the property under the UCADB by a preponderance of the evidence.

24
25 **EXHIBITS AND DOCUMENTS RELIED ON BY EXAMINERS**

26
27 Attached as an Appendix are the City and Appellant Exhibits that were entered into
28 evidence, as well as additional documents that were part of the Administrative Record
29 relied on by the Examiners, including an inventory of all Exhibits by title.

30
31 **PROCEDURAL HISTORY**

32
33 This case began when the City noticed trenching taking place on the property located at
34 1264 Ocean Avenue (hereafter "Property"). The City alleges that trenching could be
35 seen from the public right-of-way and that it appeared to extend from the structure of
36 the house out to the sidewalk. Chief Building Official Victor Gonzales asked the owner
37 of the Property, Mr. Carpiaux, for permission to inspect the property and was denied.

38
39 On July 20, 2015, the City obtained an Inspection Warrant and Order from the Superior
40 Court of Alameda County and Mr. Carpiaux was notified by letter that pursuant to said
41 Warrant, an inspection of the Property would take place on July 24, 2015. (*City*
42 *Exhibits A, B*).

43
44 Based on conditions observed during the July 24, 2015 inspection, the Property was
45 posted and ordered vacated on July 29, 2015 (*City Exhibit J-38*). A Notice and Order
46 dated July 30, 2015, finding the Property to be a dangerous building pursuant to the
47 UCABD, was sent to Mr. Carpiaux. The Notice ordered Mr. Carpiaux to correct the
48 violations by obtaining appropriate permit applications and obtaining structural and

1 geotechnical engineering evaluations necessary to remedy the alleged violations. The
2 Notice gave Mr. Carpiaux ten (10) calendar days to appeal the determination of the
3 Chief Building Official that the Property was dangerous. (*City Exhibit C*).
4

5 A written appeal from Mr. Carpiaux to Chief Building Inspector Victor Gonzales was
6 received by the City on August 17, 2015, beyond the 10 day appeal period. (*Appellant*
7 *Exhibit J*) By letter date August 28, 2015, the City denied Mr. Carpiaux's appeal on the
8 basis that it was filed late and that it did not state any legal authority or factual basis for
9 the appeal. (*City Exhibit K*).
10

11 On September 3, 2015, the City obtained another Inspection Warrant and Order
12 (Forcible Entry), to inspect the extent of the excavated area under the house, and an
13 Inspection Warrant Notice indicating that the inspection would occur on September 8,
14 2015 was posted on the Property. (*City Exhibits D, E*).
15

16 Based on conditions observed during the September 8, 2015 inspection, the Chief
17 Building Inspector issued a Notice and Order of Intention to Demolish Building at 1264
18 Ocean Avenue under section 302 of the UCABD, dated October 19, 2015. A
19 Declaration of Posting of the Notice and Order was posted on the Property. (*City*
20 *Exhibit F*). In the Notice and Order, Chief Building Official Gonzales reiterated that the
21 Property must continue to be vacated, and gave Mr. Carpiaux sixty (60) days to obtain
22 demolition permits or otherwise secure the services of a licensed
23 contractor/geotechnical engineer to obtain the appropriate permits and approvals for
24 rehabilitating the Property in accordance with the Order. The October 19, 2015 Notice
25 also gave Mr. Carpiaux thirty (30) days to file a written application with the Chief
26 Building Inspector appealing the Notice and Order of Intention to Demolish the
27 Property. (*City Exhibit G*).
28

29 Mr. Carpiaux filed a timely appeal of the Notice and Order of Intention to Demolish the
30 Property with the City on November 18, 2015. (*Administrative Record 2*). The
31 November 18th appeal is the basis for this hearing.
32

33 On December 23, 2015, the City issued a Notice of Hearing of Administrative Appeal to
34 Mr. Carpiaux informing him that his appeal was set to be heard on January 12, 2015 at
35 6:30 p.m. in the Emeryville City Council Chambers. (*Administrative Record 3*).
36

37 Mr. Carpiaux requested a postponement of the hearing by email dated January 4, 2016
38 to City Attorney Michael Guina. (*Administrative Record #4*). Mr. Carpiaux's email cited
39 his need to obtain additional documentation necessary for presenting his case as the
40 basis for the extension request. The Hearing Examiners granted Mr. Carpiaux's request
41 and on January 7, 2016, a Notice of New Hearing Date for Administrative Appeal was
42 sent to Mr. Carpiaux, informing him that the hearing had been rescheduled to February
43 7, 2016 at 6:30 p.m. in the City Council Chambers. (*Administrative Record 5*).
44

45 In a letter received by the City on February 16, 2016, Mr. Carpiaux objected to Mr.
46 Cardoza serving on the Board of Examiners. (*Appellant Exhibit F*). Chief Examiner
47 Bauters noted Mr. Carpiaux's letter and objection for the record and admitted the letter
48 into evidence at the hearing, but made no rulings as to the request.

1
2 The hearing began on February 17, 2016 at shortly after 6:30 p.m. and continued until
3 11:46 p.m. Both parties presented their case. After a short recess, the Examiners
4 requested additional documents from the parties and asked to do a site visit. Mr.
5 Carpiaux agreed to allow a site visit to the outside of his property only, and a date for
6 the site visit was set for March 2, 2016 at 11:00 a.m., with the hearing to be reconvened
7 on the same evening at 5:00 p.m. to hear closing arguments.
8

9 On February 23, 2016, a written letter was received by the City from Mr. Carpiaux
10 requesting a postponement of the site visit and reconvened hearing. (*Appellant Exhibit*
11 *H*). The Board of Examiners considered but denied the request, in writing
12 (*Administrative Record 6*) and the site visit was conducted as scheduled on March 2,
13 2016 at 11:00 a.m. The hearing was reconvened that evening at 5:12 p.m. Additional
14 documents were offered into evidence. The Chief Examiner accepted all exhibits
15 offered by the parties into evidence. Both sides were given 10 minutes to make closing
16 arguments and the hearing was officially closed at 6:06 p.m. Pursuant to the UCADB,
17 the Board of Examiners has ninety (90) days to issue a written recommendation for the
18 full Board of Appeals to accept, modify or remand for additional hearing on the matter.
19

20 SUMMARY OF NOTICE OF INTENT TO DEMOLISH

21
22 The October 19, 2015 Notice and Order to Demolish the building cited the following
23 violations of sections of the UCADB in support of the Order:
24

25 Sec. 302 (1, 2) No means of egress for the occupants of the building and ingress for
26 essential services for emergency purposes (dilapidated entry/porch and rear exit,
27 egress windows obstructed).
28

29 Sec. 302 (3) Construction material overstress due to non-compliant conversion of attic
30 area to habitable space.
31

32 Sec. 302 (8) Extensive excavation of building foundation without benefit of building
33 permits, geotechnical and shoring compliance, compromising adjacent structure
34 stability.
35

36 Sec. 302 (9) Any portion of the structure is manifestly unsafe for the purpose for which
37 it is being used.
38

39 Sec. 302 (12) Building dilapidated and identified as an attractive nuisance, harbor for
40 vagrants, and rodents.
41

42 Sec. 302 (15) Interior dwelling inspections have verified inadequate maintenance,
43 dilapidation, faulty construction, sanitation facilities, no potable water service.
44

45 Sec. 302(16) Interior dwelling inspection have verified inadequate exits, lack of smoke
46 detection devices, egress window obstruction, faulty electrical exposed wiring.
47

1 The Notice also cited a violation of Section 7-2.02 of Title 7 of the Emeryville Municipal
2 Code entitled "Permit Required." Said section reads in relevant part: "(a) No person
3 shall make, cause or permit to be made any excavation in the public right-of-way or
4 make any improvements on, under, over or across the public right- of-way without first
5 obtaining an encroachment permit from the Public Works Department, with the
6 exception of projects undertaken by the City. No encroachment permit shall be issued
7 if the applicant does not have legal authority to occupy and use the public right of way
8 or the purposes identified in the application." (*City Exhibit G*).
9

10 SUMMARY OF CITY'S CASE

11
12 The City called Chief Building Official Victor Gonzales, and the City's Civil and
13 Structural Engineer Giyan Senaratne as witnesses to testify as to their observations
14 regarding the condition of the building based on inspections they made on July 20,
15 2015 and September 3, 2015. They made the following statements, assessments and
16 conclusions based on those inspections:
17

18 The City contends that the single-family home on the property poses an imminent
19 danger for a variety of reasons. The City's witnesses testified that the building is
20 experiencing structural collapse due to extensive excavation under the home, trenching
21 around the perimeter of the home and near abutting homes, damage to the structure's
22 foundation and the removal of load bearing walls which put the structure at risk of
23 imminent collapse. The City testified that there are exposed and hazardous electrical
24 materials including wiring, that the structure has no proper plumbing or running water,
25 that there has been an illegal conversion of attic space that is not intended to bear live
26 loads, and the stairs inside the building are extremely dangerous due to their condition
27 and irregularity. Moreover, the city claims that the extensive excavation and trenching
28 has compromised the structural integrity of the neighboring residence. The City argued
29 that there are clear and visible signs that the structure is dangerous, including sagging,
30 cracks in the foundation, and plumb lines that strongly suggest the house is beginning to
31 tilt to the east. Additionally, the City claims that ingress and egress is severely
32 compromised because of the severely deteriorated porch, as well as windows that are
33 blocked due to the large quantity of accumulated objects in and around the property,
34 posing both a serious fire hazard and a risk to emergency personnel who may be
35 summonsed to the property to provide emergency assistance.
36

37 The City contends that Mr. Carpiaux has left the City without any viable alternative other
38 than demolition of the structure at this point. The City notes that he has not applied for
39 permits to rehabilitate the home and has been offered ample opportunities to comply
40 with these requests. The City disagrees with Mr. Carpiaux's claims that this matter is
41 about flooding or other water encroachment issues onto his property and below his
42 home. The City claims that the only viable solution is to demolish the structure as it is
43 creating an imminently dangerous situation to Mr. Carpiaux, guests he offers lodging to
44 at the property, his immediately adjacent neighbors and the public at large.
45
46
47
48

1 **SUMMARY OF APPELLANT'S CASE**

2
3 Mr. Carpiaux testified extensively both orally and through the submission of
4 documentary evidence about historical conflict he has had with the City or City Council
5 members related to the maintenance of his property. (*Appellant Exhibit K*). He cites
6 numerous examples of times where he has challenged or been in disagreement with
7 them about things in the City and the retaliation he feels he has experienced as a
8 result. As context, Mr. Carpiaux has been asked to bring his property into code
9 compliance by the City for fire hazard and other public safety reasons on multiple
10 occasions in the past. Mr. Carpiaux describes his backyard as his "research lab" and
11 claims that the City has stolen tools from his machine shop, scaffolding and equipment
12 that he uses to fabricate instruments and inventions, as well as other personal affects.
13 He testified about how he believes a submarine concept he was working on was once
14 confiscated b the City and he further testified how the City took scaffolding that he had
15 built to help him complete a stainless steel roof he was building. (*Appellate Exhibit K-*
16 *34-36*). Mr. Carpiaux claims that a City official or employee once told him to put all his
17 things in the basement, and that it was at the suggestion of City personnel that he dig
18 up under his house to help make room for his personal belongings.

19
20 One of the biggest factors the City cites in support of its claim that the structure should
21 be demolished is the extent of excavation from under the foundation of the home. Mr.
22 Carpiaux explained that this was done in part to reach the natural spring well water that
23 runs under his home, and to keep the well water from being contaminated from the rain
24 water and excessive runoff that comes onto his property from Peabody Lane. Mr.
25 Carpiaux testified that he is in the basement several hours a day using a sump pump to
26 remove this run-off water. He stated it is removed from the basement and transported
27 to the street on the Ocean Avenue side of the property. He stated that he uses the
28 sump pump to maintain the water level low enough to prevent erosion and liquefaction
29 of the soil surrounding the trenched area beneath his house. He testified that his goal is
30 to keep the soil underneath his home in a level state of dried solid clay. (*Appellant*
31 *Exhibit K-10*).

32
33 Mr. Carpiaux testified that he thought it was a "vicious move" when the City red-tagged
34 the property as being dangerous and turned off the electricity, because it kept him from
35 being able to use his sump pump as the rainy season was beginning. Mr. Carpiaux
36 admitted under cross-examination by the City that he still enters the property to work in
37 his basement on a daily basis, despite the property being red-tagged against entry, and
38 that he has electrical service courtesy of a neighbor who allows him to use extension
39 cords to keep his sump pump running.

40
41 Mr. Carpiaux questioned the visual analysis and conclusions made by the City's
42 experts. He suggests that the City's experts performed no mathematical calculations,
43 measurements, depression models or soils analysis, and believes they have no ability
44 to ascertain the dangerousness of the basement excavation. He likened the condition
45 under his home to that of being in a mine and testified that he is very comfortable in
46 such a setting and does not feel that the structure is of any danger to him or others. Mr.
47 Carpiaux feels that he was denied the opportunity to ask questions of the city's
48 structural engineer during the inspection process because he did not know such

1 engineer would be present during the inspection. Finally, Mr. Carpiaux claims that the
2 City stole the cement rock that he would have used to reinforce his foundation. He
3 believes that the determination that his house is dangerous and is in imminent danger
4 of collapse is exaggerated and bordering on lies.
5

6 Mr. Carpiaux testified that his primary grievance is with the City of Oakland who has not
7 put in the proper storm drains to keep run-off and rain water from flooding his basement
8 and contaminating his well water, particularly in the rainy season. He has written letters
9 to the Mayor of Oakland, and had brief communications with an Oakland District
10 Councilmember, but has not filed a claim or lawsuit against the City. He claims that the
11 City of Oakland never fulfilled its responsibility to build a dedicated "storm drain" at the
12 intersection of Peabody Lane and Vallejo Street, as well as other intersections parallel
13 to Peabody Lane, such as Ocean Avenue. Consequently, Mr. Carpiaux states that the
14 run-off water from the City of Oakland floods the entire block of Ocean Avenue where
15 his home is located. He testified that he has built a French drain along his property,
16 and with the help of other homeowners, he has placed sand bags along the channel
17 lines to keep the run-off water from flooding the homes. (*Appellant Exhibit K-5, K-10, K-*
18 *19, K-26, K-28*). These items were pointed out to the Examiners during the site visit to
19 the property.
20

21 Mr. Carpiaux is upset about the request for demolition. He purchased the property
22 when he was teaching in 1968 and it is owned without mortgage. He opened a shop
23 where he did engineering and machine shop work and manufactured tooling. When he
24 could not afford to keep it because of the overhead, he moved it into his back yard. He
25 testified that a neighbor complained about the noise and the City came and seized his
26 machine shop. He could not afford to pay for the storage in the 40-foot container where
27 the items were stored. He states that others have told him that what the City did was
28 illegal. Mr. Carpiaux has very small pension that is his primary source of income. He
29 does recycling and washes clothes for people using rainwater, and he dries clothes
30 outside. Mr. Carpiaux testified that he specifically requested financial aid from the City
31 for various things, including funds to re-construct his custom made scaffoldings, which
32 are verified in his Exhibits. (*Appellant Exhibit K-12, K-46*). He complains that now that
33 he is near the end of his life, the City is telling him that his house is unsafe for him.
34

35 Linda Walker also testified on behalf of Mr. Carpiaux. She stated that she has
36 witnessed some of the Code Enforcement "clean ups" of Mr. Carpiaux's property that
37 resulted in his "machine shop" and scaffolding being removed from the property. She
38 testified about the living conditions inside the home and around the property. She
39 stated that she has lived there for four months. She explained that Mr. Carpiaux is
40 extremely intelligent and that he doesn't always notice the environment around him.
41 She said he might not want to clean or see the need to clean. Instead she stated that
42 he most likely wants to collect things to use for his inventions and to give clothing to
43 people. When asked if Mr. Carpiaux understands the seriousness of the danger of his
44 home in its current state, she said that Mr. Carpiaux disagrees with the City. Ms.
45 Walker stated that she wants to make sure that Mr. Carpiaux gets some help and that
46 he has a place to live if the City demolishes the house. (*Appellant Exhibit K-1-3*).
47

1 Frank Walker was sworn in as a witness, but was only asked one non-substantive
2 question by Mr. Carpiaux. He was not cross-examined. His presence at the hearing,
3 however, makes clear that he has a great deal of affection for Mr. Carpiaux.
4

5 FINDINGS OF FACT

6
7 The Board of Examiners finds that the following facts were adequately supported by
8 competent testimonial or documentary evidence during the hearing. This is not an
9 exhaustive list of evidence or statements introduced during the hearing or considered
10 by the Examiners during our evaluation.
11

12 Background:

13
14 The Property located at 1264 Ocean Avenue is a single- family residence that Mr.
15 Carpiaux purchased in 1968.
16

17 There are single-family homes on either side of the property. These homes, including
18 the subject property, appear to be on very narrow lots and have very small setbacks
19 from the property lines. (*City Exhibits J-2, J-38 - top left photo, J-40 - top left photo, J-*
20 *41 - right side photos*).
21

22 Mr. Gonzales has been the City's Chief Building Official since August 2000 and is also
23 in charge of Code Enforcement. He is trained in enforcing the UCADB and has
24 received training in structural requirements of a building to enforce the Codes. He
25 worked for the City and County of San Francisco where many buildings, including multi-
26 family, residential and mixed-use structures, were determined to be dangerous under
27 the UCADB. He worked in the construction business for 15 years and was the Code
28 Official for 20 years for the City of Danville. He has not previously brought an action to
29 demolish a single-family building within the City of Emeryville since he began working in
30 the City. Mr. Gonzales is qualified to testify as an expert witness on building
31 construction, local code requirements and the abatement requirements under the
32 UCADB.
33

34 Gitan Senaratne is a civil and structural engineer who owns his own company
35 employing approximately nine people who perform engineering work for cities and
36 counties in several states. He was hired as a consultant by the City in 1989 and has
37 been the plan check engineer and structural engineer for most of the buildings that
38 have been built in Emeryville since 1989. Mr. Senaratne is qualified to testify as an
39 expert witness on building construction and structural engineering.
40

41 **Allegations Raised by the October 19, 2015 Notice of Intent to Demolish:**

- 42
43 1. *"Sec. 302 (1, 2) No means of egress for the occupants of the building and*
44 *ingress for essential services for emergency purposes (dilapidated entry/porch*
45 *and rear exit, egress windows obstructed)."*
46
47 • The Chief Building Official testified that the front porch was compromised due to
48 age and disrepair. During the site visit the Examiners observed that there is

1 metal grating placed on top of the porch in order to make it useable and to
2 prevent collapse. Examiner Gunkel further noted these observations in the
3 record and they were also supported by photographic evidence provided by the
4 City. (City Exhibit J-5).

- 5 • The Chief Building Official testified that the inside of the house, as well as the
6 grounds around the property are filled with debris, clothing, material, machinery
7 and equipment. He stated that it was difficult to do a complete inspection of the
8 interior of the building due to the amount of accumulated items inside. (City
9 Exhibits J-4, J-14, J-17.)
- 10 • Mr. Senaratne testified that there would be safety concerns getting out of the
11 house due to the amount of accumulated items that made movement within the
12 house difficult. He testified that accumulated items were piled in front of
13 windows, both on the first floor and in the attic, preventing their use as an
14 emergency exit. He stated that in the attic, there is no secondary means of
15 egress, which is required if such space is used for habitation. When looking
16 through the back door, Mr. Senaratne stated that he could not see the back yard
17 due to the accumulation of items, including refrigerators and vehicles, making
18 movement very difficult through the rear of the property. Mandatory ingress and
19 egress is compromised due to these non-structural concerns.
- 20 • Both of the City's witnesses testified that the large number of objects and their
- 21 • During the site visit, Chair Bauters noted that there were at least three vehicles
22 on the property, as well as a large metal storage container. (City Exhibits J-15, J-
23 16). The Examiners noted a considerable number of metal objects, household
24 objects, infrastructure items, machine shop tools and other effects were found
25 across the entire property. (City Exhibits J-2, J-3).

26
27 2. "Sec. 302 (3) Construction material overstress due to non-compliant conversion
28 of attic area to habitable space."
29

- 30 • The Chief Building Official testified that the attic space was being used as a
31 living space. He further testified that the attic was unsafe because the ceiling
32 joists are not built to hold live loads and that the building is holding an
33 excessive weight-bearing load at the attic area. He testified that the space
34 has a significant amount of personal belongings in it, including but not limited
35 to bedding, clothing, equipment and a computer.
- 36 • Mr. Senaratne testified that the joists in the attic are not designed to sustain a
37 live load. He further testified that there is insufficient headroom clearance to
38 make the space legally habitable. He testified that he has personally climbed
39 the stairs and he found them to be irregular, wobbly, crooked and without
40 appropriate handrails or risers. He testified that it would not be safe for
41 access in the event of an emergency.
- 42 • Mr. Gonzalez did not have an opinion as to when the attic stairs may have
43 been constructed but noted that code for stairs has been generally consistent
44 for a very long time. He found them unsafe and out of compliance with code.
45 (City Exhibit J-13).
- 46 • Both city witnesses testified that ceiling joists have been removed from the
47 attic and floor joists have likewise been removed. They testified that a hole

1 has been created to allow for access to the attic through the subfloor of that
2 space.

- 3 • Examiner Gunkel noted for the record that upon his view into the structure
4 during the site visit, he observed joists that appeared to be compromised.
- 5 • Mr. Carpiaux testified that he stays in the attic.
- 6 • The City provided additional photographic evidence of the attic. (*City Exhibit*
7 *J-4*).

8
9 3. “*Sec. 302 (8) Extensive excavation of building foundation without benefit of*
10 *building permits, geotechnical and shoring compliance, compromising adjacent*
11 *structure stability.*”

- 12
13 • The Chief Building Official testified that during the July 29, 2015 inspection,
14 he observed a hole that had been made in the subflooring of the structure’s
15 ground level floor. He further observed that a ladder had been extended
16 below the house, into the basement area. He noted that floor joists have
17 been removed to make the hole possible. He testified that large quantities of
18 soil had been removed from the area immediately below the structure. In his
19 expert opinion, this has compromised the foundation of the home. He testified
20 that a trench has been created underneath the length of the house, extending
21 in the backyard as well as the front, out under the sidewalk and the public
22 right-of-way.
- 23 • The Chief Building Official testified that excavation beneath a property
24 requires a permit and no permit has ever been requested by Mr. Carpiaux for
25 excavation beneath the structure.
- 26 • Dean Iwasa of Haley & Aldrich was retained for geotechnical engineering
27 purposes to assess the excavation. An inspection was conducted on
28 September 8, 2015 and the observations of that inspection found that the
29 excavation has resulted in the exposure of highly plastic, clay-like soil in a
30 near vertical slope beneath and around the structure. The soil was observed
31 to be dry and have tension cracks in it. His examination further found that
32 building foundation supports had either been removed; were in place but
33 completely compromised due to the lack of supporting soil; or were located
34 immediately adjacent to vertical cuts in the soil. He opined that collapse to a
35 vertical slope of soil would likely result in the sudden loss of support for
36 building footing. Finally, he determined that the excavation had significantly
37 reduced the lateral resistance capability of the foundation. (*City Exhibit J-22*).
- 38 • Mr. Iwasa measured the depth of excavation and provided a chart that
39 showed the depth in relation to the property and the structure. (*City Exhibit J-*
40 *23*).
- 41 • The Chief Building Official testified that the structure is not properly supported
42 by a foundation. He stated that interior post and girder connections were
43 compromised by soil displacement. He further stated that one had been
44 removed entirely. He testified that the framing girder that runs from the front
45 to back of the structure has no support.
- 46 • Mr. Senaratne testified that concrete foundation is exposed across trenches
47 without supports. The Examiners observed this during their site visit.

- 1 • The City's witnesses testified that trenching has occurred along the eastern
2 elevation of the property in close proximity to the property line. Mr. Carpiaux
3 testified that this shallower, separate trench is used to redirect displaced
4 water encroaching onto his property from Peabody Lane. (*City Exhibits J-3, J-*
5 *38*).
- 6 • Mr. Senaratne testified that the building exceeds the allowable live load it
7 should be supporting because of the ways in which the foundation has been
8 compromised. He noted that footings are unsupported and used photographs
9 to support his testimony. (*City Exhibit J-32*).
- 10 • Mr. Carpiaux testified about water crossing onto his property as it flows down
11 from Peabody Lane when there are heavy rains. He talked about the
12 necessity of his pump to remove water from under his house.
- 13 • During the site visit, Mr. Carpiaux showed Chair Bauters an artisan well on
14 his property where he was able to pull water up from the water table.
- 15 • Chair Cardoza noted after the site visit that the back of Mr. Carpiaux's
16 property appeared to be higher than Peabody Lane and that there was a
17 large drain at the bottom of Peabody Lane that appeared to catch the
18 majority of flowing water.
- 19 • During the site visit, the Examiners observed the excavation under the home.
20 Chair Bauters observed what appeared to be fissure cracks in the concrete
21 footings where they were exposed without support over the trenching.
- 22 • During the site visit, the Examiners observed trenching out to and beneath
23 the city's sidewalk. Completely exposed and suspended pipes were
24 observed. (*See also, City Exhibit J-24*).
- 25 • The Examiners also observed that a chain link fence, located along the
26 eastern edge of the property and belonging to the adjacent neighbor, has
27 noticeably sunk several feet down into the trenched area near the southeast
28 corner of the property along the public right-of-way.
- 29 • Mr. Carpiaux testified that he has been primarily responsible for the
30 excavation. He testified that he did not know he needed a city permit to
31 excavate and he stated that his primary reason for doing so to help remove
32 water from his property.
- 33 • The Chief Building Official provided detailed testimony of City Exhibits J-24
34 through J-35, which depict the area beneath and around the house that has
35 been excavated.
- 36 • The Chief Building Official testified that he believes the structure is in danger
37 of imminent collapse due to the extensive excavation. There is visible
38 foundation that is unsupported by soil. He stated that load-bearing cripple
39 walls have been removed, which are walls that allow vertical loads to be
40 displaced. There is fire danger due to the dangerous, exposed and faulty
41 electrical system, and the amount of accumulated items both inside and
42 outside the home.
- 43 • Mr. Senaratne confirmed that the excavation underneath the home has
44 compromised its structural integrity to the extent that it is in danger of
45 potential collapse. Additionally, the extent of the excavation is very close to
46 the east side of the building and due to the narrow set-backs, is within the
47 "zone of protection" of the neighboring property's foundation, creating a

1 danger of compromising its structural integrity. In an emergency, people
2 inside the residence would have difficulty trying to get out of the house, and
3 essential services would have trouble trying to get into the house.

- 4 • The Chief Building Official testified that the existing condition of the house,
5 with a deadload not supported by a foundation, poses a serious danger to the
6 neighboring property to the east, and that inaction would be dangerous.
- 7 • Mr. Senaratne explained it in engineering terms that a fundamental
8 engineering principal in California is that there must be a “protective zone”
9 within an area drawn downward at a 45-degree angle from the foot of the
10 foundation in all directions. No pipe, drain or trench should be placed within
11 the “protective zone” to ensure adequate support of the foundation. He
12 stated that in this case, soil has been removed and a trench has been dug
13 within the “protective zone” of the foundation, seriously compromising the
14 structural integrity of the home. Because the trenching is so close to the
15 property line, it is also within the protective zone of the neighboring property’s
16 foundation. In his opinion, this compromises the safety of the neighboring
17 adjacent home.
- 18 • Mr. Senaratne believes that the trenching is far closer to the property line
19 than depicted by the Engineering Diagram done by Dean Iwasa. He pointed
20 to photographs that indicated how close the trenching is occurring, and noted
21 how deep the excavation is, which is approximately 9.5 feet deep. More
22 specifically, he noted the photograph in City Exhibit J 16, where the trenching
23 is right below the plastic, and the fence can be seen very close to the right.
24 He believes that the right hand column of the excavation boundary in Dean
25 Iwasa’s diagram (*City Exhibit J-23*) is actually much closer to the property line
26 than shown.

27
28 4. *“Sec. 302 (9) Any portion of the structure is manifestly unsafe for the purpose for
29 which it is being used.”*

- 30 • As described in detail, above, the City’s witnesses testified at length that the
31 attic space is not designed or intended to be used as habitation space or to
32 bear a live load but is being used as a living space.

33
34 5. *“Sec. 302 (12) Building dilapidated and identified as an attractive nuisance,
35 harbor for vagrants, and rodents.”*

- 36 • No evidence was provided that would specifically identify the building as an
37 attractive nuisance for children.
- 38 • No evidence was provided that suggests the property is a harbor for vagrants.
- 39 • There was no testimony as to the presence of vermin or other rodents.

40
41
42 6. *“Sec. 302 (15) Interior dwelling inspections have verified inadequate
43 maintenance, dilapidation, faulty construction, sanitation facilities, no potable
44 water service.”*

- 45 • The Chief Building Official testified that he was able to observe portions of
46 the building sagging as a consequence of the excavation. During the site visit
47

1 he pointed out for the Examiners that the structure could be observed as
2 being "out of plumb" when viewed from the street, leaning lower on the side
3 where the excavation has occurred. Examiner Gunkel also noted these
4 observations on the record.

- 5 • Mr. Senaratne testified that the middle of the floor of the bathroom was
6 spongy, and he discovered a piece of plywood and realized there was
7 something underneath it. They opened it up and looked down with a
8 flashlight and saw the ladder going down into the basement. He stated that
9 he a tape measure was dropped and it indicated the basement had been
10 excavated to a depth of 9.5 to 10 feet.
- 11 • The Chief Building Official testified that from the hole in the subflooring he
12 was able to view a water table in the basement beyond the excavated area.
13 He stated that floor joists had been removed to make the hole to the lower
14 level, which the Chief Building Official testified are considered necessary to
15 make the structure habitable. (*City Exhibits J-18; J-19; J-36 depicts hole that*
16 *is excavated looking up to subfloor, and also shows that floor board joists*
17 *have been cut; J-37 depicts the ladder that descends into the basement).*
- 18 • Mr. Carpiaux testified that he disconnected the gas service in 1992 or 1993.
19 He said he intended to use a wood stove.
- 20 • Linda Walker testified that there is no heat in the structure.
- 21 • Mr. Senaratne testified that there is a stove in the structure but that it does
22 not pipe to the exterior of the building and that other items surround it,
23 making it unsafe to use.
- 24 • The Chief Building Official testified that there is no water meter. He testified
25 that it has apparently been removed and where it would be located was not
26 capped off as the utility company would do as common practice. (*City Exhibit*
27 *J-21).*
- 28 • Mr. Carpiaux testified that he gets his water from a natural spring that is
29 located underneath his home. Mr. Carpiaux explained that the excavation in
30 his basement ensures that his well water does not become contaminated by
31 run-off ground water. Mr. Carpiaux testified that the water he drinks is potable
32 so long as it is not contaminated by run-off water.
- 33 • The witnesses offered conflicting testimony as to whether or not there was a
34 functional, flushing toilet. The Chief Building Official testified that there is no
35 running water or flushing sanitary system. Mr. Carpiaux and Linda Walker
36 testified that there is a cistern that allows for the toilet to flush to the city's
37 sewer system and that water is heated for cooking and boiling using electric
38 heating devices.
- 39 • The Chief Building Official and Mr. Carpiaux both testified that the property is
40 not connected to EBMUD services.
- 41 • The Chief Building Official testified that the Emeryville Municipal Code
42 prohibits the use of well water anywhere in the City¹. The Chief Building

¹ See, EMC Title 9, Chapter 6, Section 6-9.02 Use of Groundwater as a Water Supply Prohibited. The use of, or attempted use of, groundwater from within the limits of the City of Emeryville, as a potable water supply, or for any residential, commercial, or industrial use by the installation or drilling of wells or by

1 Official stated that this is because of the history of industrial uses in the City
2 and the resulting contamination of soil and ground water with hazardous
3 chemicals. The City has not tested the quality of the ground water at the
4 property. We make no finding as to whether the water Mr. Carpiaux testified
5 he drinks is or is not hazardous. We do find that there is no potable water
6 *service* to the property, which is consistent with what is alleged in the notice.

- 7 • The Chief Building Official testified that when he inspected the interior of the
8 house on the property, he observed that the building envelope is not
9 “weatherized” and that the roofing material contains voids or “openings” that
10 expose the interior to rain. Rain and moisture coming in the building have
11 caused damage to the structural elements inside the building, causing
12 general dilapidation, discoloration and decay.
- 13 • After the site visit, Examiner Gunkel noted that the roofing was incomplete
14 and portions of the rafters were exposed, at least around the perimeter, and
15 that scaffolding was still attached to the roof. (*See also, City Exhibit J-1*).
- 16 • Examiner Cardoza noted the large vacuum cleaner that was observed on the
17 roof, which Mr. Carpiaux explained he uses to remove leaves from the gutter
18 of his neighbor’s home to prevent water from spilling over the gutter and onto
19 his property.
- 20 • Mr. Carpiaux testified that he sought approval from the City to construct an
21 alternative roof in 2004. He never finalized the permits. He testified that some
22 pieces of the roof had lengths of 30’ and 50’ that he could not handle with just
23 a ladder. He stated that he built custom scaffolding to do the work. He
24 testified that neighbors complained, so the City took his scaffolding down
25 during one of the “clean up” Code Enforcement efforts on his property. Mr.
26 Carpiaux stated that Mr. Gonzales never told him the scaffolding was unsafe,
27 that he needed a permit, or that it was illegal. Mr. Carpiaux claims that he
28 needs the scaffolding to complete the installation of his stainless steel roof
29 and that part of his water problem is due to the incomplete roof. (*Appellant*
30 *Exhibit F*).

31
32 7. “*Sec. 302(16) Interior dwelling inspection have verified inadequate exits, lack of*
33 *smoke detection devices, egress window obstruction, faulty electrical exposed*
34 *wiring.*”

- 35
36 • Mr. Senaratne testified that there are live wires exposed throughout the
37 house, including at the front door light switch. He stated that during his
38 inspection he found extensive use of electrical extension cords and many
39 exposed live wires.

any other method, is hereby prohibited. This prohibition expressly includes the City of Emeryville. Nothing within this chapter shall prohibit the construction or use of a groundwater monitoring well; provided, that said groundwater monitoring well is constructed pursuant to all applicable State and local regulations. Section 6.9.01(d) defines “groundwater monitoring well” as “any well constructed or used for the sole purpose of observing, monitoring, or treating groundwater conditions related to suspected groundwater contamination.”

- 1 • The Chief Building Official testified that the wiring in the house is very old. He
- 2 testified that the knob and tube wiring it has is generally considered safe so
- 3 long as it is properly wired and concealed. He testified that it is exposed since
- 4 the sheet rock on many of the walls on the main level of the home has been
- 5 removed.
- 6 • The City provided extensive photographic evidence of the dangers presented
- 7 by exposed wiring. (*City Exhibits J-5, J-6, J-10, J-11, J-12, J-13, J-14, J-15, J-*
- 8 *16, J-18, J-26*).
- 9 • The Chief Building Official testified that there are many wires in the
- 10 basement, which is illegal without permits.
- 11 • Linda Walker testified that the electricity in the house works but that there are
- 12 many wires around the house and that she has to be careful when she
- 13 navigates the structure.
- 14 • Multiple witnesses testified that there are no working smoke detector devices.
- 15
- 16 8. *Section 7-2.02 of Title 7 of the Emeryville Municipal Code entitled "Permit*
- 17 *Required."* Said section reads in relevant part: *"(a) No person shall make, cause*
- 18 *or permit to be made any excavation in the public right-of-way or make any*
- 19 *improvements on, under, over or across the public right- of-way without first*
- 20 *obtaining an encroachment permit from the Public Works Department, with the*
- 21 *exception of projects undertaken by the City. No encroachment permit shall be*
- 22 *issued if the applicant does not have legal authority to occupy and use the public*
- 23 *right of way for the purposes identified in the application."*
- 24
- 25 • Section 401.2 of the UCADB reads in relevant part: "The building official shall
- 26 issue a notice and order directed to the record owner of the building. The
- 27 notice and order shall contain... 2. A statement that the building official has
- 28 found the building to be dangerous with a brief and concise description of the
- 29 conditions found to render the building dangerous *under the provisions of*
- 30 *Section 302 of this code.*" (emphasis supplied)
- 31 • The legal authority to pursue abatement under this code provides which
- 32 conditions may serve as a basis for establishing dangerousness. The UCADB
- 33 expressly limits the eligible bases to the provisions of Section 302 of the
- 34 code. The Emeryville Municipal Code is not actionable in a proceeding
- 35 brought pursuant to the UCADB in the absence of express statutory authority
- 36 to the contrary. The Board finds no legal authority to grant the City relief
- 37 under Section 7-2.02 of the Emeryville Municipal Code.
- 38

39 **Rehabilitation as an Alternative To Demolition:**

40
41 The Board of Examiners made inquiries with each of the witnesses as to the possibility
42 of rehabilitation of the property as an alternative to demolition. The following is a
43 summary of testimony given in response to that particular inquiry and our evaluation of
44 the same.

45
46 According to the City's witnesses, Mr. Carpiaux has never communicated that he wants
47 to pursue rehabilitation of the building. They state that Mr. Carpiaux told the Chief

1 Building Official about his frustration with the City of Oakland, but he not expressed any
2 desire to bring his home into compliance with code as requested. The City claims that
3 permits should already have been obtained if Mr. Carpiaux sought to rehabilitate the
4 building. Other than pulling the permit for his roof in 2004, the Chief Building Officials
5 stated that the only other time Mr. Carpiaux inquired about a permit was for a detached
6 or accessory structure a number of years ago. The City claims that Mr. Carpiaux was in
7 the process of applying for a permit for the detached structure at one point, but after
8 being informed that he would need to provide a design, materials and dimensions and
9 other information in order to obtain the permit, he never completed the process.

10
11 The City states that it has expended funds to rectify Mr. Carpiaux's property of Code
12 Enforcement issues in the past. The Chief Building Official testified that Mr. Carpiaux
13 has not expressed any willingness to expend funds to bring property up to Code. Mr.
14 Carpiaux corroborated this through his own testimony, stating that he has even gone to
15 the City for help because he has very little money and needs financial assistance. Mr.
16 Carpiaux testified that the small pension he receives is supplemented only by small
17 amounts of money he earns from recycling and washing clothes.

18
19 The Chief Building Official does not believe that Mr. Carpiaux is aware of the
20 seriousness of the danger of the structure. Statements Mr, Carpiaux made during the
21 hearing, challenging the "immanency" of his home's demise, support this belief. Mr.
22 Carpiaux considers the City's position that his home is dangerous to be an exaggerated
23 one and he justifies its safety in part based on the fact that the house has not collapsed
24 to date – despite being at an "imminent" risk of collapse for some time now.

25
26 Mr. Carpiaux's financial situation, in combination with his honest belief that his home
27 does not pose a threat to him, his guests, neighbors or members of the public makes
28 examining the likelihood of rehabilitation difficult to assess.

29
30 The Examiners asked the Chief Building Official whether the property could be
31 rehabilitated or whether demolition was really the only possible solution. The Chief
32 Building Official testified that demolition is the only reasonable and viable option to
33 bring the property into compliance with Code. In particular, the extent of the excavation
34 makes it economically infeasible to try to rehabilitate and repair the structure. The
35 Chief Building Official testified that the following requirements would have to be met if
36 rehabilitation was to be considered:

- 37
38
- 39 • All work on the property would have to be done according to current Codes
40 and this was a home that was built before 1920, which is problematic.
 - 41 • The foundation and the structure of the residence would have to be upgraded
42 to current Codes.
 - 43 • A new foundation would have to be built under the home. It appears that the
44 entire foundation would need to be replaced and would need to comply with
45 current Codes.
 - 46 • The home would have to be jacked up to rebuild the new foundation
 - 47 • Displaced soil would have to be put back and made supportive.
 - 48 • At a minimum – all trenching would have to be accounted for by replacing soil
to appropriate engineering standards.

- 1 • In the interior of structure – all of the destroyed, dilapidated and decayed
2 elements would have to be restored. The attic would need to be restored to
3 be just attic storage space, or permits would need to be pulled to properly
4 expand it to be habitable. Other damage to the structure would have to be
5 repaired.
- 6 • The electrical would probably have to be replaced. An electrician would have
7 to be involved to determine what could remain and what must be replaced.
- 8 • Running water would have to be restored.
- 9 • Any alternatives to what is permitted by the Building Code would have to be
10 validated by geotechnical engineering designs. There is a process for
11 reviewing alternative measures. The owner would provide the application and
12 scope of work; a geotechnical-engineered design would need to be submitted,
13 and fees paid.
- 14 • There may be potential damage to adjacent property – that would need to be
15 repaired as well to protect the adjacent property.

16
17 Mr. Senaratne corroborated the Chief Building Official, admitting under questioning
18 from the Examiners that anything can be rehabilitated if enough money is used. In this
19 case, almost the entire structure would essentially need to be redone. However, when
20 evaluating all the issues that would have to be corrected, Mr. Senaratne stated that it
21 would make much more sense and be far cheaper to demolish the home completely
22 and then rebuild it then attempt to rehabilitate the existing structure.

23
24 Mr. Senaratne testified that one can look at valuation tables to determine how much it
25 would likely cost to build a house from scratch. A single-family residence costs
26 approximately \$110 per square foot to build as new construction. He calculated that
27 Mr. Carpiaux's home is approximately a 1000 – 1100 square foot building. An 1100
28 square foot newly constructed house on the site would therefore cost approximately
29 \$121,000 or at most, between \$150,000 - \$200,000 to build.

30
31 According to Mr. Senaratne, it is obvious that the cost of replacement (building a new
32 home) would be much lower than the cost of rehabilitating the existing structure.
33 Anything that is repaired on the existing structure must be brought up to the current
34 Code, regardless of the era the building was built. The structural deficiencies would not
35 be evaluated using an outdated set of building code standards. Mr. Senaratne
36 reiterated many of the issue and concerns raised by the Chief Building Official. He
37 added that each step of the process is as much an economic issue more as it is a
38 logistical issue to rehabilitate a structure like Mr. Carpiaux's. Because of all of these
39 issues, rehabilitation of the existing building is not a viable option or economically
40 feasible.

41
42 Mr. Carpiaux did not offer testimony in support of a plan to rehabilitate the property
43 based primarily on his belief that the structure is not dangerous or at imminent risk of
44 collapse.

45
46 Based on all the evidence offered, the Board of Examiners finds that rehabilitation of
47 the premises is not only logistically infeasible, but would created a greater economic
48 burden to Mr. Carpiaux than demolition and construction of a new structure.

1
2
3
4
5
6 **FINDINGS OF LAW**
7

8 This appeal challenged the City's October 19, 2015 Notice and Order of Intention to
9 Demolish the Building at 1264 Ocean Avenue in Emeryville, pursuant to the UCADB
10 Section 302, which provides in part:

11
12 *"For the purpose of this code, any building or structure which has any or*
13 *all of the conditions or defects hereinafter described shall be deemed to*
14 *be a dangerous building, provided that such conditions or defects exist to*
15 *the extent that the life, health, property or safety of the public or its*
16 *occupants are endangered..."*
17

18 The City has alleged the following conditions listed in Section 302 in the Notice and
19 Order of Intent to Demolish the Building at 1264 Ocean Avenue, Emeryville. The Board
20 of Examiners makes the following legal findings as to each claim:
21

22 **1. Sec. 302 (1)** *Whenever any door, aisle, passageway, stairway or other means of*
23 *exit is not of sufficient width or size or is not so arranged as to provide safe and*
24 *adequate means of exit in case of fire or panic. (2) Whenever the walking*
25 *surface of any aisle, passageway, stairway or other means of exit is so warped,*
26 *worn, loose, torn or otherwise unsafe as to not provide safe and adequate*
27 *means of exit in case of fire or panic.*
28

- 29
- 30 • The dilapidated entry porch, with only a make-shift metal grate for a porch deck,
31 and the loose steps of the rear exit make it unsafe for ingress or egress in an
32 emergency.
 - 33 • Ingress and egress to and from the structure is a problem to find due to the
34 accumulation of objects both within and outside the entire structure. The
35 windows of the home are unstable due to the amount of accumulated objects
36 and items stored in front of them.
 - 37 • The stairs from the attic, where there is evidence of habitation, has no hand
38 railing, and the steps are not of even shape or consistency, making it unsafe to
39 use in an emergency.
 - 40 • Improper electric wiring strung across passageways in the home.

41 **The Board of Examiners finds that the City has met its burden of proof and the**
42 **property constitutes a dangerous building under Section 302 (1) of the UCADB.**
43

44 **2. Sec. 302 (3)** *Whenever the stress in any materials, member of portion thereof,*
45 *due to all dead and live loads, is more than one and one half times the working*
46 *stress or stresses allowed in the Building Code for new buildings of similar*
47 *structure, purpose of location.*
48

- 1
- There is building material overstress due to compromised foundation.
 - There is construction material overstress due to non-compliant conversion of attic area to habitable space.
- 2
3
4

5 **The Board of Examiners finds that the City has met its burden of proof and the**
6 **property constitutes a dangerous building under Section 302 (3) of the UCADB.**
7

8 **3. Sec. 302 (8)** *Whenever the building or structure, or any portion thereof, because*
9 *of (i) dilapidation, deterioration or decay; (ii) faulty construction; (iii) the removal,*
10 *movement or instability of any portion of the ground necessary or the purpose of*
11 *supporting such building; (iv) the deterioration, decay or inadequacy of its*
12 *foundation; or (v) any other cause, is likely to partially or completely collapse.*
13

- The building is no longer stable because it is not supported by a foundation. Many of the building foundations have been removed, or have been undermined without any soil support. Some that are still standing are adjacent to a vertical cut such that any collapse of the excavated side slope would result in sudden loss of support. Due to the extensive excavation and trenching, the building now exceeds the live load.
 - The house visibly sags and is not plumb on the side where the excavation is located. The plumb line discrepancy between the doorframe and the back wall of house is also visible, as well as the fact that the front porch is out of plumb.
 - The extensive excavation of the building foundation without benefit of building permits, geotechnical and shoring compliance, compromises the adjacent structure's stability.
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28 **The Board of Examiners finds that the City has met its burden of proof and the**
29 **property constitutes a dangerous building under Section 302 (8) of the UCADB.**
30

31 **4. Section 302 (9)** *Whenever, for any reason, the building or structure, or any*
32 *portion thereof, is manifestly unsafe or the purpose for which it is being used.*
33

- The attic is being used as living space without proper floor joists to carry a living load.
 - The stairs being used to the attic and even down into the basement are unsafe and do not comply with Code.
- 34
35
36
37
38

39 **The Board of Examiners finds that the City has met its burden of proof and the**
40 **property constitutes a dangerous building under Section 302 (9) of the UCADB.**
41

42 **5. Sec. 302 (12)** *Whenever the building or structure has been so damaged by fire,*
43 *wind, earthquake or flood, or has become so dilapidated or deteriorated as to*
44 *become (i) an attractive nuisance to children; (ii) a harbor for vagrants, criminals*
45 *or immoral persons; or as to (iii) enable persons to resort thereto for the purpose*
46 *of committing unlawful or immoral acts.*
47

- 1 • The City did not present evidence that would be sufficient to support a finding
2 under this section of the UCADB.
3

4 **The Board of Examiners finds that the City has not met its burden of proof and**
5 **the property is not found to be dangerous under Section 302 (12) of the UCADB.**
6

7 **6. Sec. 302 (15)** *Whenever any building or structure, used or intended to be used*
8 *for dwelling purposes, because of inadequate maintenance, dilapidation, decay,*
9 *damage, faulty construction or arrangement, inadequate light, air or sanitation*
10 *facilities, or otherwise, is determined by the health officer to be unsanitary, unfit*
11 *for human habitation or in such a condition that is likely to cause sickness or*
12 *disease.*
13

- 14 • Interior dwelling inspections have verified inadequate maintenance, dilapidation,
15 faulty construction, improper sanitation facilities, and no potable water service.
16

17 **The Board of Examiners finds that the City has met its burden of proof and the**
18 **property constitutes a dangerous building under Section 302 (8) of the UCADB.**
19

20 **7. Section 302 (16)** *Whenever any building or structure, because of obsolescence,*
21 *dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient*
22 *fire-resistive construction, faulty electric wiring, gas connections or heating*
23 *apparatus, or other cause, is determined by the fire marshal to be a fire hazard.*
24

- 25 • There is exposed and faulty wiring and unsafe use of extension cords throughout
26 the home, as well as improperly mounted electrical plugs.
27 • There is no gas connection or properly vented heating apparatus.
28 • Exits are inadequate due to dilapidation and obstructions, egress windows are
29 also obstructed.
30 • There are no smoke detection devices.
31

32 **The Board of Examiners finds that the City has met its burden of proof and the**
33 **property constitutes a dangerous building under Section 302 (16) of the UCADB.**
34

35 **8. Section 7-2.02 of Title 7 of the Emeryville Municipal Code.** Said section reads
36 in relevant part: *“(a) No person shall make, cause or permit to be made any*
37 *excavation in the public right-of-way or make any improvements on, under, over*
38 *or across the public right- of-way without first obtaining an encroachment permit*
39 *from the Public Works Department, with the exception of projects undertaken by*
40 *the City. No encroachment permit shall be issued if the applicant does not have*
41 *legal authority to occupy and use the public right of way or the purposes*
42 *identified in the application.”*
43

- 44 • The UCADB only allows for the City to obtain relief based on allegations of
45 dangerousness identified in Section 302. There is no legal authority to allow a
46 claim under Title 7 of the Municipal Code in this proceeding.
47

1 **The Board of Examiners finds that the City is not entitled to relief under Section**
2 **7-2.02 of Title 7 of the Emeryville Municipal Code.**
3

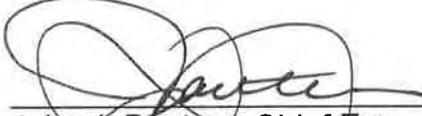
4 The City has met its burden in demonstrating the structure is dangerous as defined by
5 the UCADB and could easily collapse as a result of the compromised foundation. The
6 City has demonstrated that the extent of the excavation and the damage to the
7 structural integrity of the property, as well as the myriad of other safety and habitability
8 issues that currently exist in violation of the UCADB, makes rehabilitating the property
9 not a viable or economic option. The City has also provided sufficient cause to believe
10 that the excavation and trenching done by Mr. Carpiaux may be compromising the
11 structural integrity of the neighboring structure. Regrettably, the only viable option to
12 protect the occupants of the home, occupants in the neighboring property, and the
13 public at large, is to demolish the building located at 1264 Ocean Avenue.
14
15

RECOMMENDED DECISION

The Board of Examiners, having examined all documents and photographs admitted into evidence, considered the testimony of all witnesses, read and reviewed the relevant ordinances, statutes and case law governing the rights and responsibilities of parties, and conducted a site visit to the property, hereby recommends that the Board of Appeals issue a final order that provides as follows:

1. That the Chief Building Official's Order to Demolish the Property located at 1264 Ocean Avenue be upheld consistent with the bases identified herein;
2. That a stay of forty-five (45) days from the final decision of the Board of Appeals be provided to Mr. Carpiaux, and that he be granted permission to enter onto the property to remove his personal effects prior to demolition within this period; and
3. That the City of Emeryville shall extend to Mr. Carpiaux the opportunity to learn about city and county programs, including but not limited to social services, senior services, housing assistance programs, income assistance and medical care services. The City must serve Mr. Carpiaux with written notice that it is available to discuss these services in person with him, a copy of the same to be sent to the Chief Examiner. The commencement of the 45-day stay shall begin on the first day that the City is available to meet with Mr. Carpiaux. The right to accept or refuse this assistance is completely voluntary and belongs solely to Mr. Carpiaux. The City must leave the offer to provide informational assistance and referrals open throughout the full 45-day stay, subject only to the City's right to schedule such a meeting at a time that is mutually agreeable to the City and Mr. Carpiaux. Refusal by Mr. Carpiaux to accept the information or referrals ordered herein shall not constitute a basis to deny him assistance at a later time during the 45-day period if he subsequently changes his mind on seeking the assistance offered.

DATED: May 26, 2016



John J. Batters, Chief Examiner
For the Board of Examiners

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**APPENDIX
OF
HEARING
EXHIBITS**

APPENDIX

CITY'S EXHIBITS

- #A Letter sent to Mr. Carpiaux dated 7/20/15 – Notice of Inspection Warrant
- #B Superior Court Inspection Warrant and Order (3 pages)
- #C Notice and Order to Immediately Vacate Building from Chief Building Official Gonzales dated 7/30/15 - (2 pages)
- #D 24 Hour Inspection Warrant Notice
- #E Superior Court Inspection Warrant and Order (Forcible Entry) dated 9/3/15 (3 pages)
- #F Notice and Order for Intent to Demolish Property – dated 10/19/15 by Building Inspector (to indicate the property was posted)
- #G Notice and Order of Intention to Demolish Building at 1264 Ocean Avenue (which is the subject of this appeal) dated 10/19/15 by Chief Building Official Gonzalez (4 pages)
- #H Property Detail Report – RealQuest.com – real property data info that indicates Mr. Carpiaux is the owner of the property of 1264 Ocean Avenue, Emeryville
- #I 12 pages of documents provided to City from Haley & Aldrich geotechnical engineering firm that examined the property, including black & white photos & a diagram
- #J 44 pages of mostly colored photographs of the property from inspections – Pages 1-21 are photographs taken during 7/29/15 inspection; Pages 22 & 23 from Haley & Aldrich geotechnical engineering firm; Pages 24-44 from property inspection on 9/8/15
- #K Letter from City to Mr. Carpiaux dated 8/28/15 re: Undated letter received on 8/17/15, finding appeal of July 30, 2015 Notice and Order untimely (Response to Appellant Exhibit #J)

APPELLANT'S EXHIBITS

- #A Letter from Mr. Carpiaux to Superior Court Judge MacLaren (14 pages & 1 blank page)
- #B Letter from Mr. Carpiaux to “Dear Friends and Neighbors of Ocean Av and Peabody Lane” (2 pages)
- #C Letter to Victor [Gonzales] (2 page)
- #D Letter to Sasha Shamszad (1 page)
- #E Letter to “Dear Mr. whoever is interested in the transaction of my property...”(1 page)
- #F Letter to Charles re: Objection to Examiner Cardoza sitting as an examiner (2 page)
- #G Letter to Chair [Bauters] received 2/17/16 (1 page)
- #H Letter to Chair [Bauters] requesting postponement of 3/2/16 site visit and continuation of hearing (6 pages)

- #I 3 documents: 1 page Letter "To Whom This May Concern" dated 3/1/16 from Linda Walker re vehicles in backyard of Mr. Carpiaux's property; 1 page letter to Board of Commissioners from Patrick Carpiaux rec 3-2-16; (3rd page is duplicate letter from Patrick Carpiaux)
- #J Letter to Victor Gonzales re code violations appeal, date stamp received 8/17/15 (7 pages)
- #K 55 pages of past communications of Mr. Carpiaux with a 3 page cover letter written by Linda Walker, and with notes written by Linda Walker attached to each individual communique, explaining what each represented.

ADMINISTRATIVE RECORD DOCUMENTS:

- #1 1994 Uniform Code for the Abatement of Dangerous Buildings
- #2 Letter appealing Order to Demolish Property filed by Mr. Carpiaux date rec'd 11/18/16.
- #3 12/23/16 Notice of Hearing of Administrative Appeal from City to Mr. Carpiaux
- #4 1/4/16 Email from Mr. Carpiaux to City Attorney requesting postponement of hearing
- #5 Notice of New Hearing Date for Administrative Appeal dated January 7, 2016
- #6 Denial of Request for Postponement by Chair Bauters to Mr. Carpiaux dated 2/15/16 – (Response to Appellant Exhibit #H)

Noted Objections: Two objections were made by the City to specific exhibits introduced by the Appellant as set forth below:

The City objected to Appellant Exhibit # I, which was introduced by Appellant on March 2, 2015, based on the fact that the author of the second page was not a witness who could be cross-examined. The Chair acknowledged the City's concern, but overruled the objection noting that the Examiners would give the document the weight it deserved.

The City also objected to Appellant Exhibit # K which consists of 55 pages of past communications of Mr. Carpiaux with a cover letter and annotated notes made by Linda Walker that were not introduced by the appellant until March 2, 2015. The City's objections were that the correspondence did not appear to address the condition of the structure which is the subject matter of the hearing; the annotations are from Linda Walker and this is not a public hearing; the evidentiary portion of the hearing had been closed, this was new evidence and there was inadequate time to properly review the documents; and that they appeared to contain negative allegations about staff and other individuals and their probative value is outweighed by their prejudicial effect. The Chair acknowledged all of the City's reasons for the objections, but overruled them, admitting Appellant Exhibit #K into evidence, but noting that the Examiners would give the documents the weight that was due.

CITY'S EXHIBITS



CITY OF EMERYVILLE

INCORPORATED 1949

1333 PARK AVENUE
EMERYVILLE, CALIFORNIA 94608-3517

TEL: (510) 596-4300 FAX: (510) 450-7831

Sent Certified Mail, Receipt requested and Posting of Property

July 20, 2015

Mr. Andre Carpiaux
1264 Ocean Avenue
Emeryville, California 94608

SUBJECT: Notice of Inspection Warrant and Scheduled Inspection

Dear Mr. Carpiaux:

On July 20, 2015, Judge Yolanda Northridge of the Alameda County Superior Court issued an Inspection Warrant authorizing representatives of the City of Emeryville to conduct an inspection of the premises, including all structures, located at 1264 Ocean Avenue, Emeryville. A copy of the Inspection Warrant is attached to this Notice.

The inspection pursuant to this Warrant is scheduled to occur on Friday, July 24, 2015, commencing at 9:00 a.m. Please be prepared to provide access to your property on that date and time. Please note that refusal to permit the inspection is a violation of California Code of Civil Procedure section 1822.57.

If you are unavailable for the inspection on July 24th and wish to schedule a different date and time within the time limits provided by the Warrant, please contact me by phone or by email as soon as possible to discuss possibly rescheduling the inspection.

Sincerely,

Victor Gonzales
Chief Building Official
City of Emeryville

c. M. Guina, City Attorney

EXHIBIT A

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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF ALAMEDA

In the Matter of the Application of THE) NO _____
CITY OF EMERYVILLE for)
Inspection Warrant Re Premises at 1264) INSPECTION WARRANT AND
Ocean Avenue, Emeryville) ORDER
(C.C.P. SECTION 1822.50)

THE PEOPLE OF THE STATE OF CALIFORNIA, TO THE CITY ATTORNEY FOR THE
CITY OF EMERYVILLE and duly authorized representatives:

Upon good cause shown to the Court:

YOU ARE COMMANDED TO CONDUCT an inspection of the premises known as 1264 Ocean
Avenue, Emeryville (APN #049-1469-008-00), and described as a single family residence,
including any yards, accessory structures, sheds, garages, and structures of any kind, pursuant to
Code of Civil Procedure sections 1822.50 et. seq. for the purpose of conducting an inspection
pursuant to Emeryville Municipal Code provisions relating to housing, building, and fire safety.

Proof, by declaration having been made this day before me by Victor Gonzales, that there is
reason to believe that a condition of nonconformity exists within and outside the structure located at
1264 Ocean Avenue, Emeryville, with respect to substandard building conditions, health hazards,
and fire hazards in violation of the Emeryville Municipal Code.

Proof, by declaration having been made this day before me by Lance Bayer that Andre
Carpiaux, the owner of and responsible party for the premises located at 1264 Ocean Avenue,
Emeryville, has refused to give permission to allow code enforcement officers to conduct the
inspection of said premises and has acted in a manner that makes additional request for consent
futile.

The inspection pursuant to this warrant may be made during the hours of 8:00 a.m. and 6:00
p.m. and during the period from the date of issuance of this warrant to and including the date

1 fourteen (14) days thereafter. The inspection pursuant to this warrant may not be made in the
2 absence of an owner or occupant of the premises unless, upon notice of the issuance of this warrant
3 being given as hereinafter provided, no owner or occupant of the premises demands or consents to
4 be present during the inspection.

5 This warrant may not be executed by means of forcible entry by authority of Code of Civil
6 Procedure section 1822.56.

7 The inspection shall be conducted by means of observation of physical conditions or
8 processes and may be recorded through photographs, videotape, or other means. The inspection
9 shall be conducted for the duration necessary to ascertain compliance with Emeryville Municipal
10 Code provisions relating to building, housing, and fire safety. Inspection of the entirety of the
11 premises is hereby authorized, including any motor vehicles, yards, accessory structures, sheds,
12 garages, and structures of any kind.

13 Inspection of the premises shall be made by employees of the City of Emeryville and other
14 public agencies whose duties and responsibilities include the investigation, enforcement and
15 abatement provisions of the Emeryville Municipal Code and state law relating to building, housing
16 and fire safety, including building inspection, fire prevention and fire suppression employees and
17 code enforcement officers, and may also use such personnel as contract with the City of Emeryville
18 to provide such functions.

19 Notice that this warrant has been issued shall be given at least twenty-four (24) hours before
20 execution of this warrant through conduct of an inspection. Notice shall be given by deposit
21 thereof, with a copy of this warrant, in the United States mail, postage prepaid, addressed to all
22 persons believed to own or to reside on the premises. In addition, notice shall be given by posting
23 such notice, warrant, prominently on an accessible location on the premises.

24 A return to this warrant shall be made within fourteen (14) days from its issuance. Any
25 person who willfully refuses to permit the inspection authorized by this warrant may be found to be
26 guilty of a misdemeanor under Code of Civil Procedure section 1822.57.

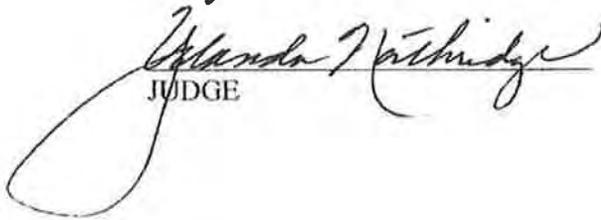
1 members of the Emeryville Police Department are not authorized to conduct any inspection other
2 than observations made in the course of their necessary actions to protect personnel conducting the
3 inspection.

4 Notice that this warrant has been issued is not required.

5 A return to this warrant shall be made within fourteen (14) days from its issuance. Any
6 person who willfully refuses to permit the inspection authorized by this warrant may be found to be
7 guilty of a misdemeanor under Code of Civil Procedure section 1822.57.

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Given under my hand, and dated this 28th day of July 2015.


JUDGE



CITY OF EMERYVILLE

INCORPORATED 1899

1333 PARK AVENUE
EMERYVILLE, CALIFORNIA 94608-3517

TEL: (510) 596-4300 FAX: (510) 450-7831

SENT CERTIFIED MAIL, RECEIPT REQUEST and POSTING ON PROPERTY

July 30, 2015

Mr. Andre Carpiaux
1264 Ocean Avenue
Emeryville, CA. 94608-1148

**SUBJECT: NOTICE AND ORDER - Property Maintenance at 1264 Ocean Avenue
Emeryville, CA. 94608; APN- 049-1469-008**

Dear Property Owner:

Upon executing a court ordered inspection warrant on July 29, 2015 at 9:45 a.m., the City of Emeryville Building Division, Code Enforcement staff has concluded its inspection of the front, back, side property yards and interior of the single family dwelling, which confirmed violations of the Uniform Code for the Abatement of Dangerous Buildings, California Building Code and International Property Maintenance Code. By serving this NOTICE AND ORDER to the Property Owner, mailed certified, receipt and posting this document serves to direct the property owner:

To IMMEDIATELY VACATE THE PREMISE(S) until further notified and approved by the Building Official as a result of imminent danger under section 302 provisions of the Uniform Code for the Abatement of Dangerous Buildings. As property owner you may have access to the dwelling to obtain personal items July 31, 2015 from 11:00 am to 12:00 pm. and will be assisted by the Emeryville Police Department. Any other further request for emergency access will be coordinated with Building inspection staff (510.596.4315) and the Emeryville Police Department.

NOTICE IS HEREBY GIVEN that the property is in violation of the following provisions of the Uniform Code for the Abatement of Dangerous Buildings:

- Sec 302 (1, 2) No means of egress for the occupants of the building and ingress for essential services for emergency purposes
- Sec 302 (3) Construction material overstress due to non-compliant conversion of attic area to habitable space.
- Sec 302 (8) Extensive excavation of building foundation without benefit of building permits, geotechnical and shoring compliance.

- Sec 302 (9) any portion of the structure is manifestly unsafe for the purpose for which it is being used.
- Sec 302 (12) Building dilapidated and identified as an attractive nuisance, harbor for vagrants, and rodents.
- Sec 302 (15) Interior dwelling inspections have verified inadequate maintenance, dilapidation, faulty construction, sanitation facilities, no potable water
- Sec 302 (16) Interior dwelling inspection have verified inadequate exits, lack of smoke detection devices, egress window obstruction, faulty electrical exposed wiring
- This is NOT an exhausted list of code deficiencies as many interior and exterior yard areas were inaccessible due to construction debris, equipment, tools and materials.

YOU ARE HEREBY ORDERED to correct the violations by taking the following actions

- Obtain appropriate permit applications, structural, geotechnical engineering information, and building permits necessary for compliance within 30 days
- If no compliance within the stated date, the property owner will be subject to further abatement proceedings as required by law

In accordance to Section 404, please be advised that you have the right to appeal the determination of the code violations by filing a written application for appeal with the Chief Building Official with ten (10) calendar days of the service of this Notice of Violation. The application shall specify the violation(s) contested and shall state the basis for the appeal. Failure to file a timely notice of appeal shall constitute a waiver of any administrative appeal.

Thank you for seriously considering this matter. If you have any questions regarding this letter, please do not hesitate to contact the Building Division at 596-4310. Please refer to this letter when calling or bring the letter with you if responding in person.

Sincerely,

Chad Z. Durr, Buildings Inspector for Victor Gonzales, CBO

Victor Gonzales
Chief Building Official
City of Emeryville
Building Division

- c. Michael Guina, Assistant City Attorney
- C. Bryant, Director of Planning and Building
- C. Lehr, City Manager
- C. Greer, Building Inspector
- A. Cassianos, EPD Sergeant
- Assessors' attachment
- File



CITY OF EMERYVILLE
INCORPORATED 1893

1333 PARK AVENUE
EMERYVILLE, CALIFORNIA 94608-3517

TEL: (510) 596-4300

FAX: (510) 450-7831

PROPERTY POSTED Thursday September 3, 2015 PM

24 HOUR
INSPECTION WARRANT NOTICE

TO: Mr. ANDRE CARPIAUX
DATE: September 3, 2015
RE: 1264 Ocean Avenue, Emeryville, CA. 94608;
Property Inspection Warrant

NOTICE IS HEREBY GIVEN that City of Emeryville staff will enter the premises located at 1264 Ocean Avenue, Emeryville, CA, 94608 on **Tuesday September 8, 2015** to conduct an inspection of the premises pursuant to the attached warrant. Be advised that City officials are authorized to execute the warrant by forcible entry if necessary. Be further advised that the inspection will be recorded with video and photographs. No Items will be removed from the premises at this time.

Victor Gonzales
Chief Building Official
City of Emeryville
Building Division
510-596-4310

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1 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

2 IN AND FOR THE COUNTY OF ALAMEDA

3 In the Matter of the Application of THE) NO. _____
4 CITY OF EMERYVILLE for)
5 Inspection Warrant Re Premises at 1264) INSPECTION WARRANT AND
6 Ocean Avenue, Emeryville) ORDER (FORCIBLE ENTRY)
7) (C.C.P. SECTION 1822.50)
8)
9)

10 THE PEOPLE OF THE STATE OF CALIFORNIA, TO THE CITY ATTORNEY FOR THE
11 CITY OF EMERYVILLE and duly authorized representatives:

12 Upon good cause shown to the Court:

13 YOU ARE COMMANDED TO CONDUCT an inspection of the premises known as 1264 Ocean
14 Avenue, Emeryville (APN #049-1469-008-00), and described as a single family residence,
15 including any yards, accessory structures, sheds, garages, and structures of any kind, pursuant to
16 Code of Civil Procedure sections 1822.50 et. seq. for the purpose of conducting an inspection
17 pursuant to Emeryville Municipal Code provisions relating to housing, building, and fire safety.

18 Proof, by declaration having been made this day before me by Victor Gonzales, that there is
19 reason to believe that a condition of nonconformity exists within and outside the structure located at
20 1264 Ocean Avenue, Emeryville, with respect to substandard building conditions, health hazards,
21 and fire hazards in violation of the Emeryville Municipal Code.

22 Proof, by declaration having been made this day before me by Victor Gonzales that Andre
23 Carpiaux, the owner of and responsible party for the premises located at 1264 Ocean Avenue,
24 Emeryville, has refused to give permission to allow City staff to conduct the inspection of said
25 premises and has acted in a manner that makes additional request for consent futile, and that forced
26 entry is necessary because there is a reasonable suspicion of a violation of a state or local law or
27 regulation relating to building, fire, and safety which, if such violation existed, would be an
28

1 immediate threat to health and safety and that reasonable attempts to serve a previous warrant has
2 been unsuccessful.

3 Proof, by declaration having been made this day before me by Victor Gonzales that
4 authority to enter in the absence of the property owner and responsible party of the premises located
5 at 1264 Ocean Avenue, Emeryville, is reasonably necessary to effectuate the purpose of the
6 regulation being enforced.

7 Proof, by declaration having been made this day before me by Victor Gonzales that
8 immediate entry of the premises located at 1264 Ocean Avenue, Emeryville, is reasonably
9 necessary in the circumstances shown.

10 The inspection pursuant to this warrant may be made during the hours of 8:00 a.m. and 6:00
11 p.m. and during the period from the date of issuance of this warrant to and including the date
12 fourteen (14) days thereafter.

13 This warrant may be executed by means of forcible entry by authority of Code of Civil
14 Procedure section 1822.56.

15 The inspection shall be conducted by means of observation of physical conditions or
16 processes and must be recorded through photographs, videotape, or other means. The inspection
17 shall be conducted for the duration necessary to ascertain compliance with Emeryville Municipal
18 Code provisions relating to building, housing, and fire safety. Inspection of the entirety of the
19 premises is hereby authorized, including any motor vehicles, yards, accessory structures, sheds,
20 garages, and structures of any kind.

21 Inspection of the premises shall be made by employees of the City of Emeryville and other
22 public agencies whose duties and responsibilities include the investigation, enforcement and
23 abatement provisions of the Emeryville Municipal Code and state law relating to building, housing
24 and fire safety, including building inspection, fire prevention and fire suppression employees and
25 code enforcement officers, and may also use such personnel as contract with the City of Emeryville
26 to provide such functions, including contracted geotechnical engineering services. The inspection
27 may include shoring of the excavation in order to safely complete the inspection. Personnel
28 conducting the inspection of the premises may be accompanied by sworn members of the

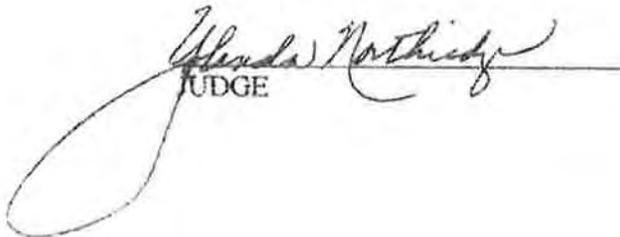
1 Emeryville Police Department for their protection. Sworn members of the Emeryville Police
2 Department are not authorized to conduct any inspection other than observations made in the
3 course of their necessary actions to protect personnel conducting the inspection.

4 Notice that this warrant has been issued shall be given at least twenty-four (24) hours before
5 execution of this warrant through conduct of an inspection. Notice shall be given by deposit
6 thereof, with a copy of this warrant, in the United States mail, postage prepaid, addressed to all
7 persons believed to own or to reside on the premises. In addition, notice shall be given by posting
8 such notice, warrant, prominently on an accessible location on the premises.

9 A return to this warrant shall be made within fourteen (14) days from its issuance. Any
10 person who willfully refuses to permit the inspection authorized by this warrant may be found to be
11 guilty of a misdemeanor under Code of Civil Procedure section 1822.57.

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Given under my hand, and dated this 3^d day of September 2015.


JUDGE



CITY OF EMERYVILLE

INCORPORATED 1944

1333 PARK AVENUE
EMERYVILLE, CALIFORNIA 94608-3517

TEL: (510) 596-4300

FAX: (510) 450-7831

**Declaration of Posting NOTICE AND ORDER for Intent to
Demolition of Property at 1264 Ocean Avenue, Emeryville CA.
94608; APN- 049-1469-008**

I, John Vails, Certified Building Inspector on behalf of the City of Emeryville Building Division certify that under the provisions of the **UNIFORM CODE FOR THE ABATEMENT OF DANGEROUS BUILDINGS Section 401.5**

- 1) Sent Certified mail, receipt requested, 1st Class, Emailed and Posted the property to **1264 OCEAN AVENUE, EMERYVILLE CA. 94608; APN-049-1469-008** with a **NOTICE AND ORDER WITH INTENT TO DEMOLITION OF THE PROPERTY.**

This posting and mailing was accomplished

DATE: 10/19/15 TIME: 10:50 AM

(Signature)

EXHIBIT F



CITY OF EMERYVILLE

INCORPORATED 1899

1333 PARK AVENUE
EMERYVILLE, CALIFORNIA 94608-3517

TEL: (510) 596-4300 FAX: (510) 450-7831

SENT CERTIFIED MAIL RETURN RECEIPT REQUESTED, 1st CLASS, EMAIL and POSTING ON PROPERTY

October 19, 2015

Mr. Andre Carpiaux
1264 Ocean Avenue
Emeryville, CA. 94608-1148

SUBJECT: NOTICE AND ORDER OF INTENTION TO DEMOLISH BUILDING at 1264 OCEAN AVENUE, Emeryville, CA. 94608; APN- 049-1469-008

Dear Property Owner:

On July 30, 2015, a NOTICE AND ORDER document issued by the City of Emeryville, Chief Building Official to the Property Owner was mailed certified, property posted and directed the property owner to VACATE THE PREMISES as a result of determining that imminent danger exists under the Uniform Code for the Abatement of Dangerous Buildings, section 302. Further the Property Owner was directed to correct certain enumerated violations by taking the following actions:

- Submitting appropriate permit applications, obtaining structural, geotechnical engineering information, and building permits necessary for compliance within 30 days of the NOTICE AND ORDER.

In addition, the NOTICE AND ORDER provided the Property Owner with a right to appeal the inspection findings and determination of the Chief Building Official within ten (10) days of the NOTICE AND ORDER. If the Property Owner failed to comply with the NOTICE AND ORDER within the stated dates, the Property Owner will be subject to further abatement proceedings as required by law.

As a result of the Property Owner's failure to appeal within the specified ten (10) day period (by August 12, 2015) and failure obtain all required permits within the thirty (30) day period (by August 30, 2015) this NOTICE AND ORDER OF INTENTION TO DEMOLISH BUILDING is served formally notifying Property Owner that the building referenced above must be demolished as set forth herein. NOTICE IS HEREBY GIVEN that the property continues to be in violation of the following provisions of the Uniform Code for the Abatement of Dangerous Buildings under Section 302 and Emeryville Municipal Code (EMC):

- Sec 302 (1, 2) No means of egress for the occupants of the building and ingress for essential services for emergency purposes (dilapidated entry/porch and rear exit, egress windows obstructed).
- Sec 302 (3) Construction material overstress due to non-compliant conversion of attic area to habitable space.
- Sec 302 (8) Extensive excavation of building foundation without benefit of building permits, geotechnical and shoring compliance, compromising adjacent structure stability.
- Sec 302 (9) any portion of the structure is manifestly unsafe for the purpose for which it is being used.
- Sec 302 (12) Building dilapidated and identified as an attractive nuisance, harbor for vagrants, and rodents.
- Sec 302 (15) Interior dwelling inspections have verified inadequate maintenance, dilapidation, faulty construction, sanitation facilities, no potable water service.
- Sec 302 (16) Interior dwelling inspection have verified inadequate exits, lack of smoke detection devices, egress window obstruction, faulty electrical exposed wiring.
- EMC Title 7; 7-2.02 Permit Required. (a) No person shall make, cause or permit to be made any excavation in the public right-of-way or make any improvements on, under, over or across the public right-of-way without first obtaining an encroachment permit from the Public Works Department, with the exception of projects undertaken by the City. No encroachment permit shall be issued if the applicant does not have legal authority to occupy and use the public right-of-way for the purposes identified in the application.
- Note: This is NOT an exhaustive list of code deficiencies, as many interior and exterior yard areas were inaccessible due to construction debris, equipment, tools and materials and hazardous conditions.

On Thursday September 3, 2015, the City of Emeryville Building Division secured and posted the property with a 24 hour inspection warrant notice. The inspection warrant issued by the Alameda County Superior Court on September 3, 2015 permitted City inspection staff and engineering consultant's access to the property to further analyze the building excavation for structural impacts to the dwelling and adjacent dwelling located at 1262 Ocean Avenue. On September 8, 2015, the inspection results supported the initial findings from inspection staff on July 29, 2015, which had determined the structure to be uninhabitable due to imminent danger, directed the occupants to vacate the premises, and red tagged the structure.

The Chief Building Official of the City of Emeryville has determined that the residential structure located at 1264 Ocean Avenue, Emeryville, must be demolished. Based on this determination, the structure must continue to be vacated. You must obtain and secure all required demolition permits within 60 days from the date of this order; and demolition must be completed within 60 days from the date of this NOTICE AND ORDER OF INTENT TO DEMOLISH BUILDING.

If demolition is not commenced within the time specified above, the Chief Building Official will cause the work to be done and charge the costs thereof against the property and its owner.

As an alternative within the discretion of the Chief Building Official and within the time period of 60 days from the date of this NOTICE AND ORDER OF INTENT TO DEMOLISH BUILDING, you may:

1. Secure the services of a licensed contractor/geotechnical engineer to provide services of obtaining the appropriate permits and approvals for rehabilitation of the excavation and dilapidation of the single family residence if feasible, and/or
2. Secure the services of a licensed contractor/geotechnical engineer to provide services of obtaining permits for temporary shoring of the displaced excavated soil in order to allow limited access to within the structure to obtain personal items.
3. Either option must be acknowledged and approved by the City of Emeryville Building Division in writing within 30 days of this NOTICE AND ORDER OF INTENT TO DEMOLISH BUILDING.

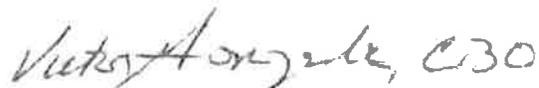
In addition, because the structure located at 1264 Ocean Avenue, Emeryville has been determined to be imminently dangerous and subject to demolition, you must contact the Chief Building Official to discuss any possible opportunity for you or your agent to enter the structure briefly to remove items of personal property prior to demolition of the structure. Such opportunity to enter will require your execution of a written waiver of liability in favor of the City of Emeryville.

In accordance with the Uniform Code for the Abatement of Dangerous Buildings, Section 505, please be advised that you have the right to appeal the determination and notice of intention to demolish by filing a written application for appeal with the Chief Building Official within thirty (30) calendar days of this NOTICE AND ORDER OF INTENTION TO DEMOLISH. The application SHALL specify the violation(s) contested and shall state the basis for the appeal. Failure to appeal will constitute a waiver of all rights to an administrative hearing and adjudication of the notice and order or any portion thereof.

Finally, as a result of this NOTICE AND ORDER, as the property owner you are hereby invited and encouraged to schedule a meeting with City Officials to discuss and understand the consequences of this NOTICE AND ORDER OF INTENT TO DEMOLISH BUILDING at the Emeryville Civic Center 1333 Park Avenue, Emeryville CA before expiration of the time limitations set forth above. You also may wish to consider obtaining the advice of legal counsel regarding your legal rights and responsibilities.

Thank you for seriously considering this matter. If you have any questions regarding this letter, please do not hesitate to contact the Building Division at 596-4310. Please refer to this letter when calling or bring the letter with you if responding in person.

Sincerely,

Handwritten signature of Victor Gonzales in cursive, followed by the initials "CB0".

Victor Gonzales
Chief Building Official
City of Emeryville
Building Division

- c. Michael Guina, City Attorney
- L. Bayer, City of Emeryville, Legal Counsel
- C. Bryant, Director of Planning and Building
- C. Lehr, City Manager
- M. Kaufman, Director of Public Works
- C. Greer, Building Inspector
- Assessors' attachment
- Beneficiary
- File

Property Detail Report

For Property Located At :
1264 OCEAN AVE, EMERYVILLE, CA 94608-1148



Owner Information

Owner Name: **CARPIAUX ANDRE**
Mailing Address: **1264 OCEAN AVE, EMERYVILLE CA 94608-1148 C001**
Vesting Codes: **//**

Location Information

Legal Description:
County: **ALAMEDA, CA** APN: **049-1469-008**
County Tract / Block: **4251.03 / 3** Alternate APN:
Township-Range-Sect: Subdivision:
Legal Book/Page: Map Reference: **3-E4 /**
Legal Lot: Tract #: **EMERY**
Legal Block: School District:
Market Area: School District Name:
Neighbor Code: Munic/Township: **EMERYVILLE INCORP**

Owner Transfer Information

Recording/Sale Date: **08/27/1975 /** Deed Type: **DEED (REG)**
Sale Price:
Document #: **123317** 1st Mtg Document #:

Last Market Sale Information

Recording/Sale Date: **/** 1st Mtg Amount/Type: **/**
Sale Price: 1st Mtg Int. Rate/Type: **/**
Sale Type: 1st Mtg Document #: **/**
Document #: 2nd Mtg Amount/Type: **/**
Deed Type: 2nd Mtg Int. Rate/Type: **/**
Transfer Document #: Price Per SqFt:
New Construction: Multi/Split Sale:
Title Company:
Lender:
Seller Name:

Prior Sale Information

Prior Rec/Sale Date: **/** Prior Lender:
Prior Sale Price: Prior 1st Mtg Amt/Type: **/**
Prior Doc Number: Prior 1st Mtg Rate/Type: **/**
Prior Deed Type:

Property Characteristics

Gross Area: **880** Parking Type: Construction: **WOOD**
Living Area: **880** Garage Area: Heat Type:
Tot Adj Area: Garage Capacity: Exterior wall:
Above Grade: Parking Spaces: Porch Type:
Total Rooms: **5** Basement Area: Patio Type:
Bedrooms: **2** Finish Bsmnt Area: Pool:
Bath(F/H): **1 /** Basement Type: Air Cond:
Year Built / Eff: **1905 / 1905** Roof Type: Style: **RECTANGULAR DESIGN**
Fireplace: **/** Foundation: Quality: **AVERAGE**
of Stories: **1.00** Roof Material: Condition:

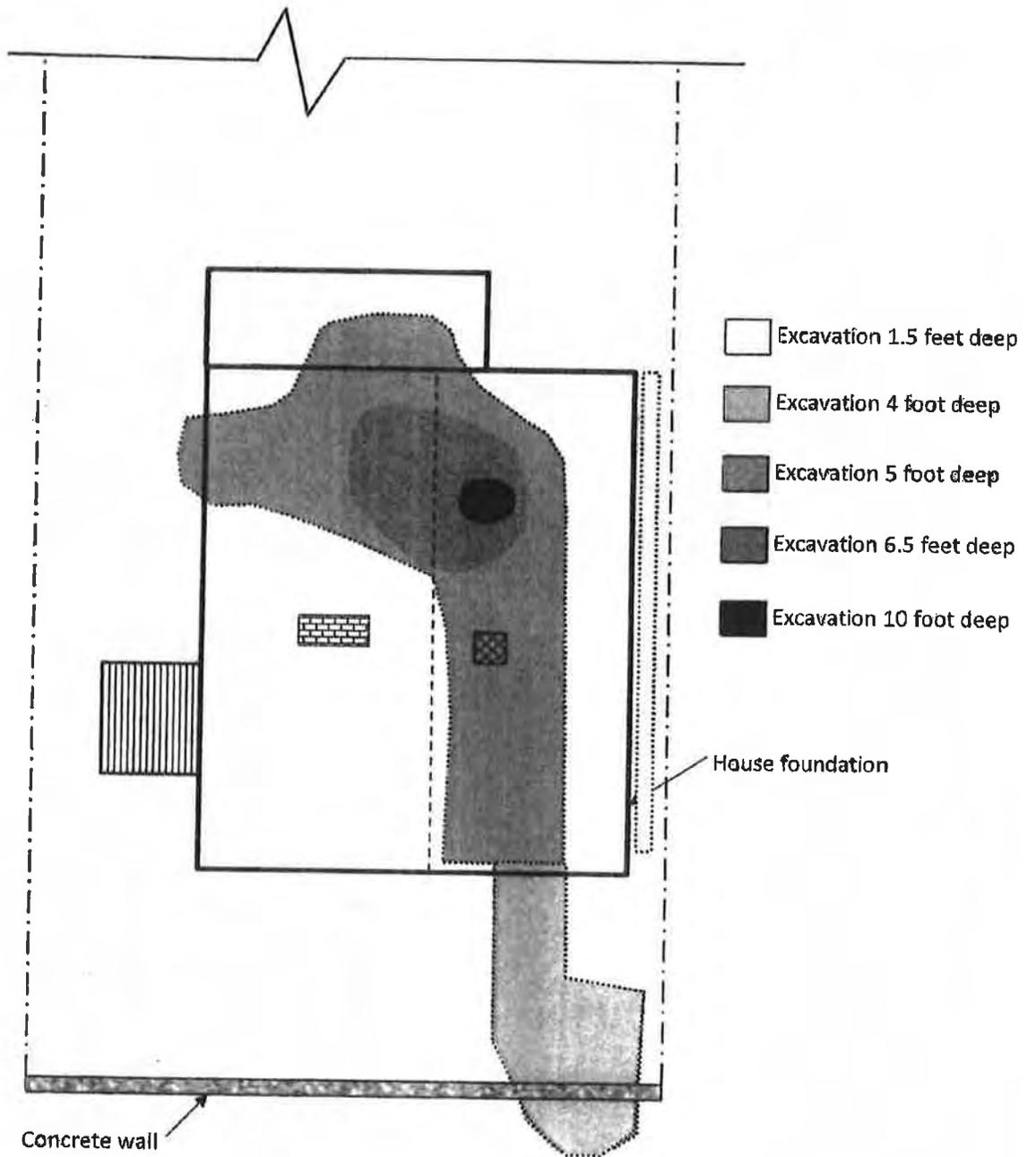
Site Information

Zoning: Acres: **0.10** County Use: **SINGLE FAMILY RESIDENTIAL HOME (1100)**
Lot Area: **4,294** Lot Width/Depth: **x** State Use:
Land Use: **SFR** Res/Comm Units: **1 /** Water Type:
Site Influence: Sewer Type:

Tax Information

Total Value: **\$28,152** Assessed Year: **2015** Property Tax: **\$719.36**
Land Value: **\$18,768** Improved %: **33%** Tax Area: **14003**
Improvement Value: **\$9,384** Tax Year: **2014** Tax Exemption: **HOMEOWNER**
Total Taxable Value: **\$21,152**

EXHIBIT H



1264 Ocean Avenue
 Emeryville, CA
 Scale 1" = 10'

EXHIBIT I-1

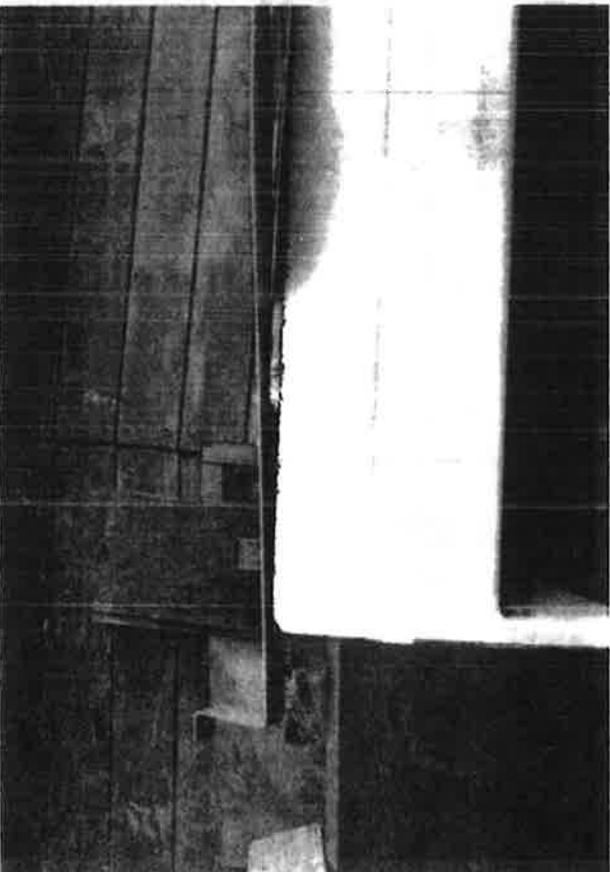
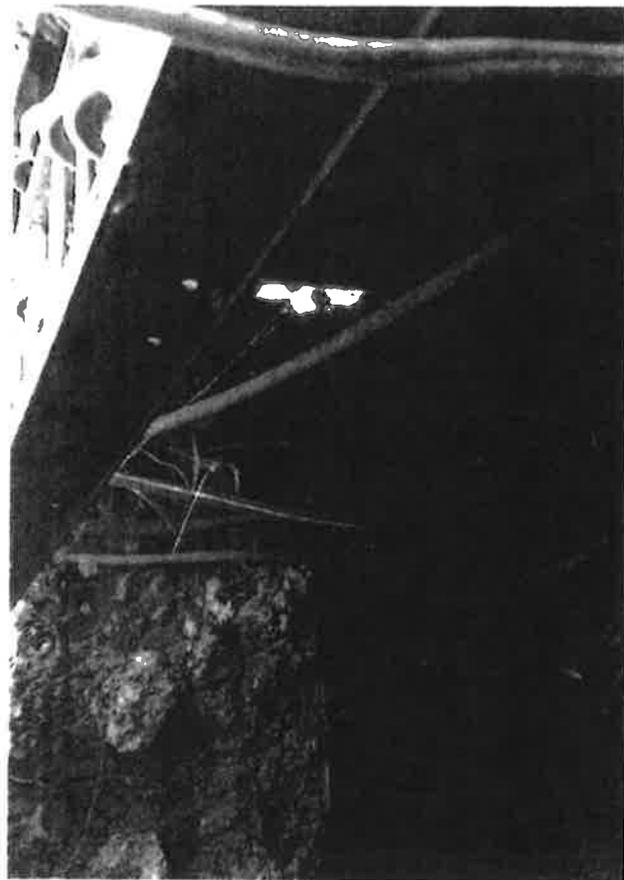


EXHIBIT I-2



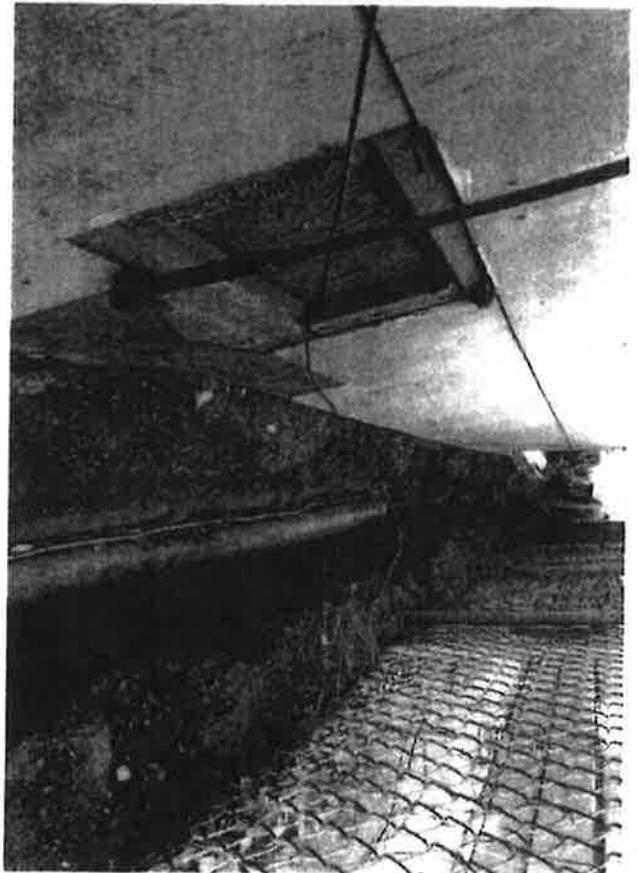
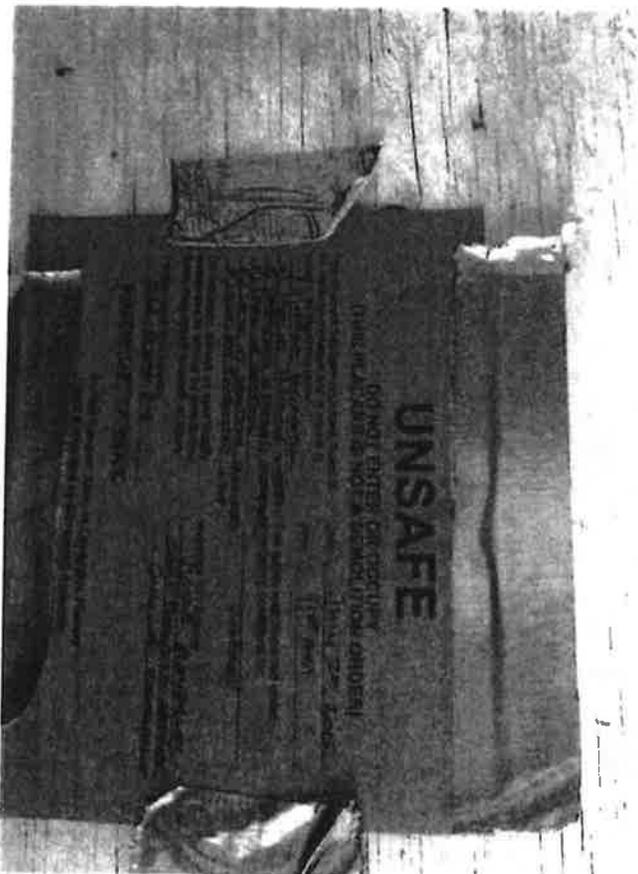
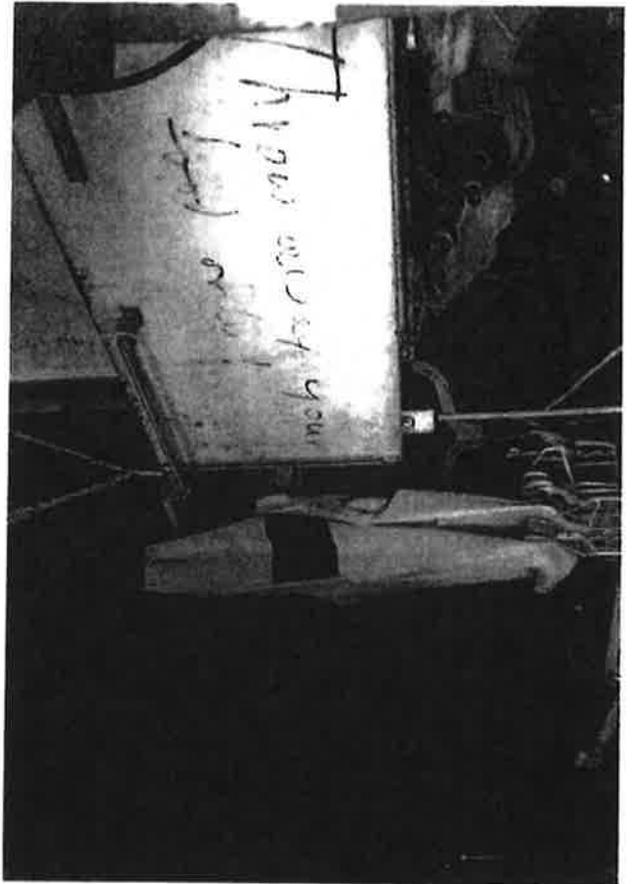
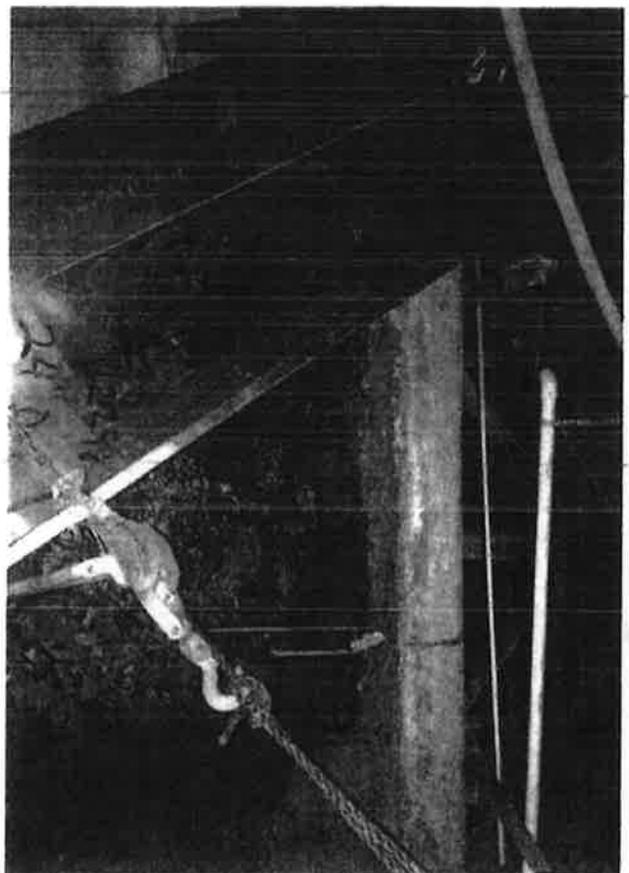
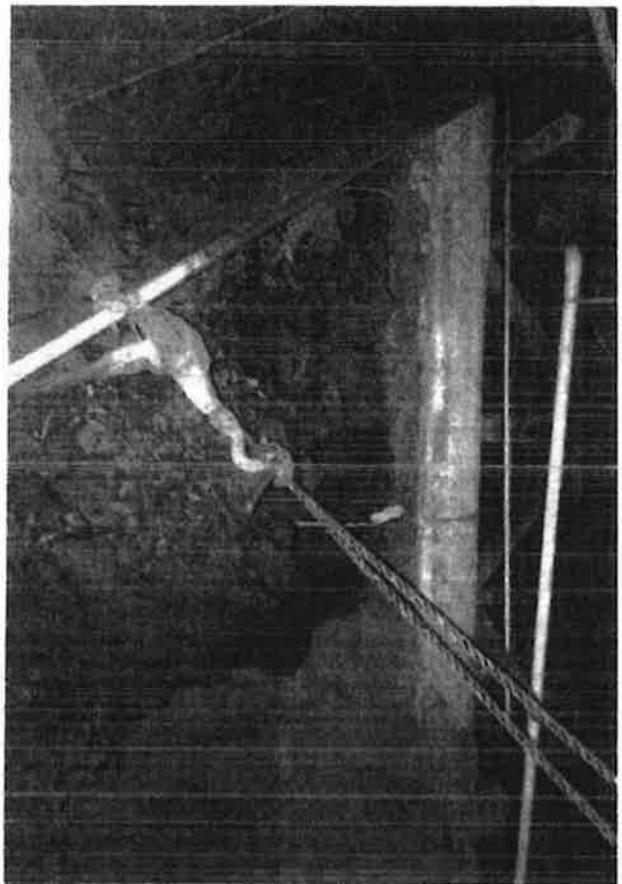
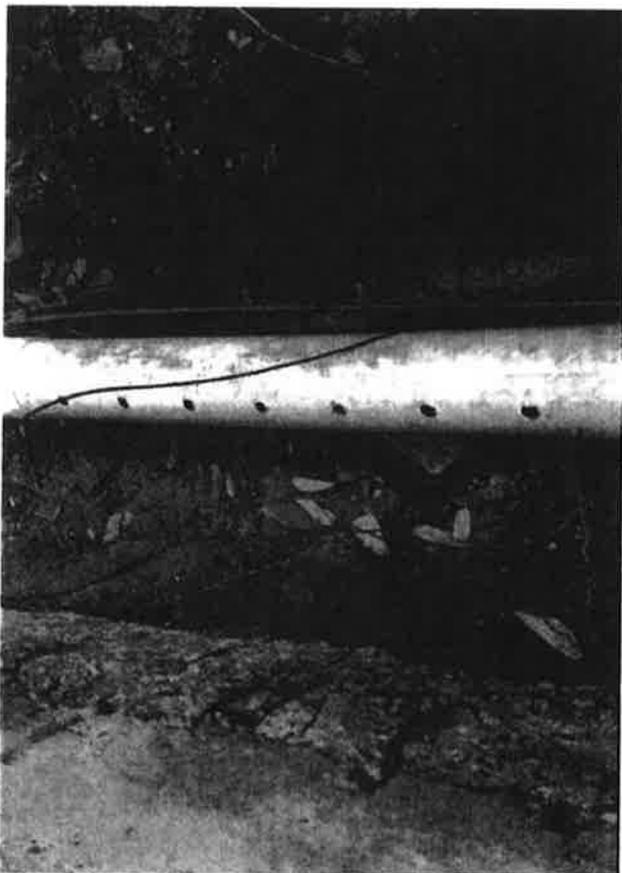
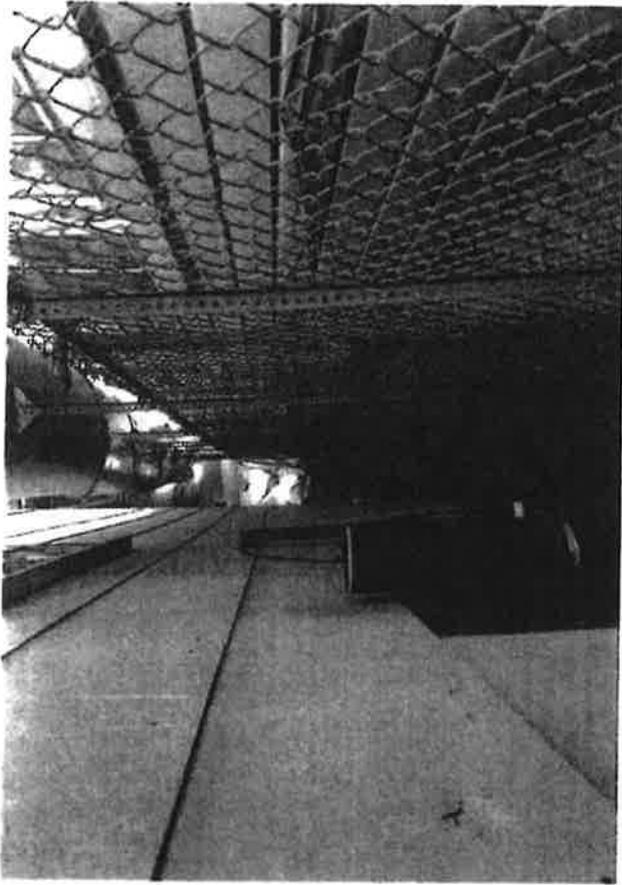
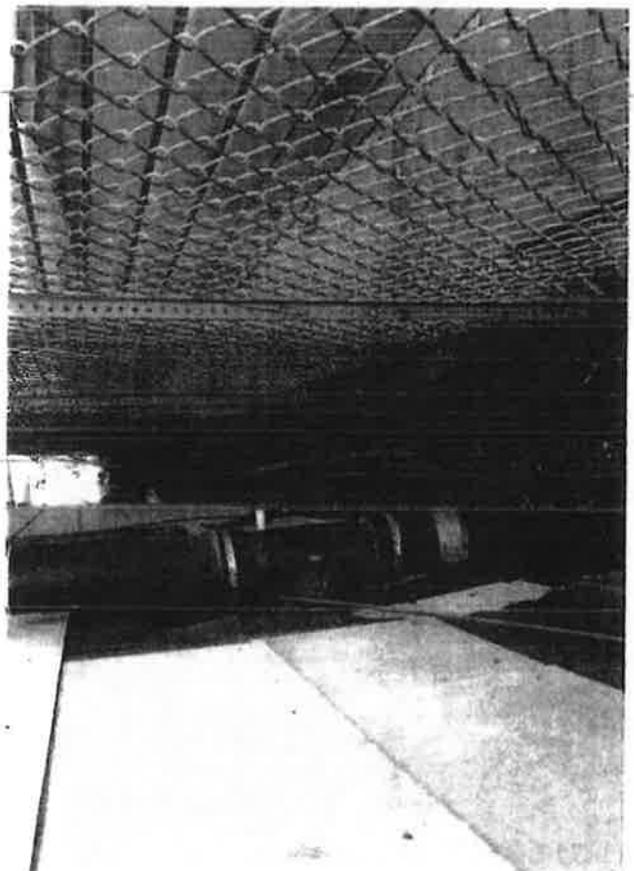
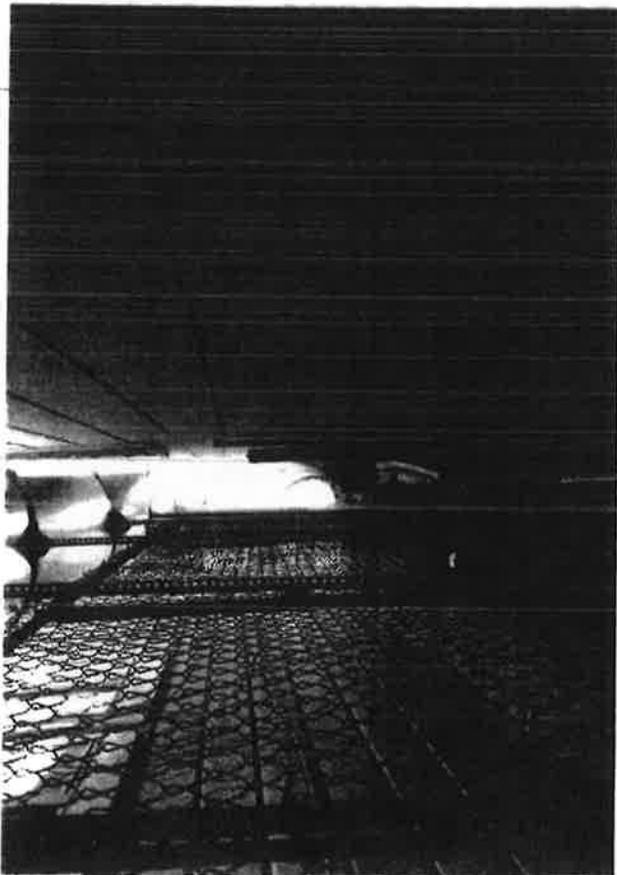
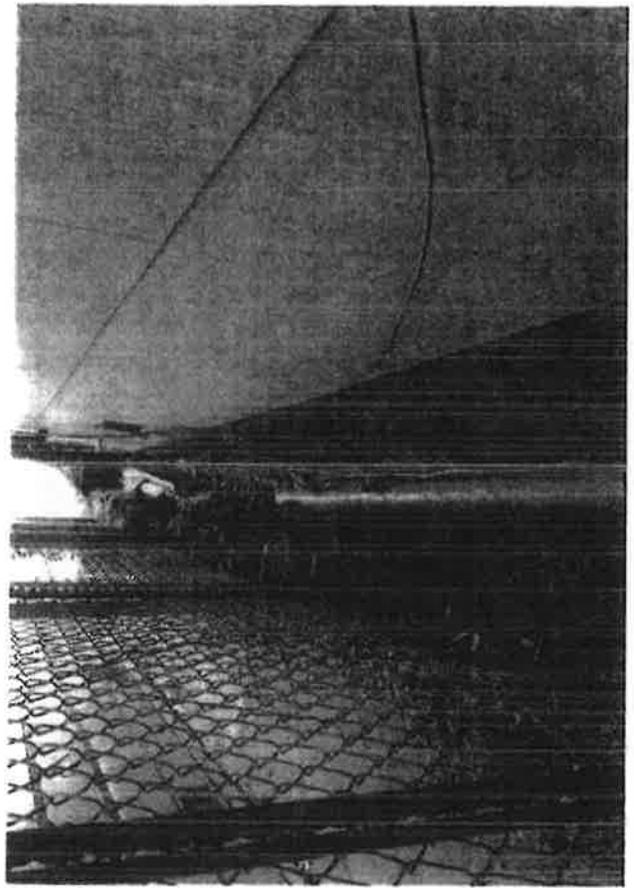
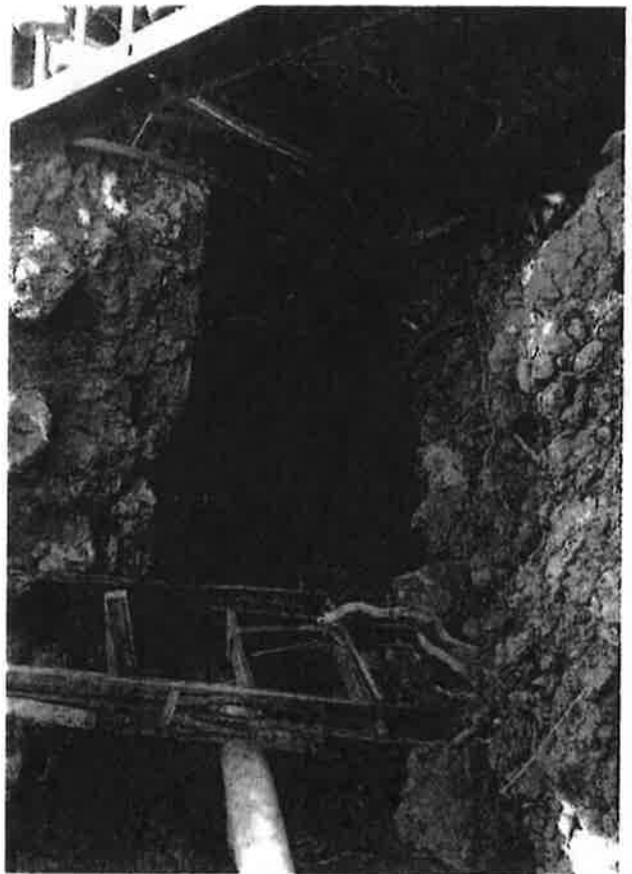


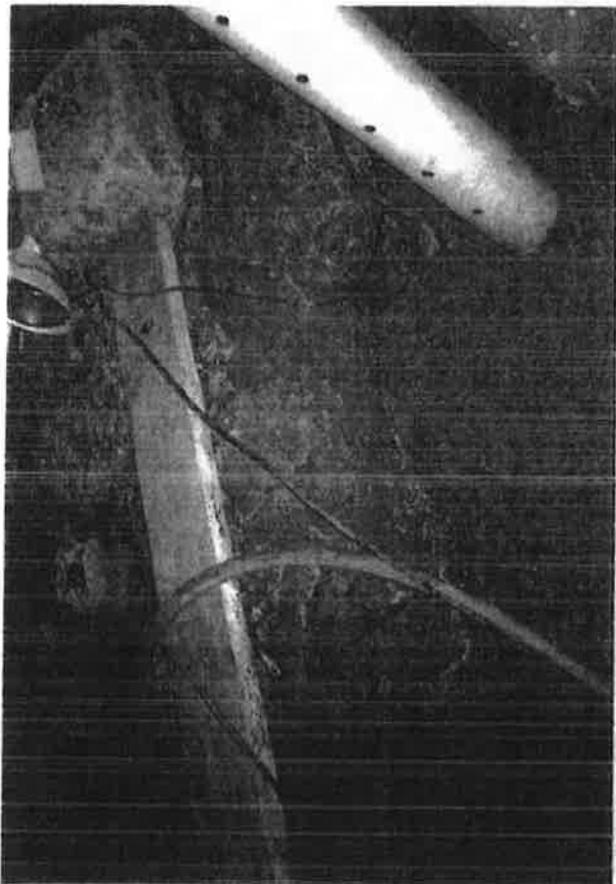
EXHIBIT I-5











Victor Gonzales

From: Iwasa, Dean <DIwasa@haleyaldrich.com>
Sent: Tuesday, September 08, 2015 3:35 PM
To: Bill Gibson; Victor Gonzales
Subject: RE: 1264 Ocean Avenue

Vic,

Based on our observations during today's site visit, we conclude that a large excavation exists beneath the residence at 1264 Ocean Avenue in Emeryville. The excavation exposes highly plastic clayey soil in near vertical side slopes. At the time of our visit, the clayey soil was very dry and had large tension cracks. The depth and location of the excavation are presented in the sketch provided by ESR. Many building foundations were either: 1) removed, 2) in place but completely undermined without soil support, or 3) located adjacent to a vertical cut, such as any collapse of the excavation side slope would result in a sudden loss of support of the existing building footing. Also, the existing excavation has significantly reduced lateral resistance capability of the existing foundations.

We recommend that the existing building remain unoccupied and "red tagged" and temporary vertical and lateral support be restored as soon as possible.

We will follow up with Bill and develop a temporary shoring design and cost estimate to implement the design. Photographs of observed conditions will be sent out later today

Dean H. Iwasa, P.E., G.E.
HALEY & ALDRICH
2033 North Main Street, Suite 309
Walnut Creek, CA 94596
phone: 925.949.1021
cell: 925.324.4512
fax: 925.979.1456
DIwasa@HaleyAldrich.com
HaleyAldrich.com

From: Bill Gibson [<mailto:wgibson@esrweb.com>]
Sent: Tuesday, September 08, 2015 12:29 PM
To: 'vgonzales@ci.emeryville.ca.us'
Cc: Iwasa, Dean
Subject: 1264 Ocean Avenue

Victor:

As requested attached is a drawing of the sketch I did this morning and a copy of the photographs I took.

Sincerely,
William J. Gibson
Principal Engineer
Engineered Soil
Repairs, Inc.
1267 Springbrook Road
Walnut Creek, CA
94597
Phone: (925) 210-2150
Fax: (925) 210-2158
<http://www.esrweb.com/>

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EXHIBIT J-1

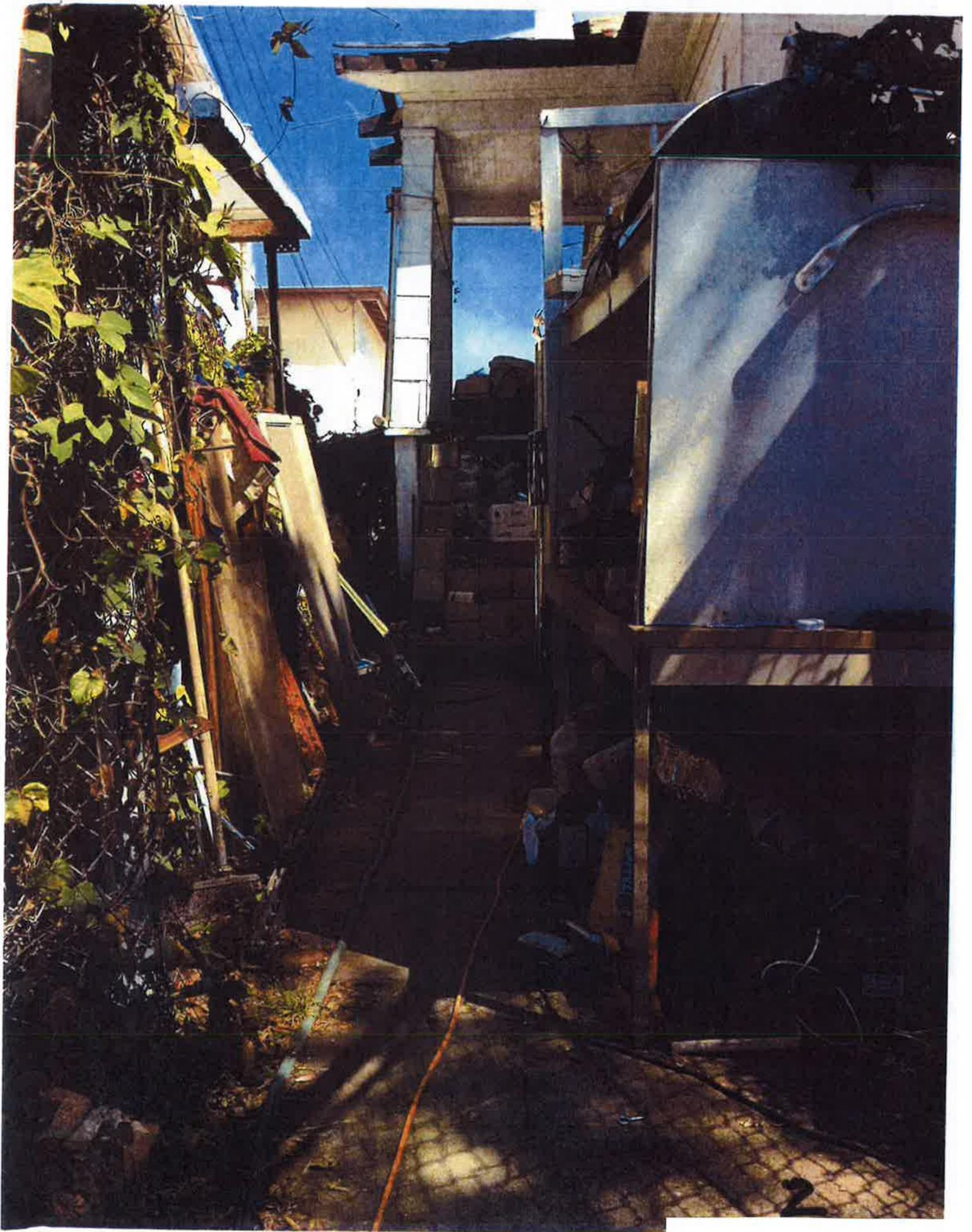


EXHIBIT J-2



EXHIBIT J-3



EXHIBIT J-4

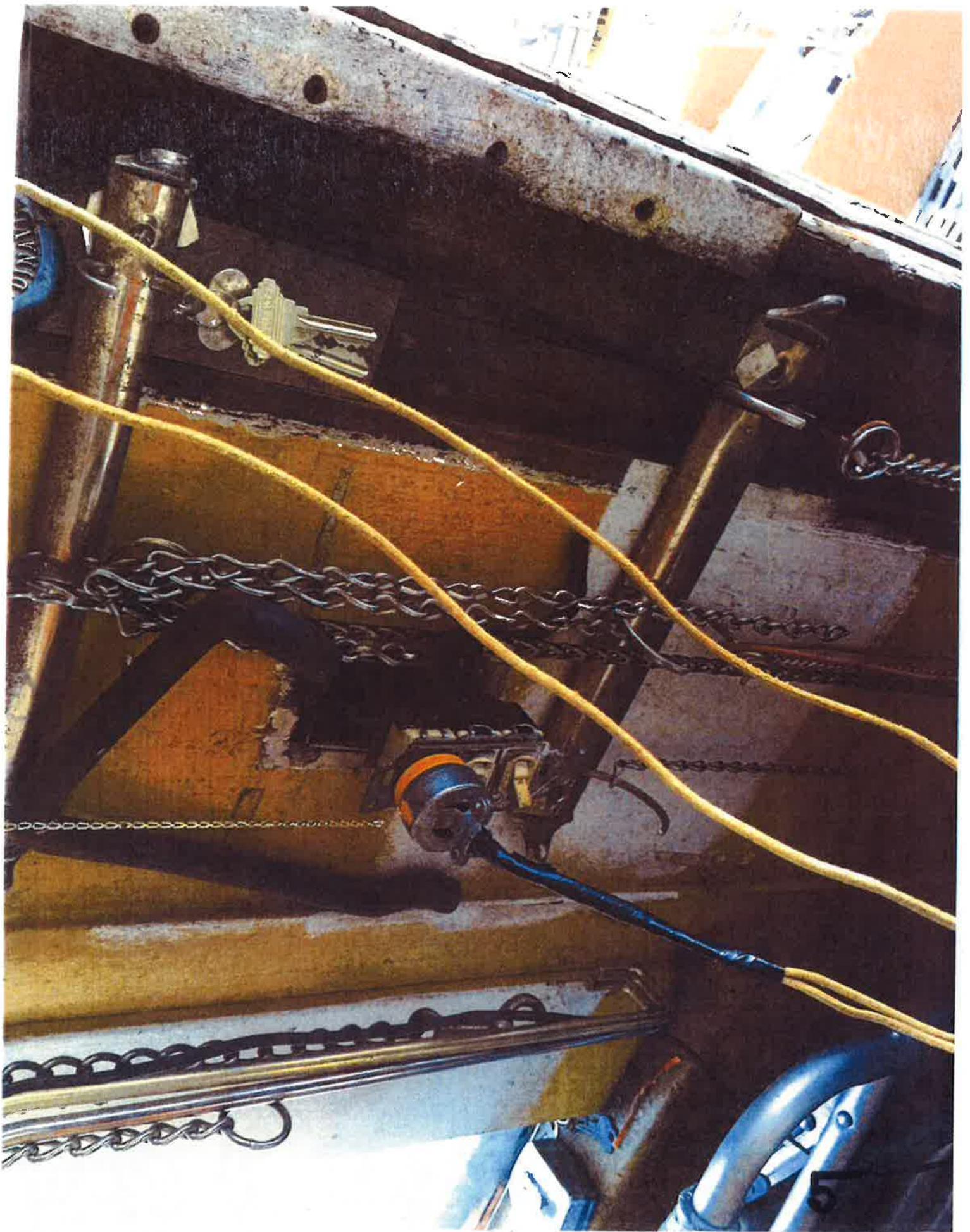


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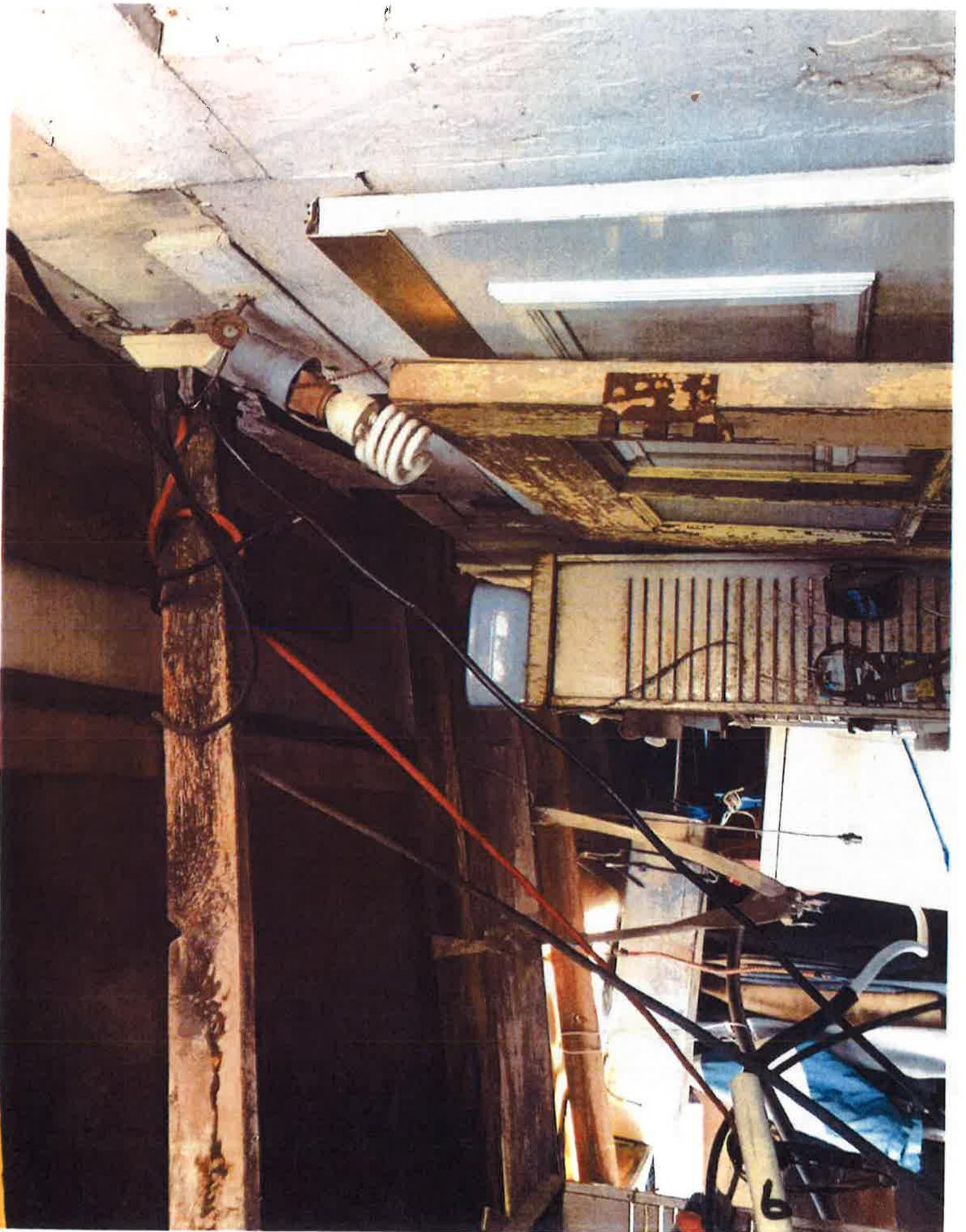


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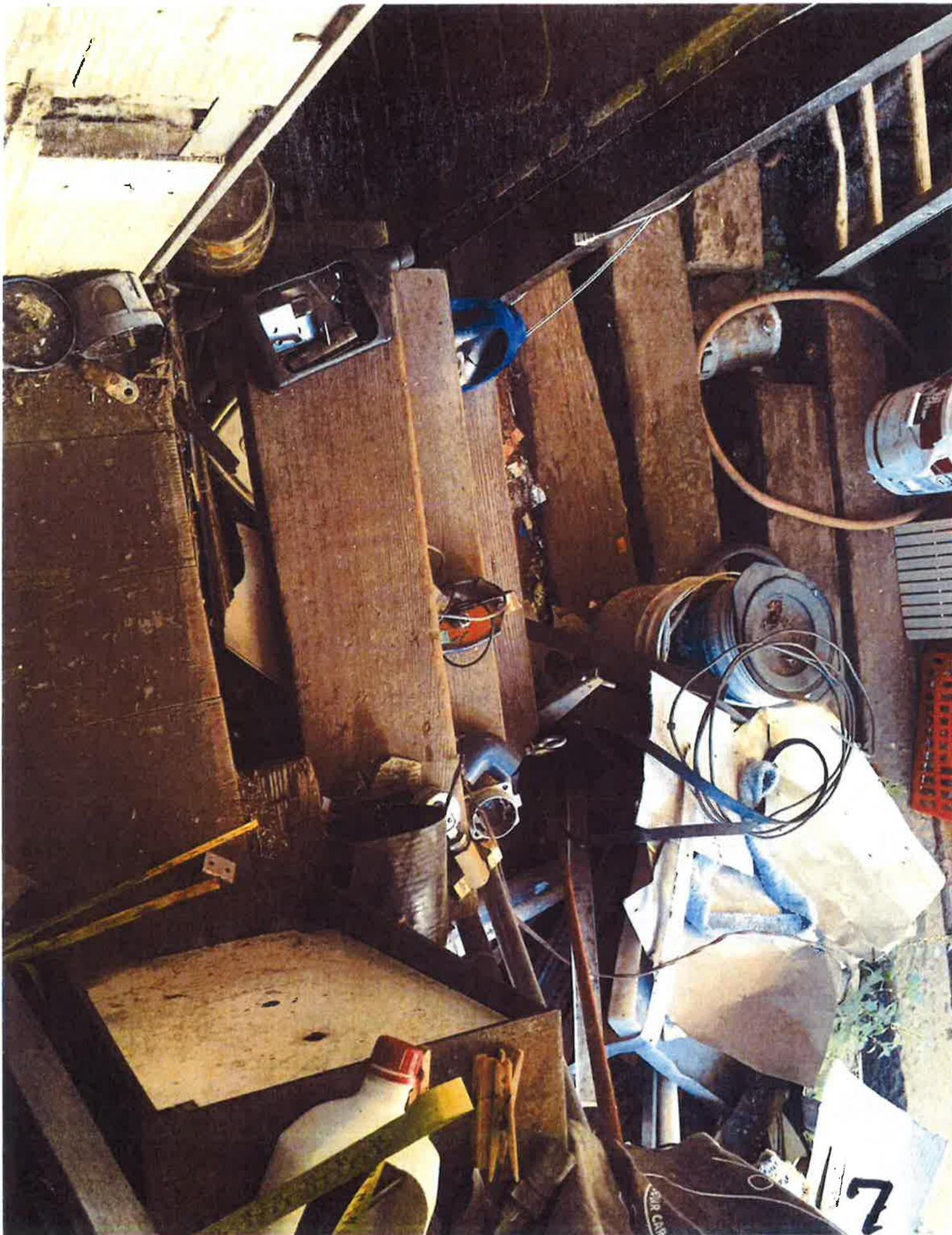


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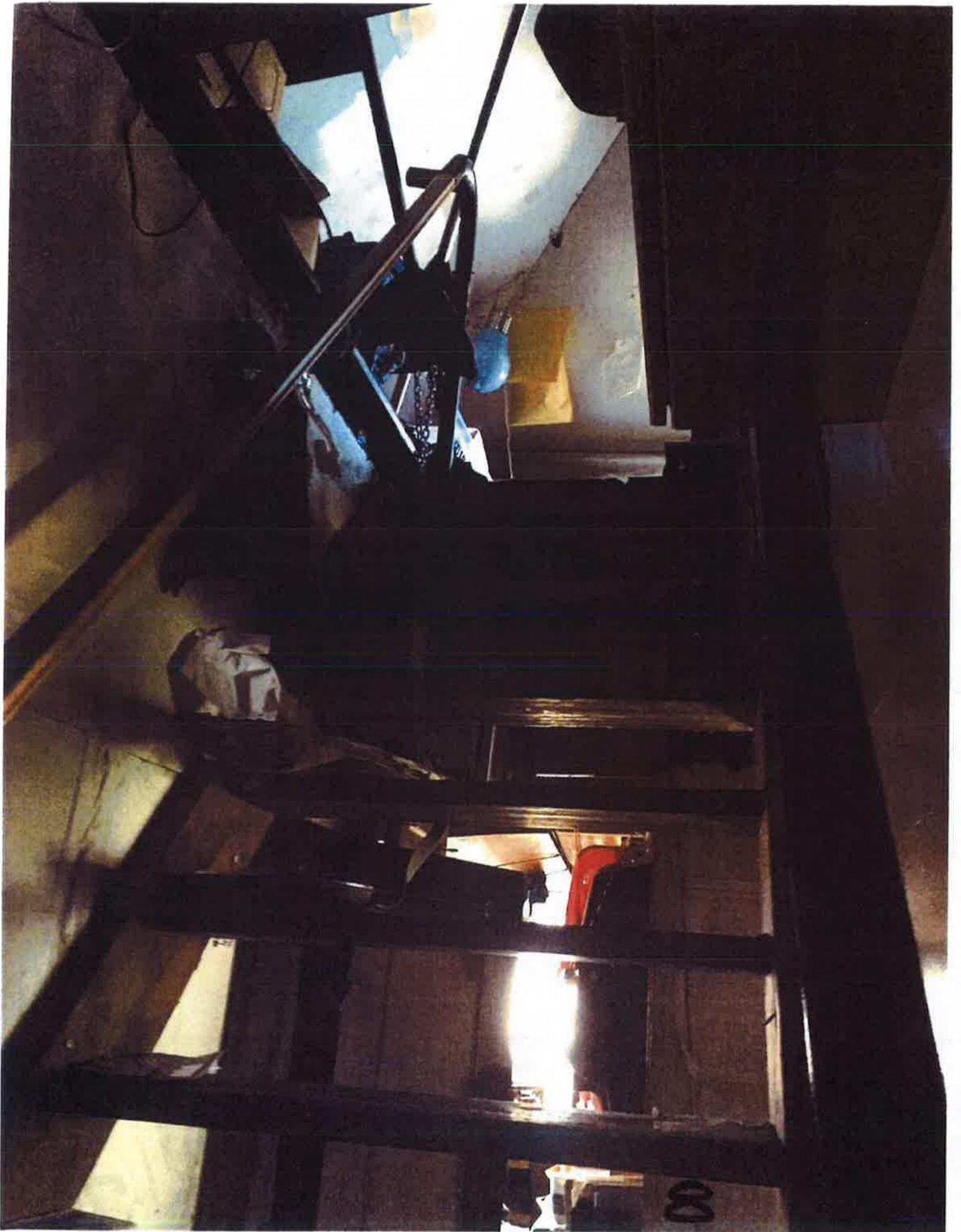


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EXHIBIT J-9

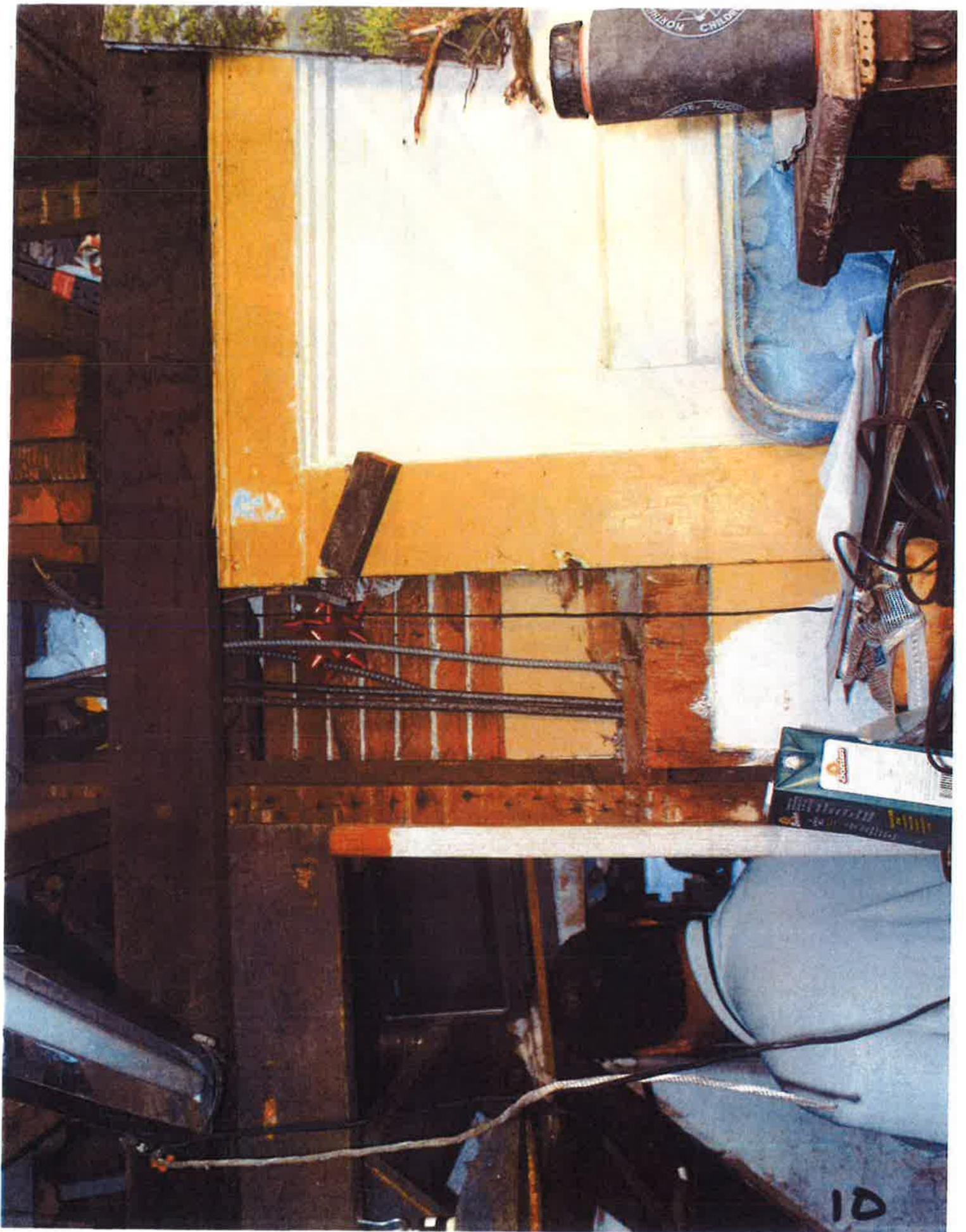


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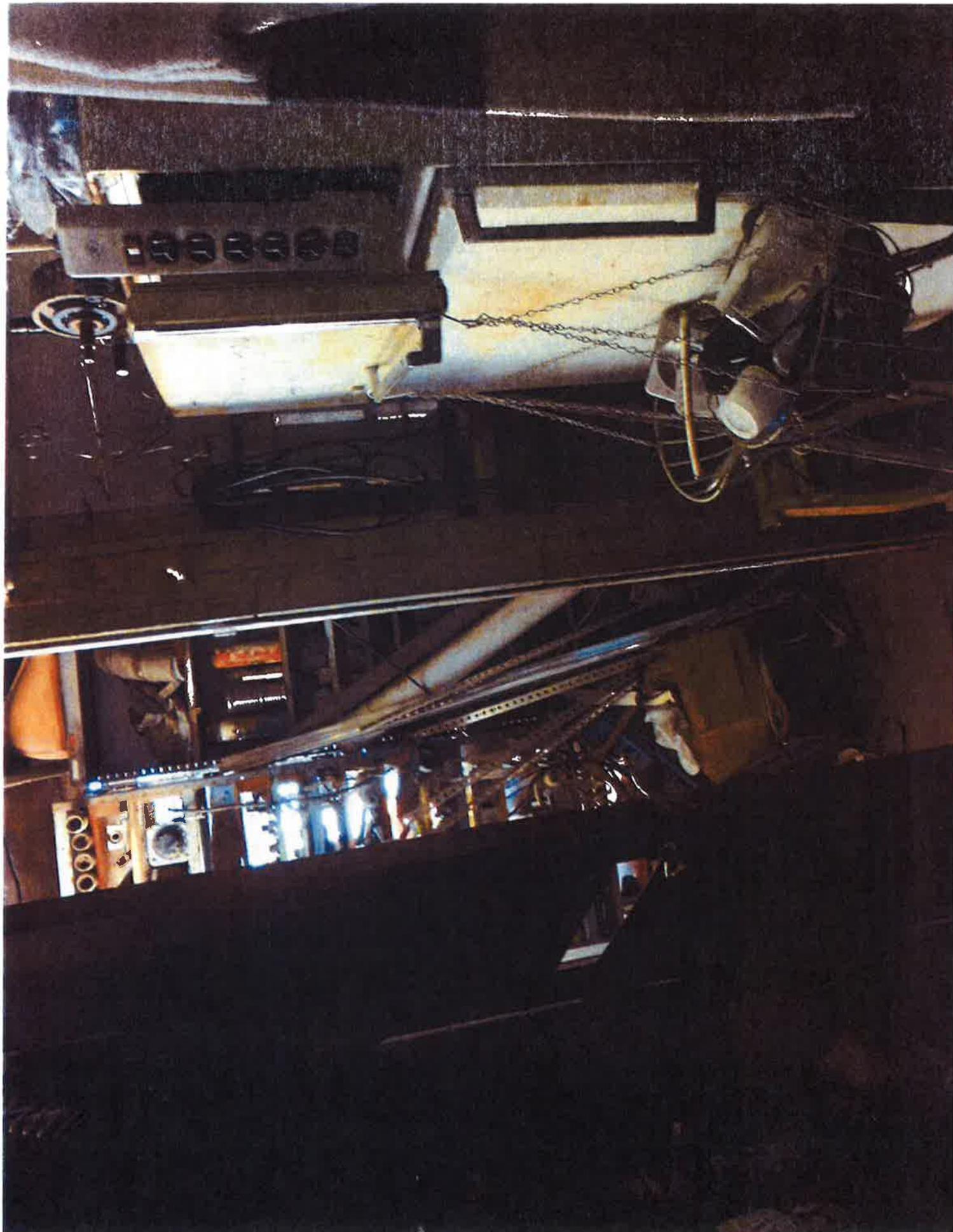


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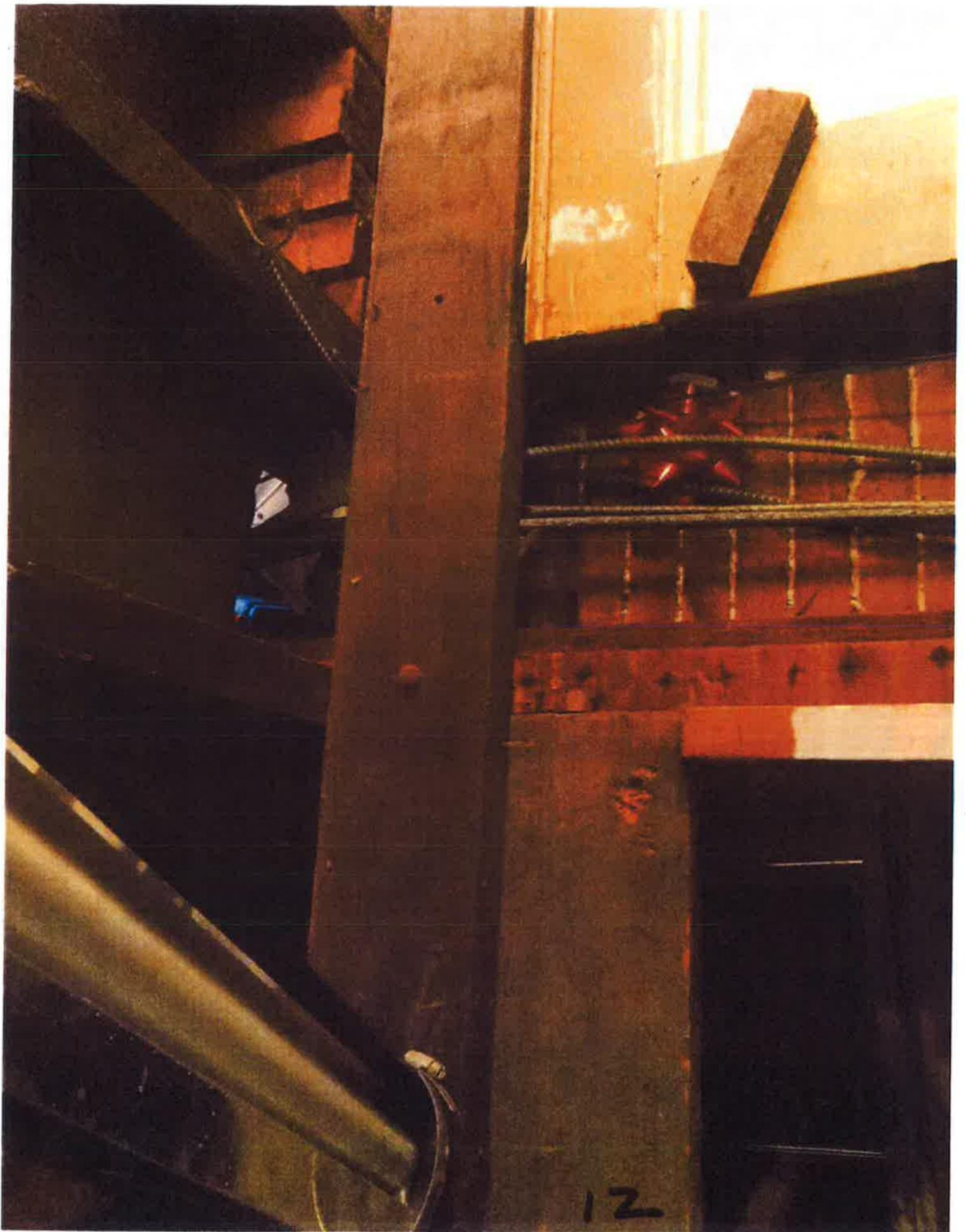


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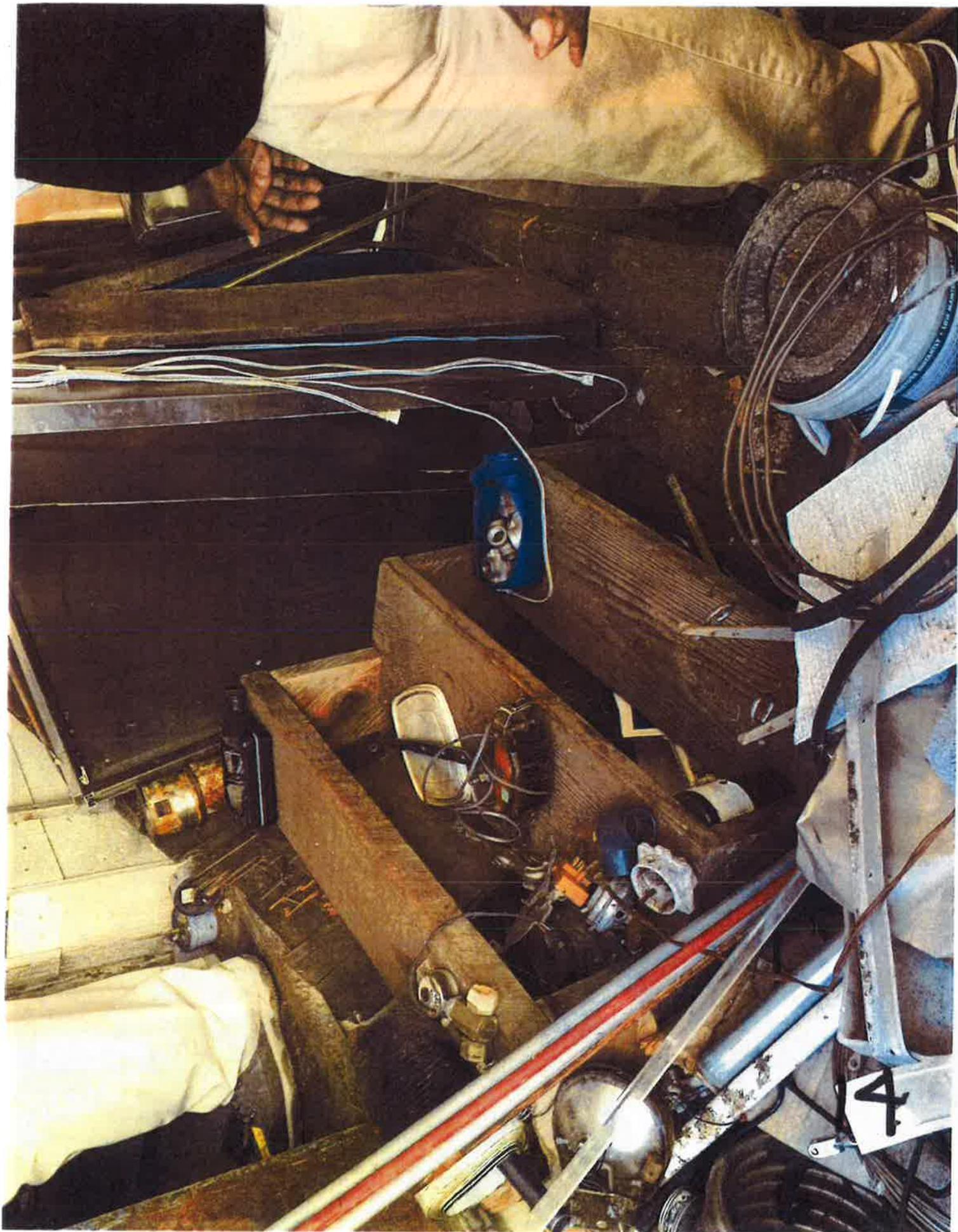


EXHIBIT J-14



EXHIBIT J-15



EXHIBIT J-16

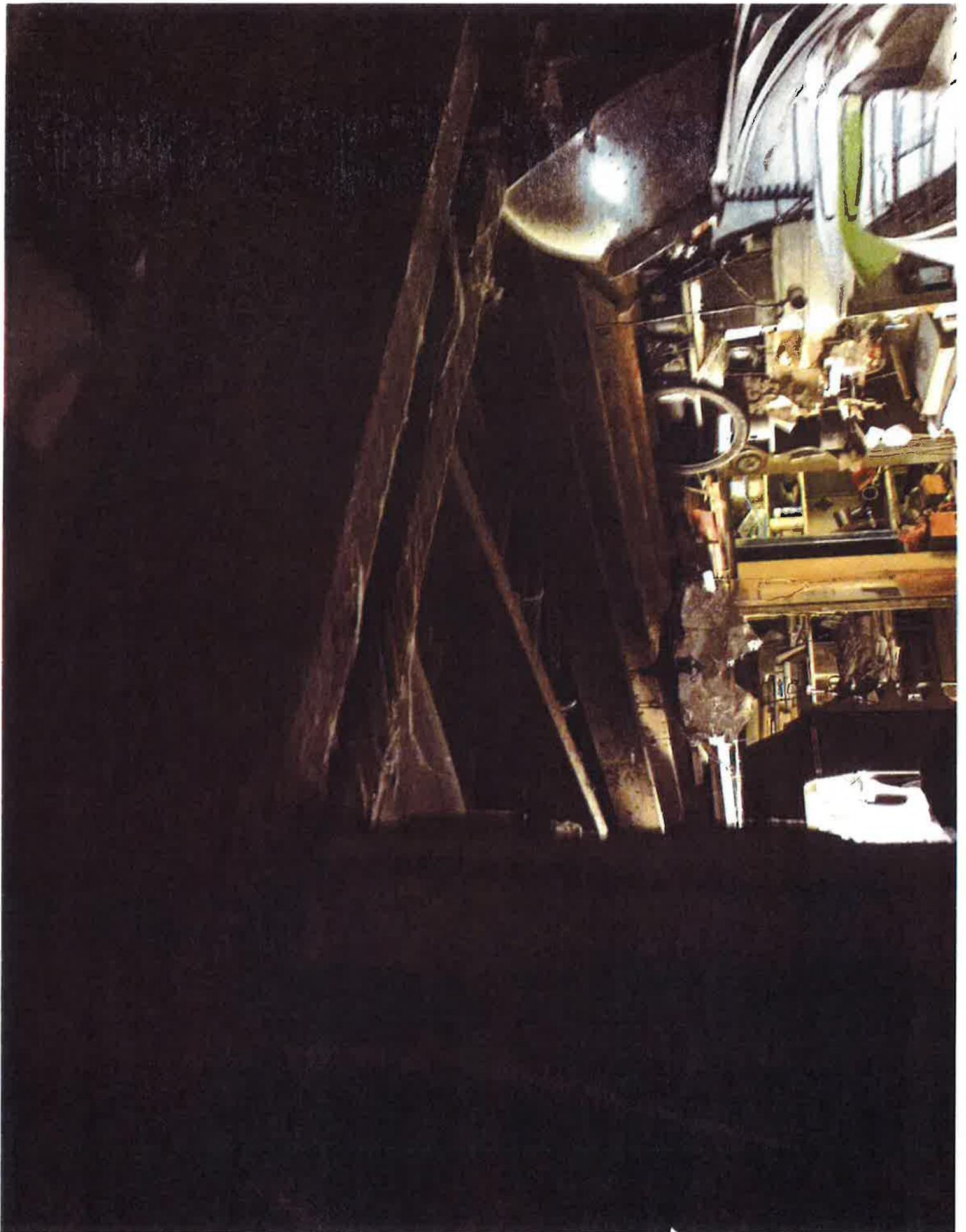


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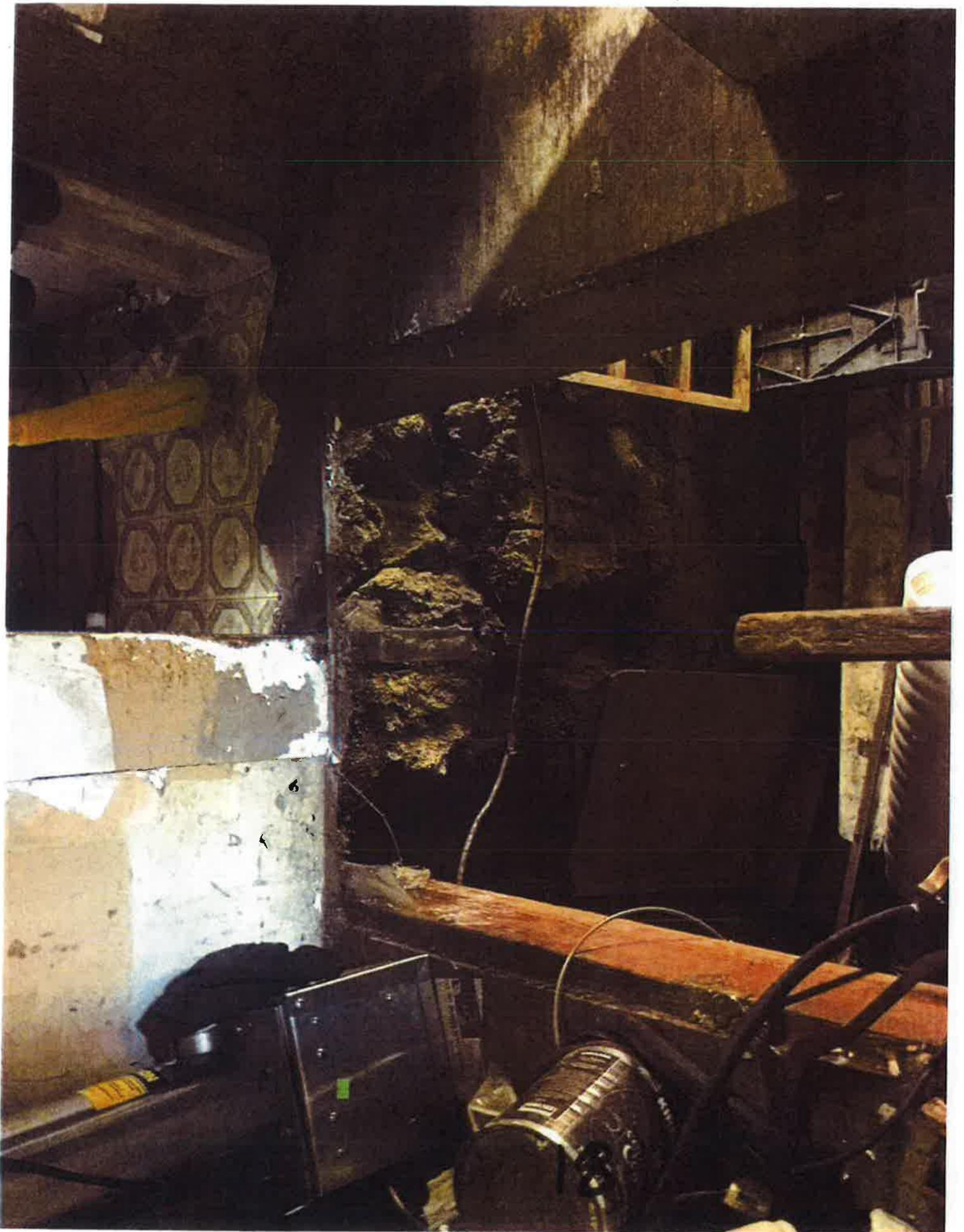


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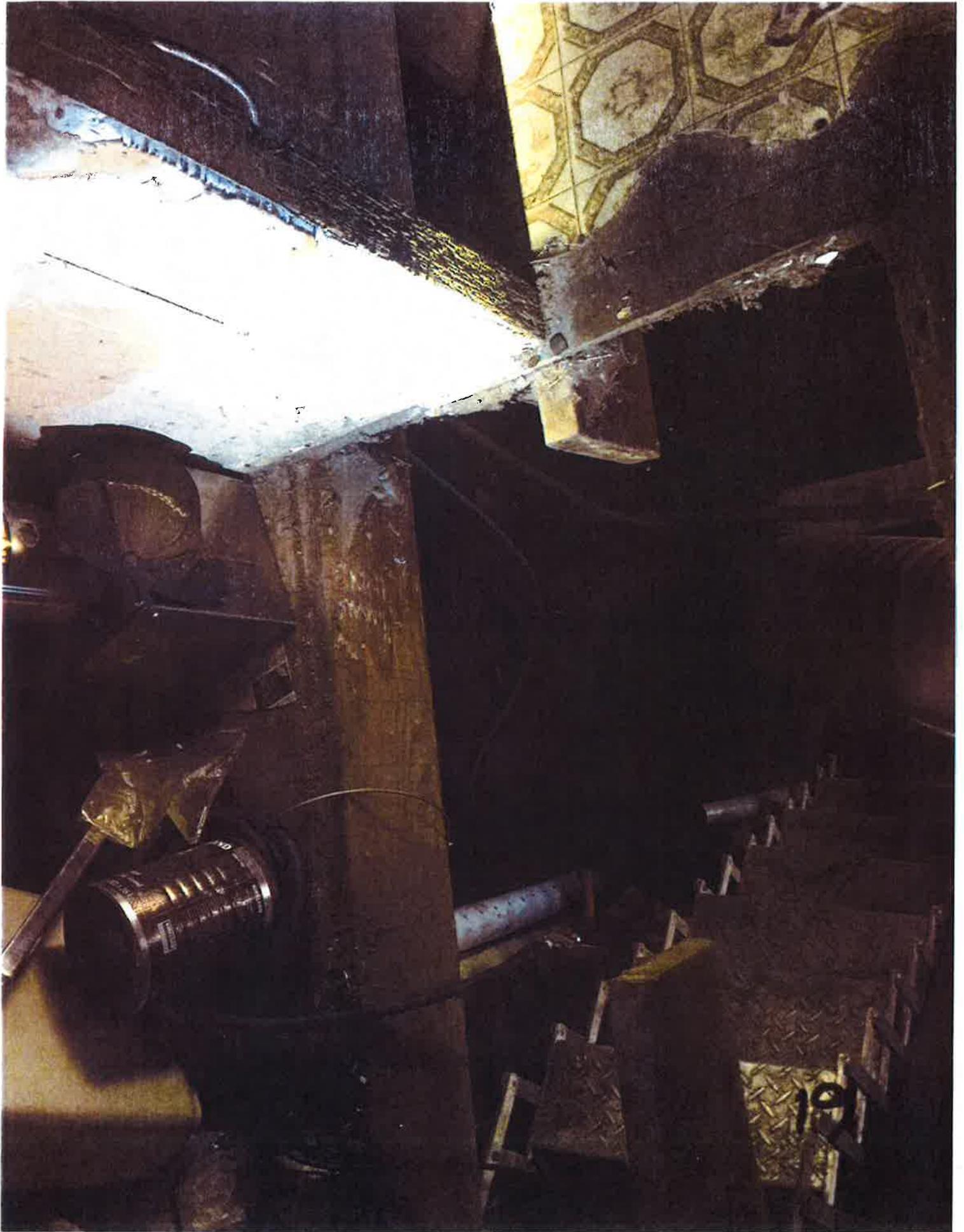


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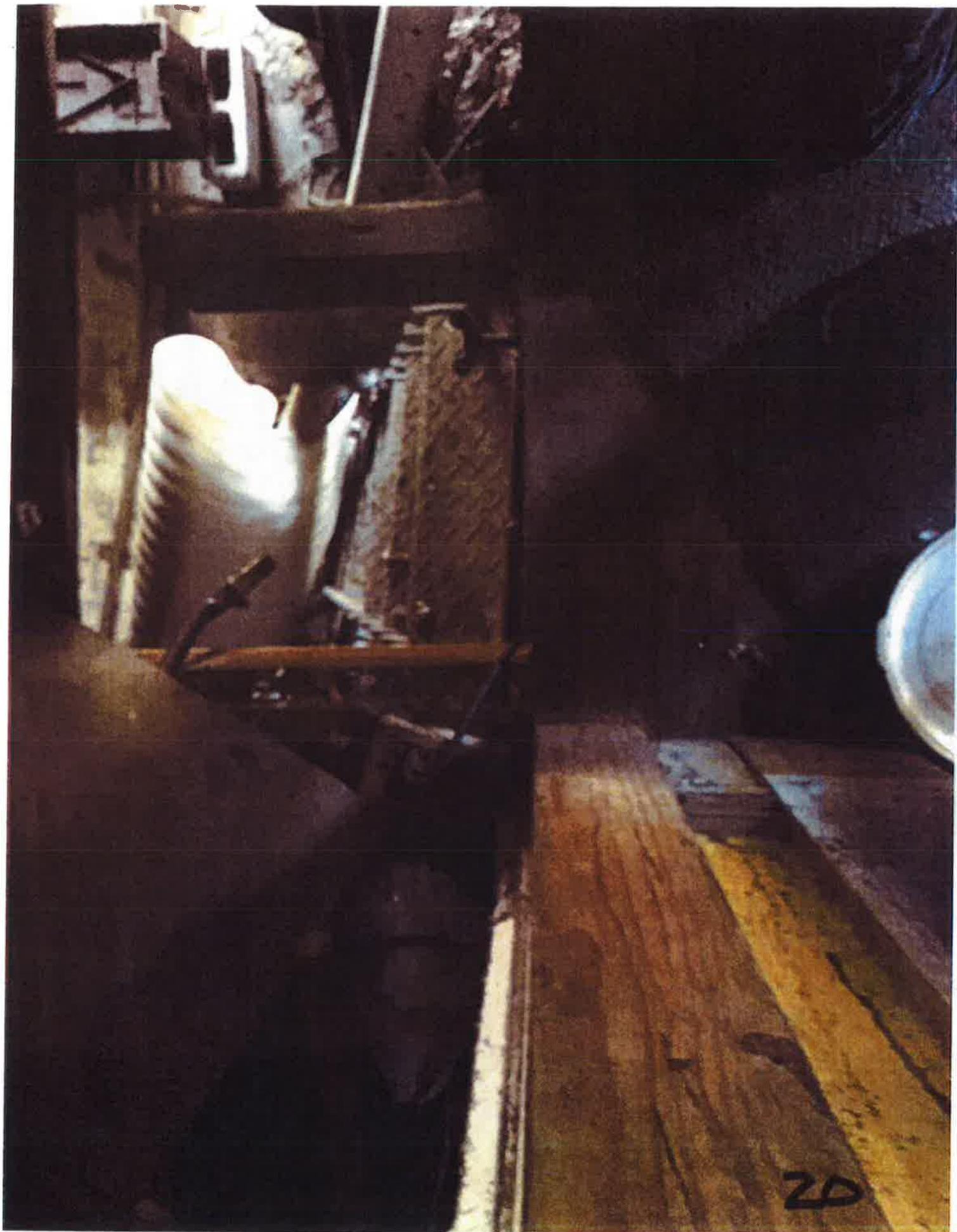


EXHIBIT J-20



EXHIBIT J-21

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Sent: Tuesday, September 08, 2015 3:35 PM
To: Bill Gibson; Victor Gonzales
Subject: RE: 1264 Ocean Avenue

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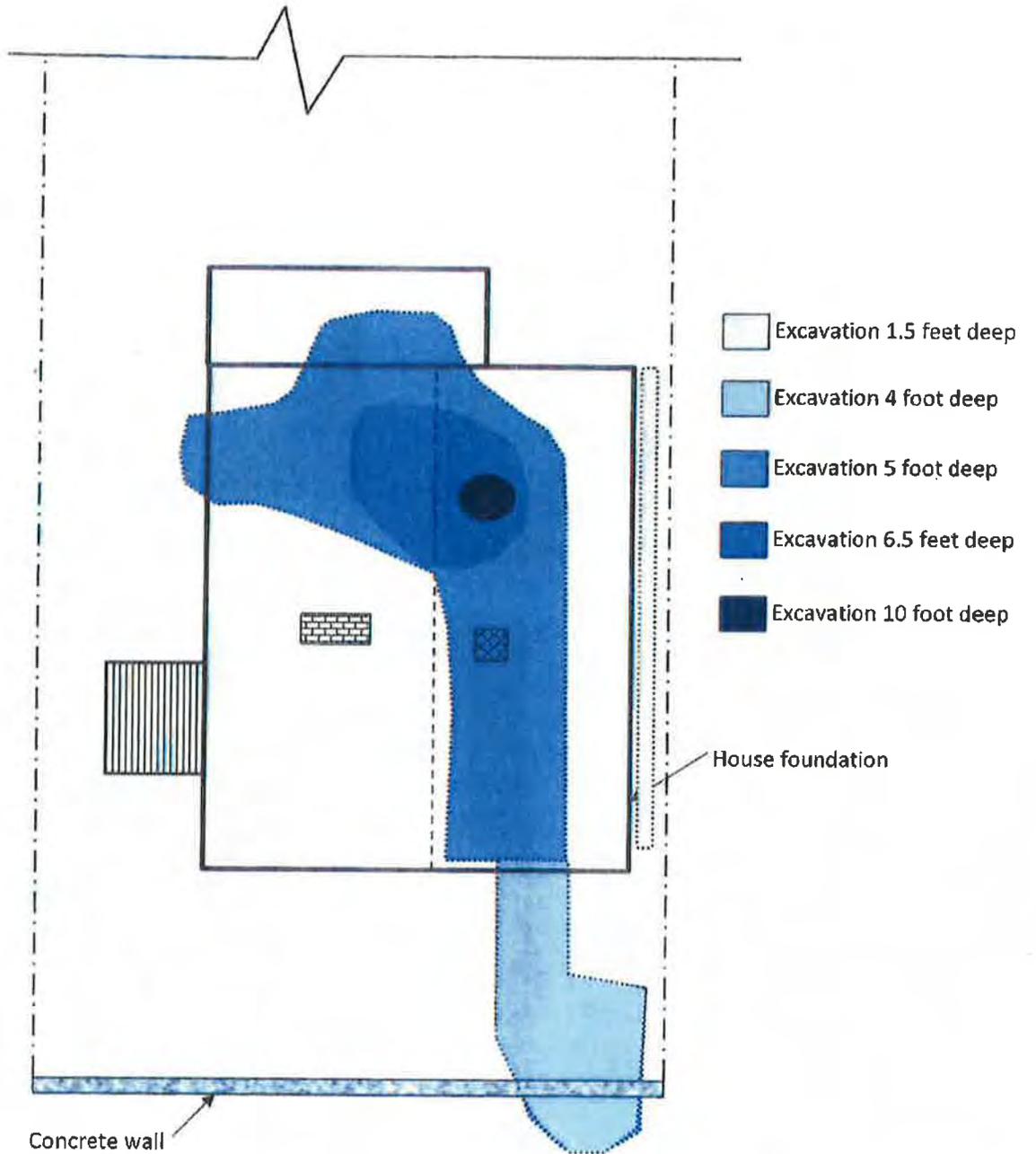
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1264 Ocean Avenue
 Emeryville, CA
 Scale 1" = 10'

23



8 Sep 2015 9:49 AM

From: 9-8-15 9:49 AM INSP EXHIBIT J-24



8 Sep 2015 10:12 AM

EXHIBIT J-25

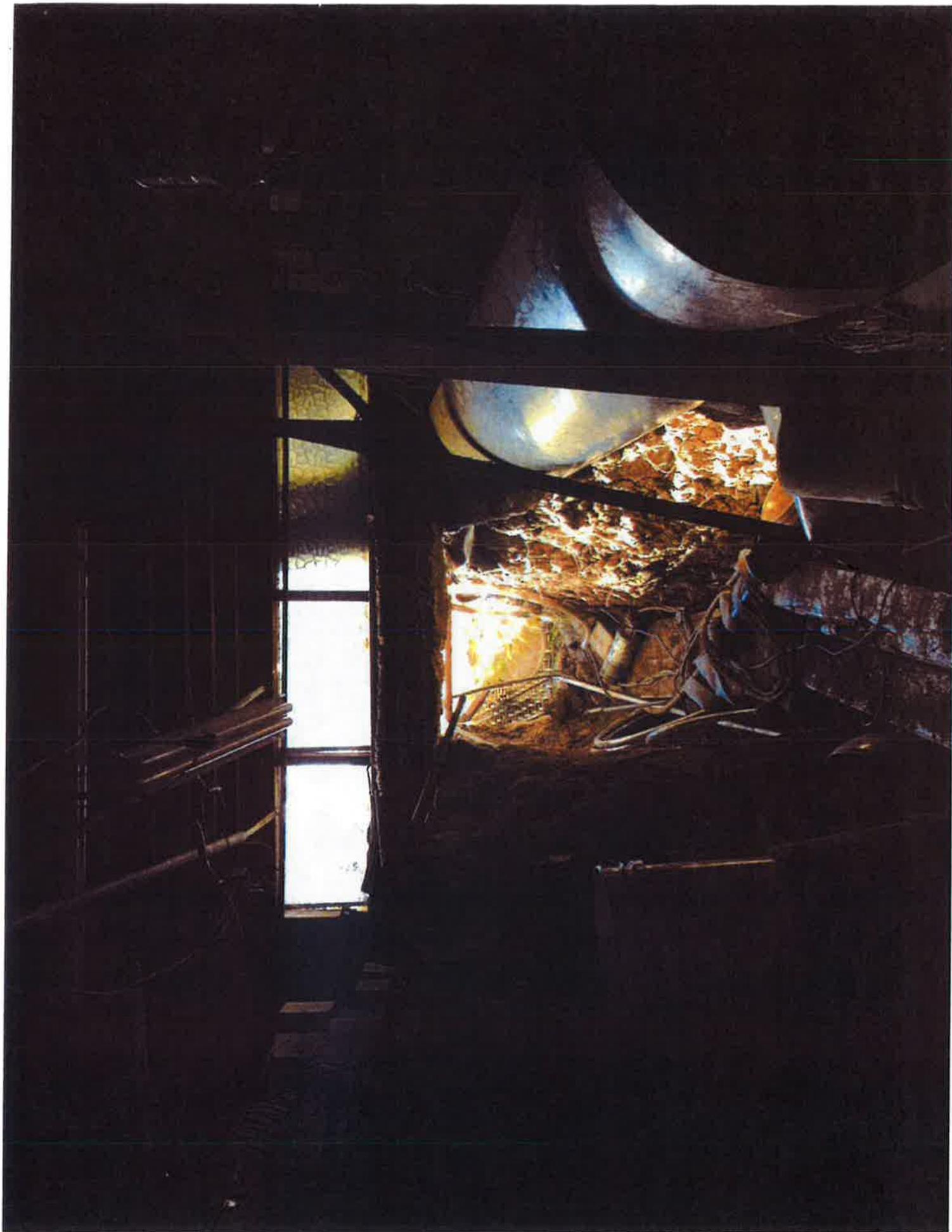
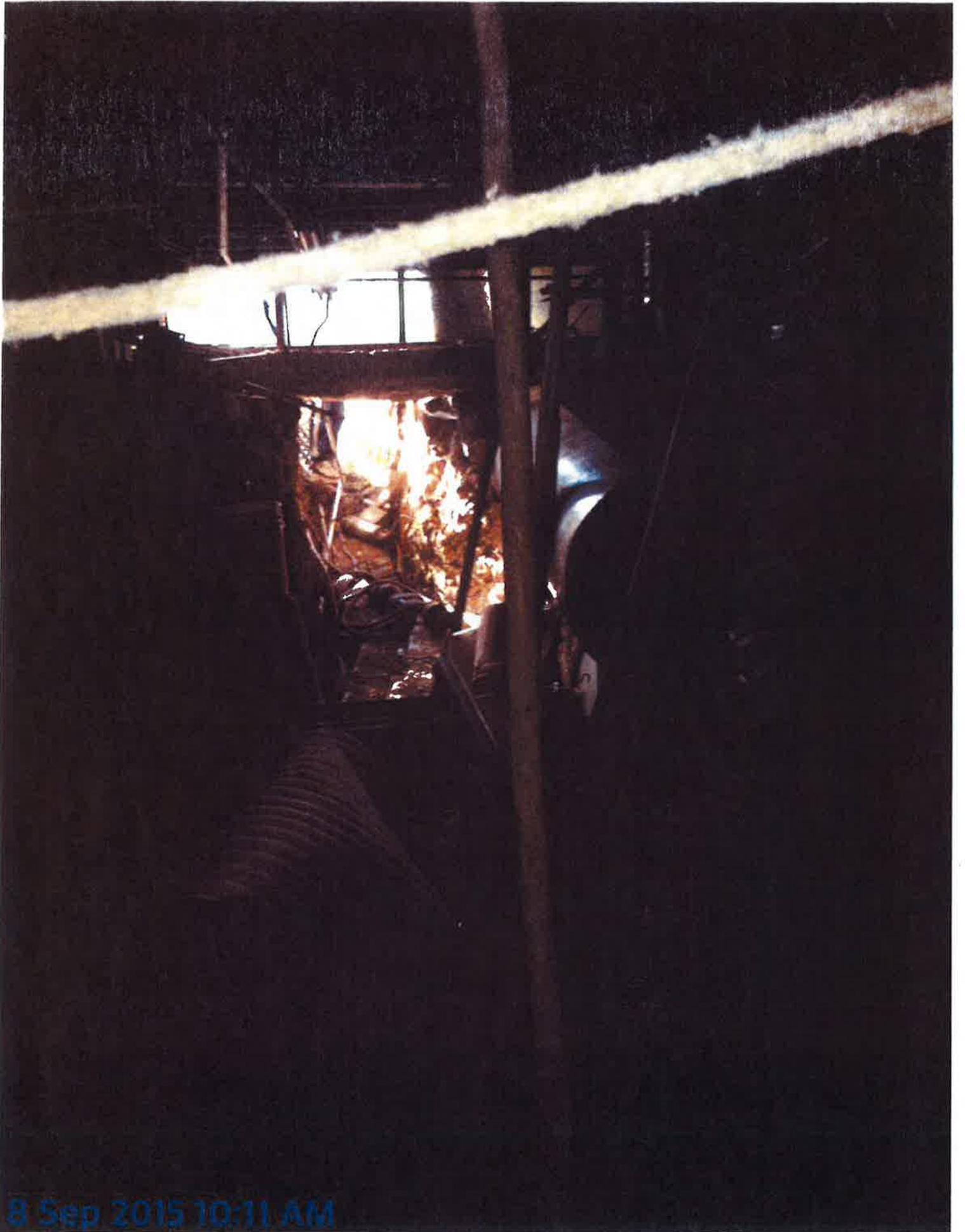
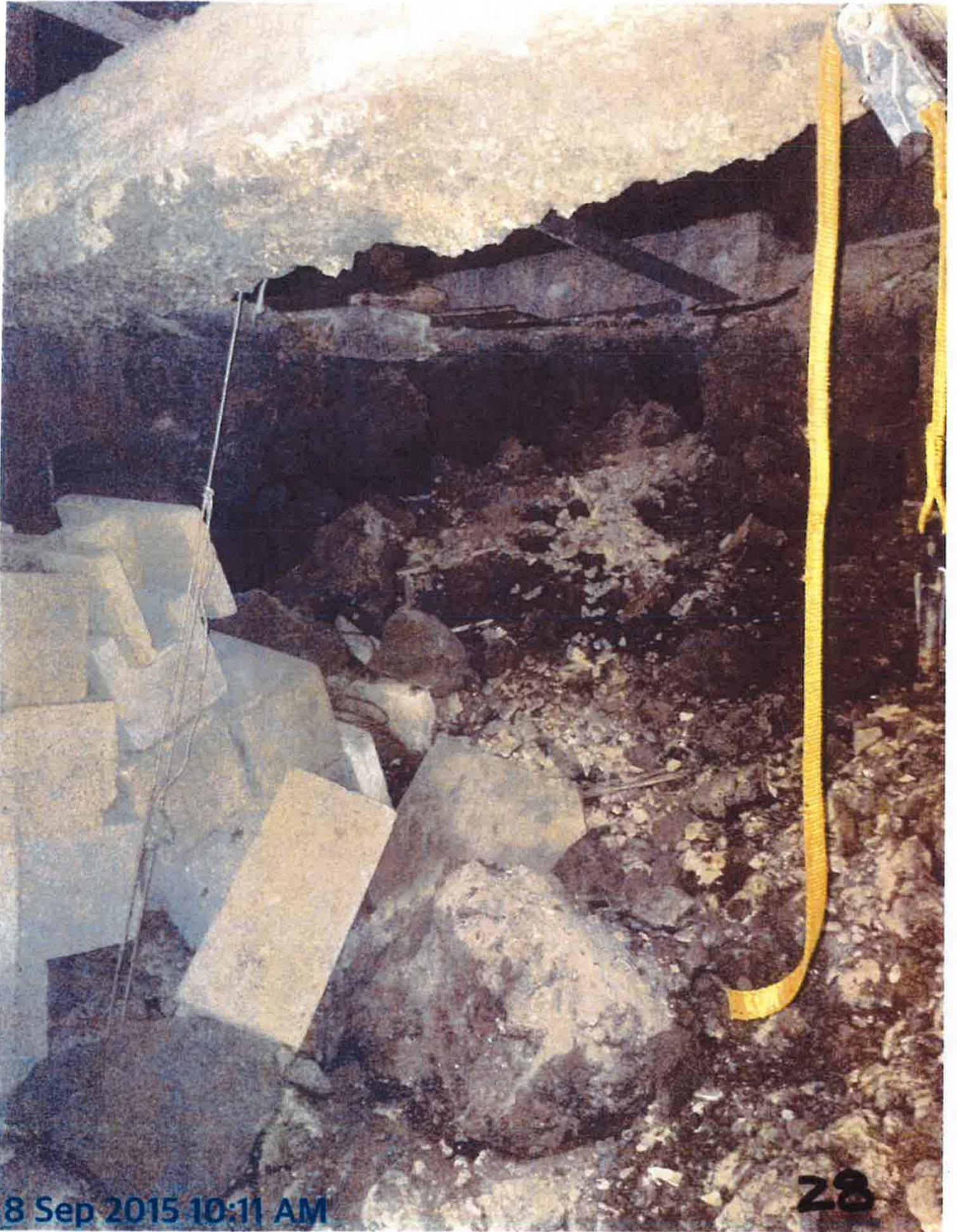


EXHIBIT J-26



8 Sep 2015 10:11 AM



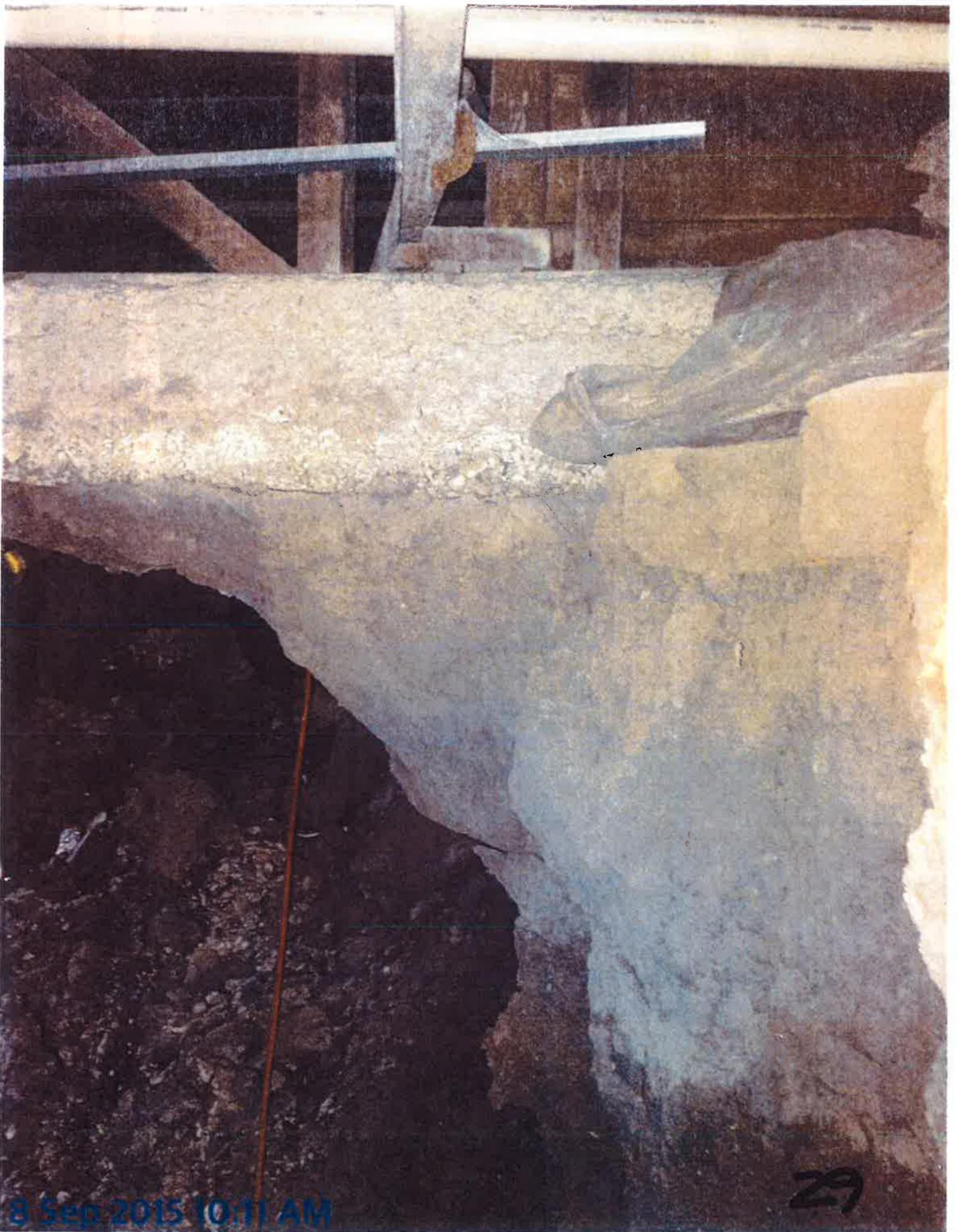
8 Sep 2015 10:11 AM

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8 Sep 2015 10:11 AM

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8 Sep 2015 10:11 AM

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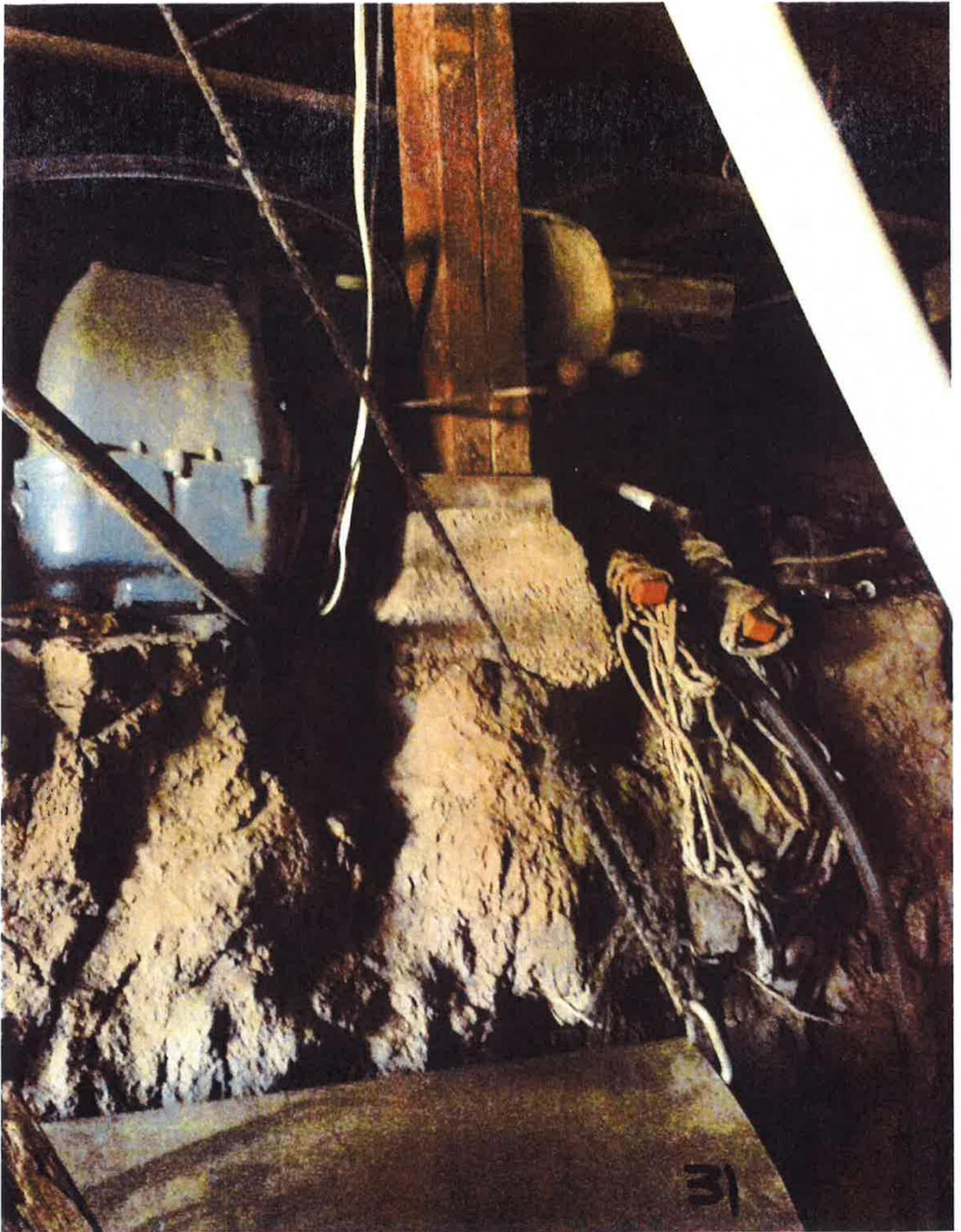


EXHIBIT J-31

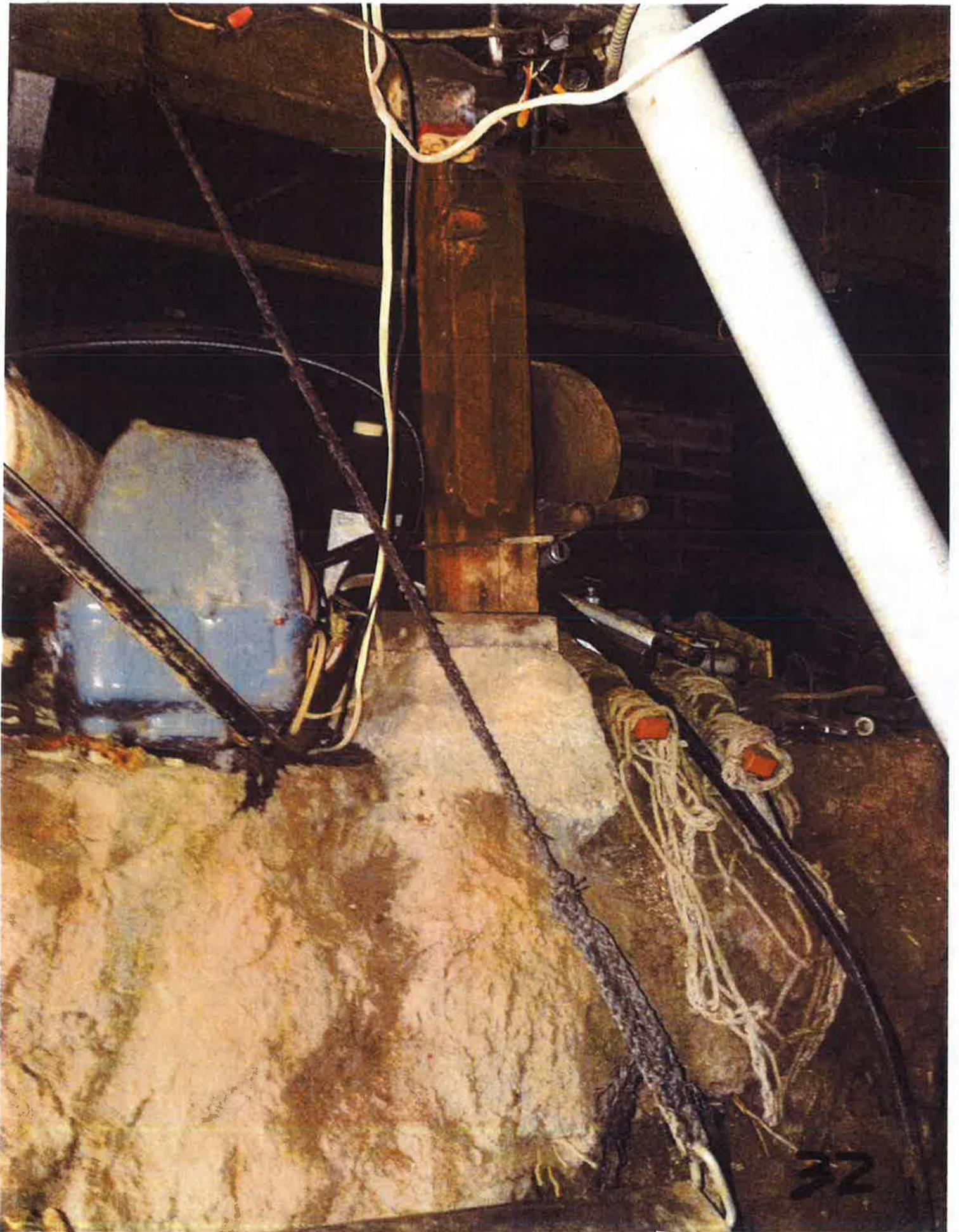


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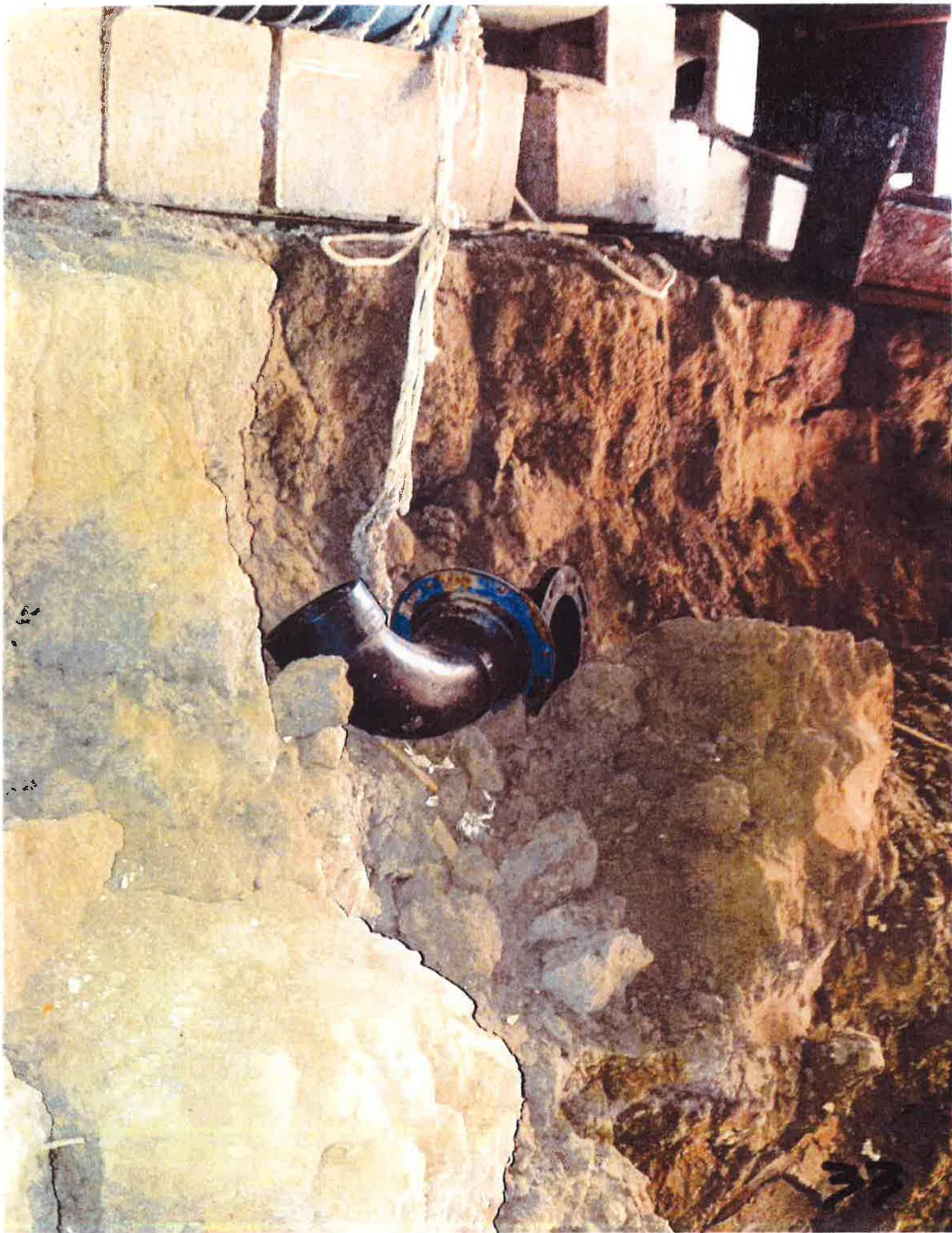


EXHIBIT J-33



EXHIBIT J-34

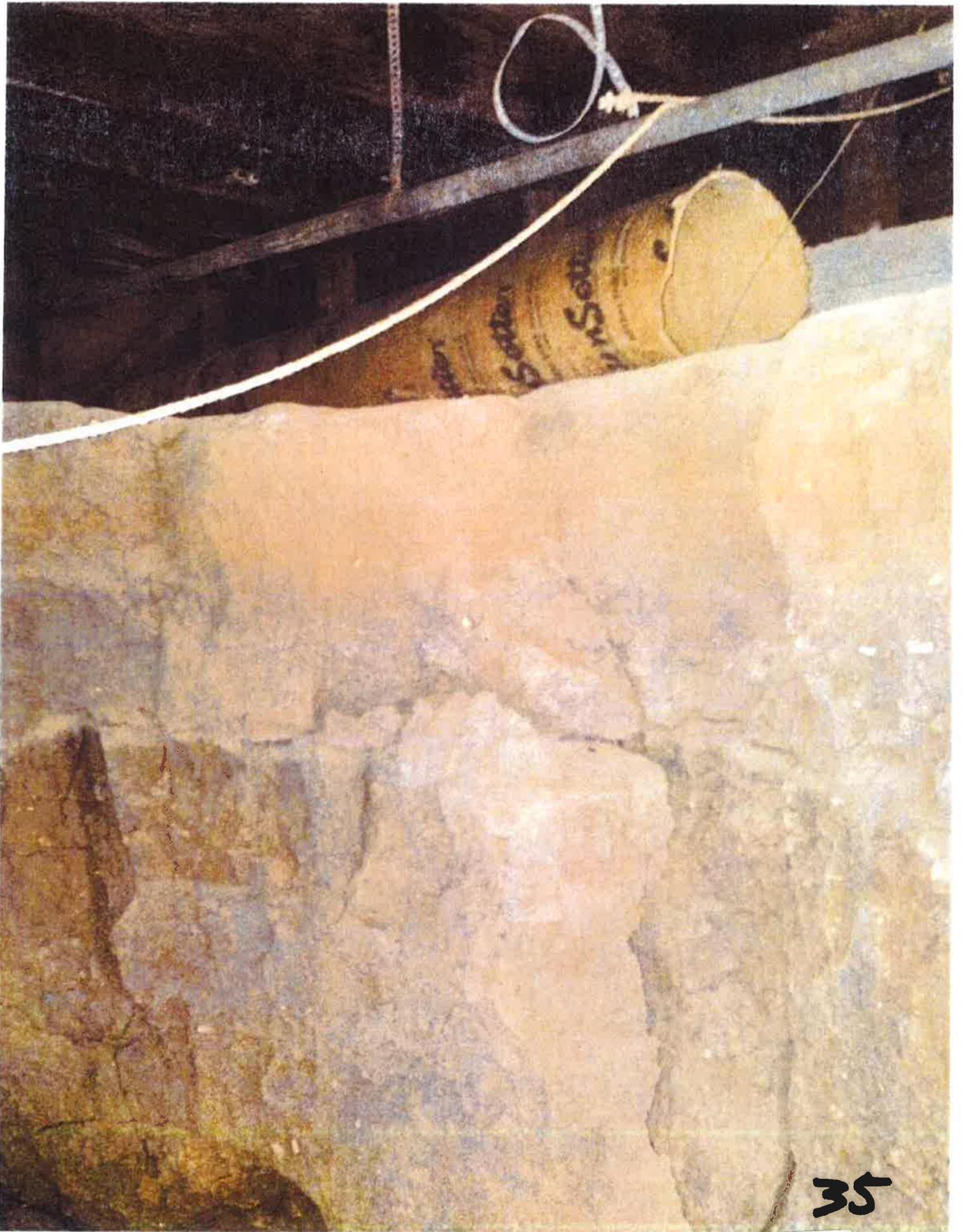


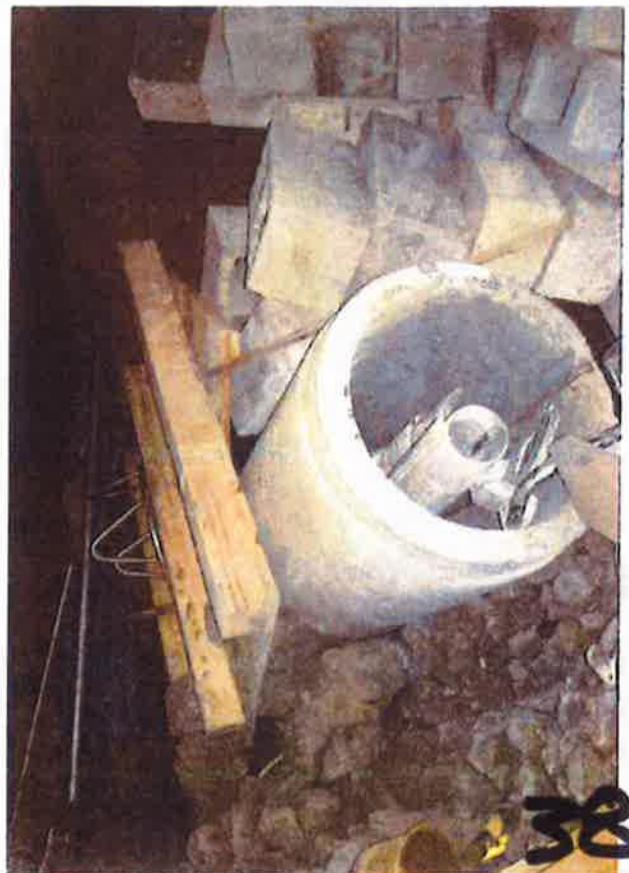
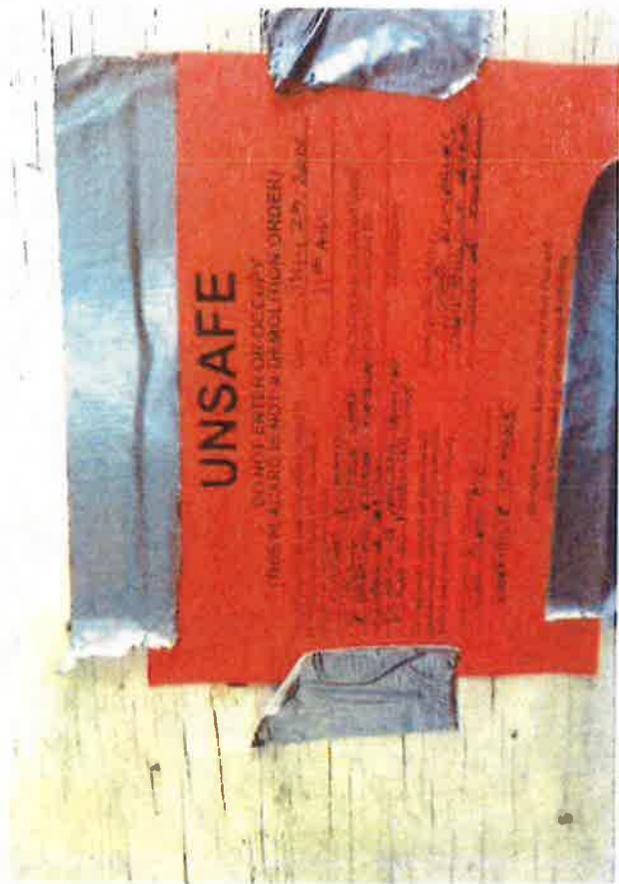
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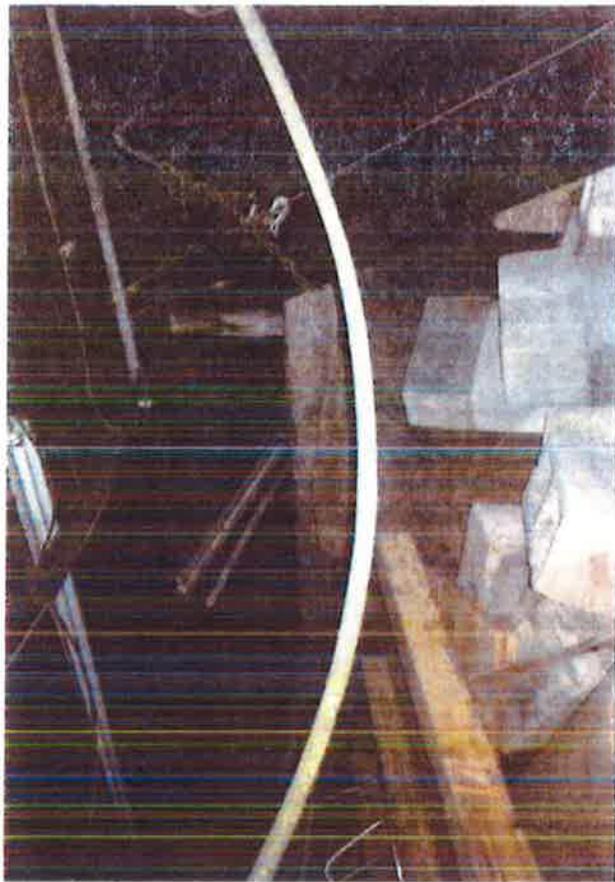
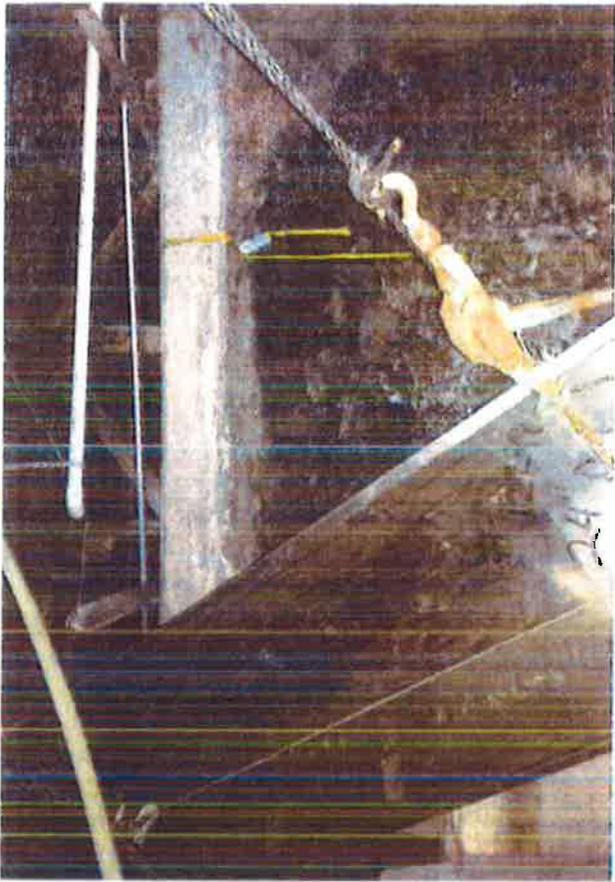


EXHIBIT J-36



37





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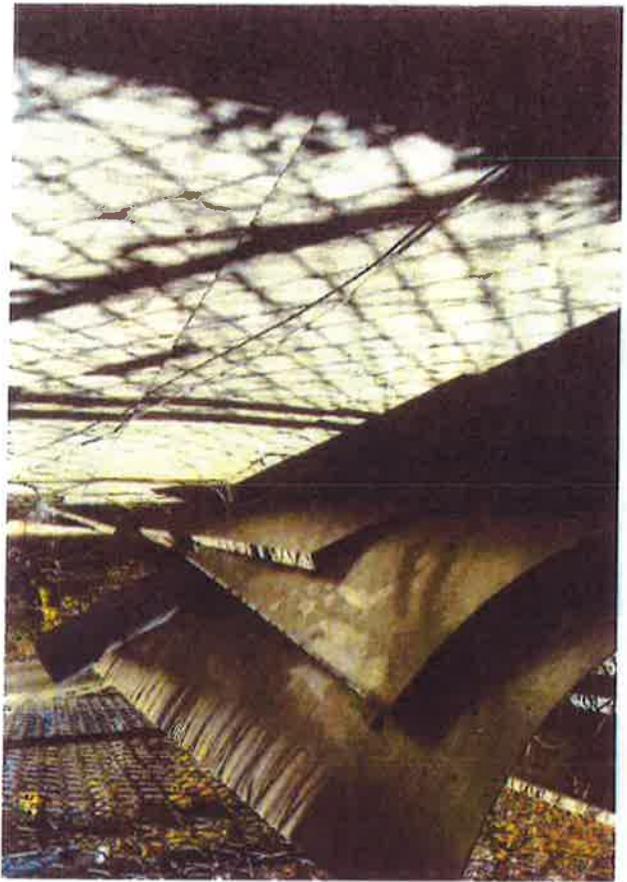
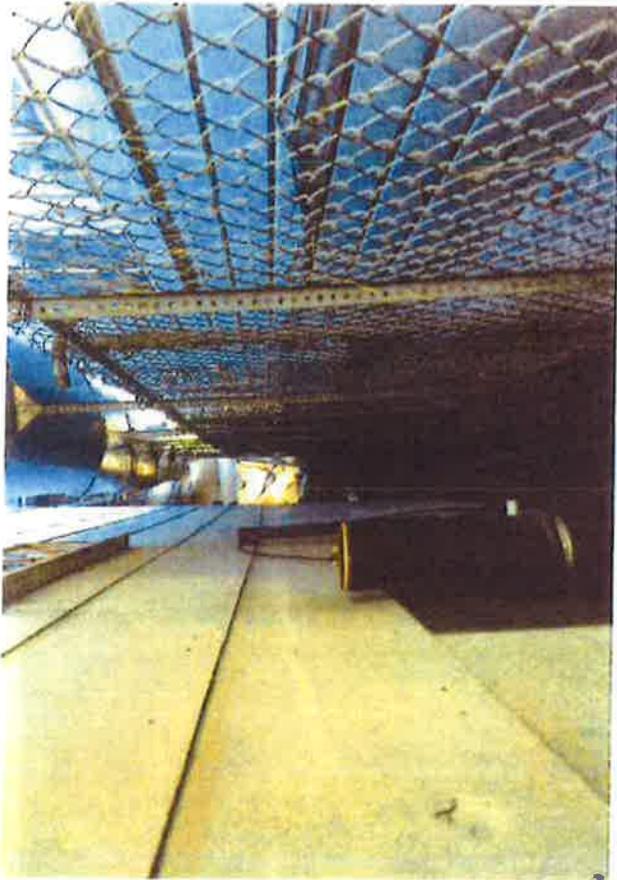
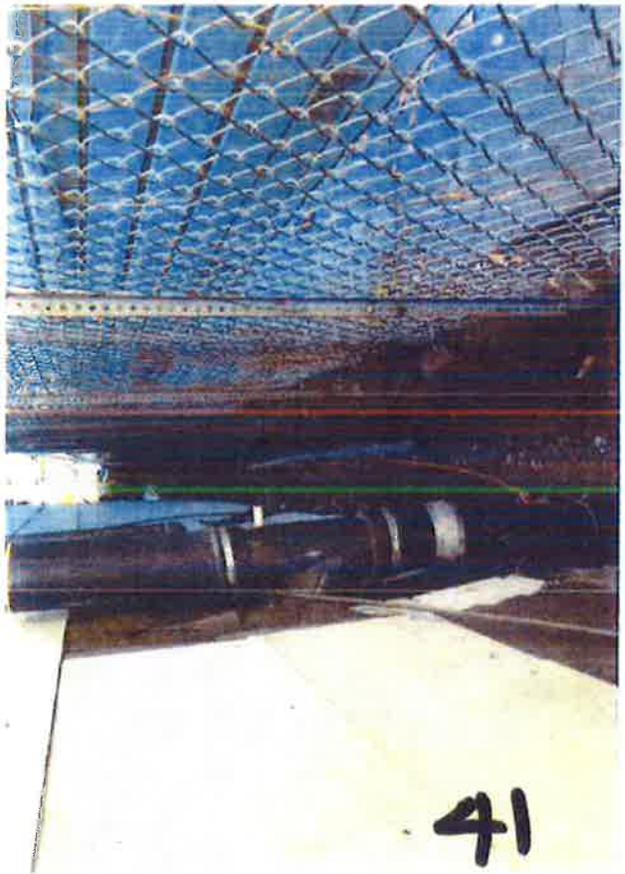
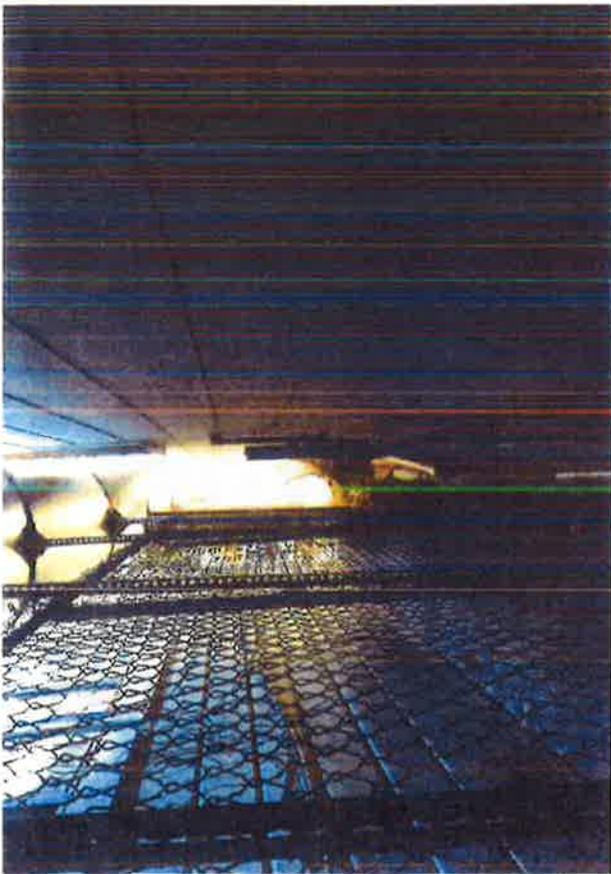
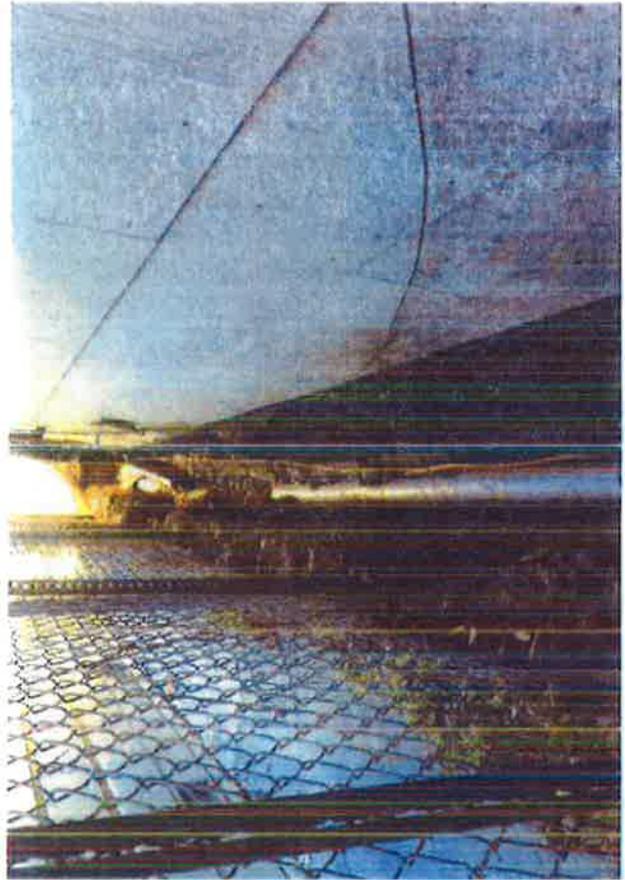
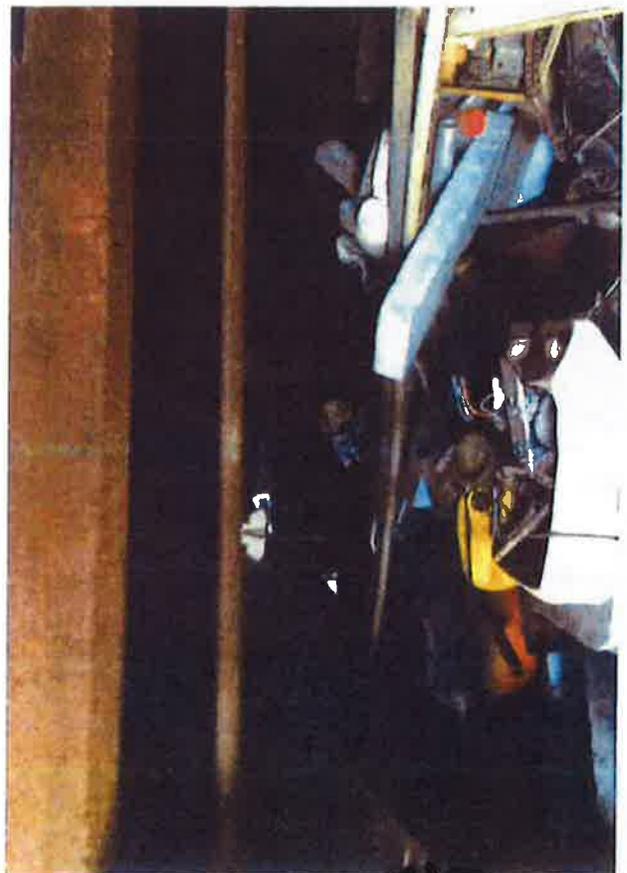


EXHIBIT J-40





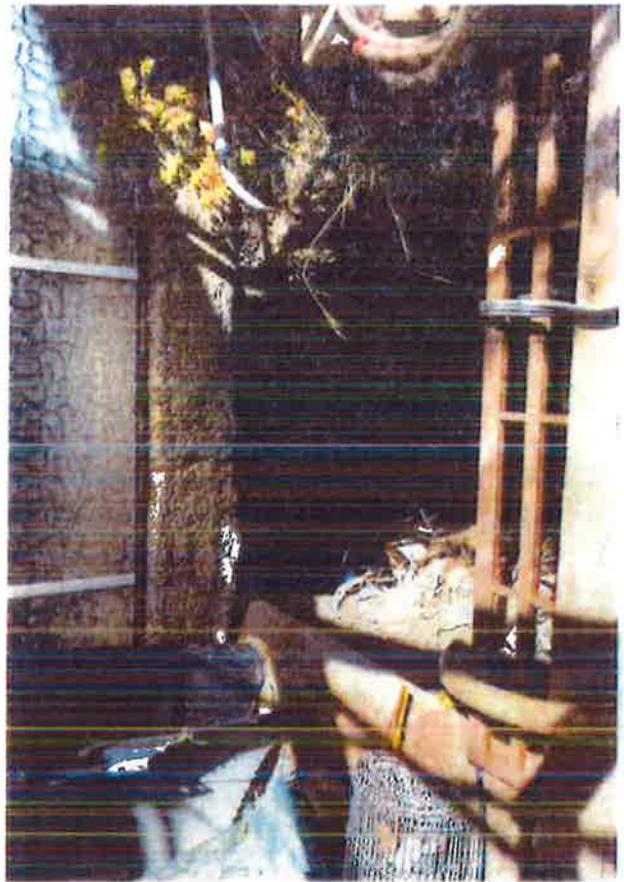
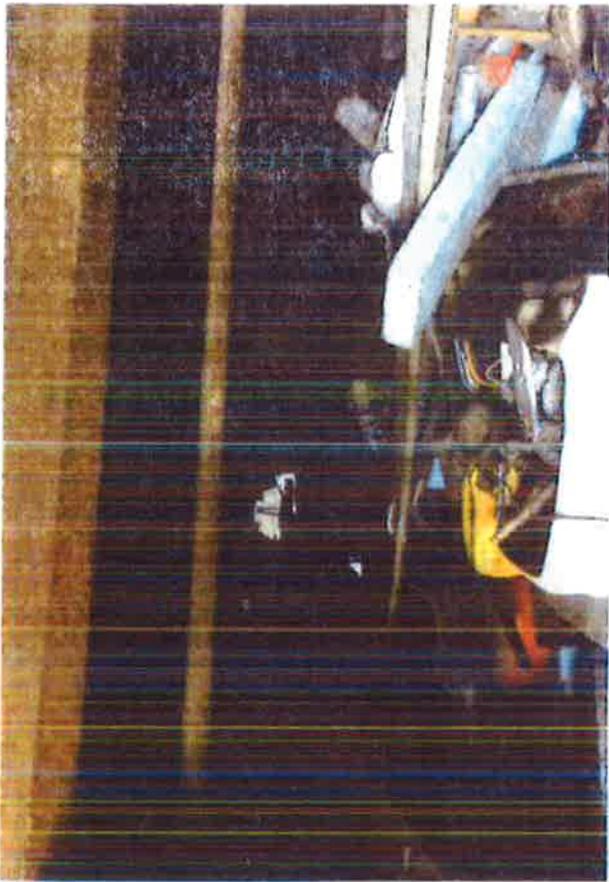
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EXHIBIT J-42



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EXHIBIT J-44



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EXHIBIT J-43



CITY OF EMERYVILLE

INCORPORATED 1886

OFFICE OF THE CITY ATTORNEY
1333 PARK AVENUE
EMERYVILLE, CALIFORNIA 94608-3517

TEL: (510) 596-4370 FAX: (510) 596-3724

August 28, 2015

Mr. Andre Carpiaux
1264 Ocean Avenue
Emeryville, California 94608

RE: Your undated letter received on August 17, 2015

Dear Mr. Carpiaux:

We are in receipt of the above-mentioned letter appealing the City's finding of code violations on your property located at 1264 Ocean Avenue, Emeryville, as provided in the Notice and Order served by the City on July 30, 2015. After reviewing your letter, the City has determined that you do not have a right to appeal on the following bases:

- Your letter does not state a specific action that allows for an appeal. A "finding of code violations" is not a final decision providing for a right to appeal.
- Your letter does not state any legal authority or basis for a right of appeal.
- Your letter does not state a legal or factual basis for your appeal.

The City of Emeryville has adopted the Uniform Code for Abatement of Dangerous Buildings (1997) (the "Code"), as the Abatement of Dangerous Buildings Code of the City (Emeryville Municipal Code Section 8-6.01).

On July 30, 2015, the City served, a Notice and Order regarding property maintenance at 1264 Ocean Avenue Emeryville, CA 94608; APN- 049-1469-008. Service was done by certified mailing and posting on the property. The Notice and Orders states, in part, "In accordance to Section 404 [of the Code], please be advised that you have the right to appeal the determination of the code violations by filing a written application for appeal with the Chief Building Official within ten (10) calendar days of the service of this Notice of Violation. The application shall specify the violation(s) contested and shall state the basis for the appeal. Failure to file a timely notice of appeal shall constitute a waiver of any administrative appeal."

The last day for you to file an appeal of the Notice and Order was August 10, 2015. Your appeal was received on August 17, 2015, and therefore you have failed to file a timely appeal of the Notice and Order. You further have failed to specify the violations contested and have failed to state the basis for the appeal. Pursuant to Section 502 of the Code, "[f]ailure to file an appeal in accordance with the provisions of [the Code] shall constitute a waiver of the right to an



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INCORPORATED 1896

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EXHIBIT K

administrative hearing ad adjudication of the notice and order or any portion thereof.”
Therefore, the City rejects your appeal letter and will not schedule an appeal hearing.

Sincerely,

A handwritten signature in cursive script, appearing to read "Lance Bayer".

Lance Bayer
Special Counsel

APPELLANT'S EXHIBITS

Andre' Carpiaux
1264 ocean Av.
Emeryville, Ca.
94608 - 1148
Cxengineers@yahoo.com
Ref; Ex parte

Oakland Superior Court Judge Bonni MacLaren
1200 Fallon street
Oakland Ca. 94612

RECEIVED

FEB 12 2016

CITY OF EMERYVILLE
BUILDING DIVISION

T O W H O M I T M A Y C O N C E R N

Dear Madame Judge Bonni MacLaren ;

This is the background history of my complaint to be filed any time soon. I have office problem which prevent me to do the complaint concurrently

My name is Andre' Carpiaux the undersigned residing at the above address.

I appeared at the hearing in your department 26 on matter related to my house sitting on my property located at the above address. Since I am hard of hearing I need an hearing assisting system device to comply and be consistent with the provision of the A.D.A., absent of it I was not able to participate

I am not sure if your policy demands a 72 hrs notice in order to have the system in working order, to be comfortable I would like to come before the date and see if your available system works adequately in my instance, I have had problem in the pass with toy like equipment that did not respond to my needs, this is WHY I declined the offer of your Court Clerk to provide me with what you have in stock.

The gentleman in my company Mr Mark Desmond does a good job in translating what's going on and by his answer to your comment I was able to guest in some fashion the conversation, but its only afterward that he tells me you stand by the Ex parte, basically defending the belief of one side of crime allegation, the accuser, the aggressor, the robber, the murderer or whatever the case may be at bar ultimately " To Do Harm " in using the services of the legal system

Its no wonder that I was raided twice with Warrant - Orders to invade without my consent my house as the felony crime of " RAPE " .I never imagined I would be victim of one of those than as second one too as opposed to the mentality of the " Peace Corp " mission or the " Medecin sans Frontier " offering their good will, their good deed, the ideal of all efforts at their best ! It was the evil reaction of the letter addressed hand delivered to council member Nora Davis and Ruth Atkin where by I pleaded financial assistance to finish my stainless steel roof and reiterated the need of a specially made scaffolding because of the unique roofing engineering project of stainless steel roof.

One copy each to City Attorney Micheal Biddle and City Manager Sabrina Landreth while the letter was also read by all other councilmembers

According to the " media " its always one of those unarmed who are outgunned fall prey of the invaders and the police face chances to shoot at real live elderly target. This is the reality of the city knowing well they are doing " wrong " to barge in private homelike every body resist by an armed gang

So this is a fearful happening. I just want to be sure I am talking to a live dealer of justice you as a Judge Bonni MacLaren

This is the only way to submit people who resist violation of privacy, interference with peaceful life of individual who happen to voice critics at the City of Emeryville's government abusive power of a remorseless city council having done everything possible with immunity with no sign to redress its conducts as self righteousness and intolerable critics.

If its a common understanding, its no wonder that Judge Angela Northridge signed them both admittedly knowingly that the police support came in with drawn guns, setting the whole neighborhood on alert of imminent shoot out as seen on T,V. in those dramatic action movies Hollywood culture.

Did Judge Angela Northridger aware that killing could take place to fish for code violations ?

Did Judge Angela Northridger was made aware that those things happen while searching for the " miserable " wrongdoing of the workingman ?

Did Judge Angela Northridger questioned whether or not there was a precedent in that case and or conveniently by-passed any cautionary questioning ?

Did Judge Angela Northridger warned that potential submission of false and or misleading evidence was staged to generate probable cause for the raid O.K. an " Ex parte " to give confidence that the city was doing everything legal under the color of the law ? the hymn of America the beautiful

Did Judge Angela Northridger got a hint or not that the Warrant Order's ultimate purpose was " To Do Harm " that in the agenda of those Warrant Order was to dislodge the owner of the property by cutting the electrical power without any consideration that there may be someone on life support ?

Richmond fire chief told me (us U,C,B. students) included that extension cord in series with a circuit breaker approved A.U. L is accepted as legal for fire protection in which home having gadget , computer and the like are universally popular against hazard.

Electrical outlet having circuit breakers to power medical accessory such as heart pace-maker, neurological probes into brain plasma controlling the shaking from Parkinson disease, the osmosis system of kidney dialysis, thermostatic controlled electric pads comforting those sufferer of rheumatism, how about the upkeep of baby dietary regime or others bound to be immobilized in clinical bed that need electrical power to activate position mechanism to

enhance evacuation of body fluid and digested material ! Did she realizes that none of those sufferers could not return to their habitat ?

Did Judge Angela Northridger was made aware the property is suffering from water damages on account of " flooding " water running down from Oakland territory ? and that water pumps are in constant uses to prevent the water level from undermining the foundations ? Did she realizes about groceries spoil in the refrigerator ?. Is Angela a fir person to sign off warrant order? Who nominated her ? this instance of judicial coronation of power is a moral turpitude casted upon Judgeship integrity ! Derogatory comments standing !

Did she cares ? What's her problems ? Did Angela Northridger tuned on her arithmetic to add up 5150 ? Do the judiciary protect them self by tolerating NO questions as absolute God like judgment knows all, therewith canceling the streaming of appeal process ?

P. G.& E. does NOT do that unless first inquiring into the health condition of its occupants !

There are cases Laws about this ! Is it not willful negligence ? Is it not imprudence ensnarling the Judiciary ?

City bldg inspector Charles Greer had P.G.&E cut the power lines at the pole as a Guillotine do to maximizing the " To Do Harm " and received in city council ceremony the " Plaque " symbolizing the perfect obedient loyal devotee employee of the bldg depart. as the hatchet man to a standing ovation thrilling the two Council members Nora Davis and Ruth Atkin at their worse fully aware I was without power and its full consequences of my three guest homeless

Your Court is adamant about the due process and questioned whether or not the city had been served in which they had been but would ignore for not appearing at your hearing, because only them could benefit from an Ex parte as a one way justice and expect the Court to endorse their legal strategy to get an edge by tricking the opposition. Do I exaggerate the scenario ?

This is true I resisted voluntary inspection of my house by people motivated with an agenda fishing for code violation from the " International " building code.

This " International " applied locally to private residence is new to me. Is it made as an inside job interstates U.S.A. exclusively for English speaking nations ? A building code that proscribe to use of arm forces in sneaky raids to take pictures, video to show the world that an 82 old man is living in a condition of low fixed income that is NO one's business unless being outright " miserable " to be proud off.

But " IF " this International stuff is NOT a bluff but genuine that those International Nations signatory of the code agreed to the present judicial trauma, it must have provisions in their by-laws that would call for a review to modify to improve to sanitize the present conduct by the city's nominated employees to be challenged as a savage act authorized by the local court as a Kangaroo Court applying the " Lynch Law " in a runaway motion that now they are already in warpath battle dress to demolish my house !

Something is wrong with the hate and rage control freak against the workingman

It appears to be a mystery, an act of God building code creative writing that the city did NOT provide me with a copy of those sections to prove that this International really exist instead of being surfaced just for this occasion !

Its just hard to believe that it is NOT fraudulent ! It is also strange for a city to suddenly adhere to an International code when the traditional procedure is based on " home rules "

I really need to be updated with that prestigious materials of building code that permit "rape " of home privacy. NO this is not just a vaginal finger intromission comedian Bill Crosby style !

Four armed policemen footballed their way in, but the neighbor across the street said more than half dozen policemen barged in and coming out with stuff !

Nazi Era did invade certain ethnic folks known of having swindled "ARTS " by machination of desperate cash strapped citizens but ONLY those who had itemized receipt(s) whom had been taken advantage off got their art back supporting the Nazi regime !

I have no idea of what materials was submitted to convince beyond mad Madame 's doubt that the condition of my home required the use of armed force to issue Warrant - Order to search under the promise of an inspection to fish for code violations to " Red Tag " my house as inhabitable, dangerous for human occupancy, imminent collapse to dramatize the claims to shut down my habitat and that of my guest homeless (two women and one man)

" IMMINENT " should be superseded by latent poetaster

It is NO body's business if I take care of the " homeless " One of the women Elaine Teune age 79 my friend of over 30 years is a holocaust survivor, has been wailing ever since all sort of anti-Semitism " slogan " at a time in which our Mayor Ruth Atkin claims to be an ameliorated Jezebel (Work in Progress)

I asked Mr Victor Gonzales to have a copy of the material presented to Judge Angela Northridge to prompt her to issue Warrant - Order (two) which he courteously provided, he did not indicate that he gave her the " International " code materials to back up the city's claim.

May be she is a gawker believer.

What strikes me IF its the true materials presented as irrefutable evidences is that all the worse pictures that have been submitted have been taken AFTER the raid of destruction of my custom made scaffolding, it was a huge mess made during those two days of wrecking that the City never came to clean their own doing.

Except to take pictures of it as a proof that demolition happened ! the scene of a debacle, a stampede over debris just made up for the purpose of documentations of evidences

In other word, you seize a running automobile, (you hate the roof ski rack) claim its an eyesore degrading the neighborhood of " golfers " that was an illegal accessory addition

" a violation " wreck it, busting all things inside out then claim you junk it because (as the pictures show) it was a decrepitated, dilapidated, abandoned broken down metal carcass ?

The Ex parte gives that platinum chance, to cheat with false or misleading evidences that you naively take for granted, right !

This is an old exhumed case, retired Judge Horace Withley presided over so you may search the old file to check the background.

Judge Withley signed an order to dismantle the " contraption " my custom made scaffolding BUT suddenly retired thus freezing the Order because the judgment was NOT final and the order to dismantle became invalid until the judgment became final based on the reasonableness of the fact that my stainless steel roof as an engineering project could not possibly be finished without that especially custom made scaffolding.

Please come visit the job the city did to my property !

This is what the cavemen did to draw their animal kingdom millenniums ago. Emeryville city council exhibiting some awareness predate the evolution of homo-sapiens

This was made plain, clear and simple by the Court appointed bldg Inspector Dr Kantor !

Again, the city by-passed the review by the Board of Commissioners, Mrs Nancy Templeton hired instead to replace those worthless girlies, the city council a.k.a. BUDAKAAT wanted the destruction to get over now, the " home rules " would prevail over any State laws.

This would invalidate the State laws regarding the Due Process Rights afforded to protect a victim of selective persecution prosecution based on professional " BIAS "

At the onset of the last case, the city attorney wanted to make an inspection by the Emeryville Building City Inspector Victor Gonzales I objected to the motion because of the " inherent " conflict of interest in which the inspector would lose his job if he did not find faults to cause to Carpiaux " To Do Harm " as a dictum of all trades, vocational, technical and professional ethics as a mundane plot aimed to rid employee(s) not suited to elected officials.

Score of employee lost their job using " Carpiaux " as a bait and switch to get the blame, one of which " Ignacio " was told to scuttle the A.D.A. procedure to prevent Carpiaux's participation right about a projected bldg in the vicinity in which I knew the site as an old train end rail battery maintenance in which the soil was soaked with sulfuric acid that would adversely affect occupants of structure build above as one built now ! Carpiaux was told to shut up, get lost !

But Ignacio was dismissed when I raised the A.D.A. issue violations. Ignacio the scape goat !

Judge Horace Witley understood and agreed, it was a conflict of interest with an irreversible trap open for the inspector to lose his job, no matter what would the outcome be, the fall guy

This saved the City Inspector's job, one of the BUDAKAAT (Bukowski) gang had said openly they wanted to screw Vic. He knew too much and it was an embarrassment with the

redevelopment funds being manipulated to reward those devotee voting constituents dedicated to fool proof for 28 years the re-election of the BUDAKAAT gang majority slate as the small town R.I.C.O Act !

The Court is NOT aware of the working politics within the BUDAKAAT gang, every body is aware of the " employee review " ! not smiling at the BUDAKAAT gang result in dismissal.

The case of Leslie Bailey was poignant, Nora Davis indifferent, ruthless, cold blooded " To Do Harm " to the career of that women, another black women whose livelihood at stake

Employee(s) used to do the biting " To Do Harm " to someone on the hate list of the BUDAKAAT gang is not for the faint of heart to the loyalty of their own integrity

The court appointed Dr Kantor a civil engineers who inspected my property reporting to Judge Withley his finding, one of which was the claim made by the city that my fabrication (custom made) scaffolding was " unsafe " .

Dr Kantor disagreed with that assessment as utter no-sense, it was a claims made by neighbor (mail carrier) to whom upon questioning turned out to be ignorant on the subject matter of designs, constructions structural engineering and materials of engineering

This was confirmed during the Court hearing when his fellow friend pushing the issue at City Hall, he could not answer any single question about the laws of physics and applied dynamics of structural engineering !

He could recite the building code like daily prayer and conveniently forgot that code prescribes (include) the use of scaffolding for any external work above a step ladder.

Chief Building Inspector Victor Gonzales came more than once to check the Work in Progress, never said my custom made scaffolding was " unsafe " or I needed a permit !

There exist NO document(s) stating any of that. There exist NO document(s) of disagreement over my " stainless steel " roof engineering project between Mr Victor Gonzales and myself.

Mr Gonzales proved to be malleable person of character, open minded over traditional work habit and accepting new format such as stainless steel roof as long as it equals or exceeds the usual bitumen composite materials

Only the general appearance of my house as a full consequence since - when the city raided my property to destroy my custom made scaffolding as an order from the BUDAKAAT 's city council majority naming Nancy Templeton (the Jailer) authority to marshal the destruction !

This was against the advices of the Building Department and the City Attorney office because once again the BUDAKAAT majority based on " their home rules " by passed the review of the planned action by the Board of Commissioners as required by state law but could not afford the RISK because the BUDAKAAT pushers could not " control " the outcome integrity of the reviewing board members commissioners for the destruction of my custom made scaffolding.

Destruction of the scaffolding credit the city of Emeryville into a worldwide proof that elected officials may be incompetent of work sites to make sane decision with Mayor Ruth Atkin at the helm while always searching for glorious media exposure found herself jammed by saying to whom ever " Carpiaux " was at odd in doing things out of ordinary such as a stainless steel roof

There exist a huge file of harassment documents as if someone needed to exploit such situation to get busy with the administration of creative bureaucratic paper works as a proof of an easy selective persecution prosecution over professional " BIAS "

The harassment started at the election of three new city council members and I soon became a selected victim on account of my sympathy with the outgoing Police Chief John Lacoste over allegation of impropriety, my view was his love affair with beautiful Attorney Rena Rikle as a romance jealousy of the BUDAKAAT's own sexual depolarization problem one of which a partner died of AIDS. It was mixed views with gender identity problems

The dismissal of Chief Lacoste was brutal, savage and illegal, it scared Joseph Colleti the new police chief and it shocked me that the dismissal was in line with those chattel

Only Attorney Greg Harper steadfastly remained the solid marble fixture of absolute integrity and as a minority slate I witnessed he was constantly humiliated

At the instigation of new Council member Nora Davis, the City with Mayor Ken Bukowski seized my fully equipped machine shop while I was teaching " Hydraulic Dynamics " at Los Medanos college and using their " home rules " the majority council avoided the review of the proposed raid (as an armed robbery) by the Board of Commissioners.

It was the recommendation of Attorney Greg Harper that the seizure would be unlawful unless exhausting all administrative remedy consistent provided by State laws.

The City Council " defied " the laws and seized my machine shop fitted in 40 ft aluminum sea-train container. It was the first successful armed robbery by the city very much to the chagrin of the new Chief of Police Joseph Colleti who said they did not find any " absolute contraband " except a jar of baking soda. (Soude de Solvay) used as a neutralizing agent.

Out of the four hr recording by a professional camera person the tape turned out to be erased except for few seconds showing an 22 long empty cartridge with a hole at the base with a leather string used as a pendant during my hippies days. Peace to the flower children.

Chief Colleti explained in details " absolute authority " of a majority of 3 council members over all departments under its political jurisdiction's boundary, its not right in your case, but its the way it works with the council majority having their bullying caprices and set prejudices.

He praised Attorney Greg Harper arguing for the protection of my rights but as a minority council member it was a futile attempt to save my machine shop from destruction !

Absent, deprived of the tools of my trade, I finally enlisted my service as an engineering adviser to both U.C.Berkeley and Stanford University for their solar car engineering projects and Super

Mileage Vehicle, having the privileged access to use their machine shop equipment. (the old armory and gunsmith complex)

At my lab in Berkeley (Richmond Field Station) I designed and constructed my one person rescue submarine and brought it back to assemble it in the backyard of my property.

It was an engineering project motivated to find the pregnant Lucy Patterson, her body found later on after drifting on the back water of the Richmond shoreline

The city council hired a " tough gal " Alameda County Sheriff Jailer Nancy Templeton to conduct the raid. When I became agitated by the seizure of the component of my submarine engineering project, the police threw me in jail for two days.

After my son Patrick bailed me out (\$ 600,0) everything was gone even my fuel cell engine with its stock of rare earth elements for the catalysis of the fuel and my sealed battery pack that were not in the back yard but hidden in the front yard

City Hall would NOT tell me where they junked all my stainless steel sections of monocoque assembly nor other components of the submarine's power conversion motorization system, all the apparatus of control photonics, optics, sonic probes, and U.H.F, transducer because it was "seizure " becoming the City's property to junk (dispose) at their pleasure.

That city action left the team members CX-BATHYSCAPII engineering project the sour taste of ignorant elected officials thus causing to an halt the humanitarian rescue engineering project.

Emeryville does NOT have yet a " marine rescue " unit to patrol its large coastal area, even after the tragic drowning of the Alameda beach incident over the stubborn area of authority

This is WHY the " Solarmotions " a solar car team made the solar car " CARP " outside Emeryville reach of its elected officials ! such location S.S.L at Mountain View, Ca.

My son Patrick video recorded most of the event, mainly the police use of force as armed robbery ! I have shown the video recording as " rage and hate " against of the workingmen in my family gathering as an event " believe it or not " private party,

Later to pacify her apprehensions over the events because she said she was following orders, like the Gitmo torturers I invited Mrs Nancy Templeton to visit my Lab. in Berkeley Ca. at 2626 San Pablo Av. to show her one of my fabrication-development of a hub motor S.R.P.M.E.M. for solar car.

She showed up with her husband, a sheriff burly guy with armor vest and pistol in holster.

She also admitted that there was another way to handle the seizure of my one person rescue submarine, but the process was long and strenuous for the parties involved (she did not said review by the Board of Commissioners) but it was up to the City Council Majority which they heard were " suspicious " panels component covering the Easterly neighbor's invading green crab-grass) wanting to remove to clean my back yard.

Stainless steel panels had become a filthy eye sore, polluting the environment of everything !
All ignorant of technical nomenclature of machinery that no hauler- wrecking crew could either identify so it was called pile of worthless " junk " she said !

They also hauled away hundreds stone imitation cement block (metric size) dedicated to lift my house from its foundation.

The foundation of my home having been undermined by the constant water flooding originating from the Oakland territory's East side of Peabody lane at the city limit of Oakland-Emeryville on Vallejo street.

At the time of the re-surfacing up grade at the North end of the Vallejo street, I mentioned to the person seemingly in charge, where is the location of the city limit line ? he said to be contracted for the total width of the roadway.

I also mentioned the surface seemingly being higher than the level of the garage on the corner property and the lateral French drain of the now join owner of " Lee Steinmets -Vanessa Kuemerle husband and wife, their corner garage would get flooded from the water running down on Peabody lane from the East Oakland territory.

As a full consequence of the water stagnating soaking that corner the garage door is all rotten at the base and need replacement. Everything has to be stored at above ground level

The configuration of the perpendicular junction of Peabody Lane and Vallejo would preclude the flow of water from Peabody lane going into Vallejo as it was before and therefore most of the water would continue its course down Peabody lane leaning into those Ocean Av. lots

A flooding situation affecting the whole block North on Peabody Lane to South on Ocean Av, from East Vallejo to West at Doyle that has aggravated over the years by the sinking South of Peabody Lane from heavy earth moving equipment's traffic dedicated to the terracing leveling of the lot owned by Sasha Shasmalsha

The roadway deformation leaning South pours more water into all Ocean Av. lots South of Peabody Lane, as a full consequence of those lots East of mine the water accumulated originating from the Oakland territory flows by gravity into my lot being by the descend relief diagonal inclination axes from North-East to South-West.

The City of Oakland has failed to protect from flooding water the owners of all those lots on the block of Ocean Av. in which Carpiaux has been seen to be so far as the hardest hit undermining the foundation of his property on the length of the Easter side of his lot.

Fearing another imminent raid following the city's discovery of code violations spelled from the (International) book, I removed from my back yard my Newtonian telescope linked earthquake simulating machine assembly.

Its an engineering project aimed at predicting with uncertainty possible location of earth crust' stresses caused by magnetic force acting upon gravitational alignment of the sun-moon event.

Possible application being the determination of area location to the planned boring tunnels of the H.S.R. (bullet train) routes under the Tehachapi mountains (Los Angeles).

Recently recorded the X.Y Napa earthquake brings factors in the equation of S-S-W direction.

As a consequence of my helper NOT showing up for the moving of my machine assembly I suffered an hernia requiring surgery at the Richmond Kaiser hospital

This affair is not complicated ; Ever since Nora Davis has been elected city council member she has bullied her ways upon all the weakest acolyte elected council members

Her most loyal devotee being Dick (Richard) Kassis and Ken Bukowski forming the majority council members and imposing her wills and whims to the minority of whom ever happened to be elected on the opposite slate.

That majority became the super majority with the addition of the feeble Ruth Atkin a.k.a Nora's nanny goat, BUDAKAAT gang that would impose as " DICTATOR " over all city's department terrorizing city hall's M.O. telling legal & building department " How To " tricks of deception and inflicting unmeasurable damages to the staff as well as targeted resident(s) like myself.

That BUDAKAAT corrupting like scoundrels all departments to satisfy the " hate and rage " against the workingmen (women) giving privilege in reward by allocating to their friends developers \$ hundreds of Millions subsidy taken from the redevelopment agency (state funds) who's Emeryville nominated staff behaving like shackled servant

It also provided hundreds of Emeryville residents "voting constituents " valuable monetary service upgrading of their properties by giving paint jobs, fences, and multitude of other works to increase their property values.

This scam alone assured the re-election of the BUDAKAAT gang to control with its super majority all issues coming to face approval of building projects in the city's territory under absolute immunity of wrongdoing by operation " home rules " having been elected by people

BUDAKAAT broke, the day I made a presentation about the new design (pedestrians & bicycles) bridges in which I preconized the " MONOCOQUE " construction consistent with the modern engineering technology of aerospace, aircraft and automotive engineering technology and insisting on the safety issue in case of earthquake and comfort zone for the users, rain, shines or tempest wind.

The bridge may never be build or it should be named Micheal SMELA to honor his death on the day dedicated to the design of the bridge

It shook up those aligned with antique designs of all steel framing trusts assembling members of struts and pars held by fasteners or welds.

It also made public knowledge that those ignorant of structural engineering have authority strictly on account of being elected officials.

To those elected guys and gals, no test is being given to protect the public that elected them to become scoundrels once in power " To Do Harm " or corrupt those under their authority

That evening is when Mayor Ken Bukowski ran over killing Micheal SMELA an ex- S.F. P. on guard duties for NOVARTIS.

While the E.P.D. was on the scene of the fatal accident, Nora Davis intervened in sending the E.P.D. packing home, adjudicating the verdict of NOT GUILTY right on the spot of the accident, thereby by-passing the " Judiciary " and the Alameda County D.A.

Allegations of reckless driving a vehicle that was out of order, safety not roadworthy to a voluntary manslaughter because Ken Bukowski was fully aware that one of his head light was glowing dim on account of faulty ground circuit.

The defrost system was inoperable making the inside cab window foggy, the windshield wiper where dried and cracked making strikes on his windshield and driving after 9 P m.

Nora Davis had the excuse that it was " Dark and Wet " to justify Ken Bukowski " innocence " thus keeping Mayor Ken Bukowski out of incarceration because admittedly being D.U.I.,

The Mayor did not see a thing while plowing his vehicle on his way home.

With this " immunity " of elected officials, Nora Davis kept her super majority to further control the city's M.O.

But Bukowski could not win the re-election and Dick Kassis would not seek re-election as in conflict with his oath of ethics as an Attorney with the potential of being accused with the explicit implied civil conspiracy in his intervention to the E.P.D, NOT to administer any testing on Bukowski's health condition thus precluding the finding of hallucinating chemistry

The city should admit their wrongdoing based on professional BIAS. The city should pay damages to compensate for the armed robbery of my machine shop, the tool of my trade and art history of my inventions.

The city should pay for the armed robbery of my one person rescue submarine with all its components of motorization and navigation radar, all the stainless steel panels (except one) still under a bath tub.

The city should pay for the destruction of my custom made scaffolding, the hauling away of my stock of non ferrous materials stock, aluminum , magnesium, beryllium, titanium, lithium and carbon fiber pre-impregnated composite materials and carbon fiber structured aluminum honey comb boards, sheet of stainless steel panels South guard-rail system to the Dutch roof style.

The city should pay for the damages made in the interior of my house as a full consequence of depriving me of my custom made scaffolding to finish my stainless steel roof engineering project, it rains inside my house.

What disappeared the second day of the destruction of my scaffolding was my heli-arc T.I.G. welding machine with its tanks of inert gas (known to Lee Steinmets)

The city should pay punitive damages for the emotional distress I subsequently suffered the depressing mood associated with such traumatic armed robbery while being jailed for two days.

The city should pay for the damage done on my house foundation admit the destruction of the gutters system with the collection barrels dedicated to hold water collected from my stainless steel roof.

This stainless steel roof is the only material that will not deteriorate the collecting of rain water. All other materials do.

Accordingly, would anyone store rain water or spring potable water in everyday known roofing bituminous composite material, glazed clay. galvanized corrugated steel, painted or anodized aluminum, the answer is nothing compare with stainless steel hospital grade used in sanitation and food industry

In a separate claim

The city of Oakland should pay for the damages provoked by their flooding waters in my house foundation as well as the excessive water soaking of my back yard which

require constant pumping action and waste of electrical energy driving those sump pumps

The city of Oakland has been and still is negligent in the taking care of its descending water pouring down from their territory to the whole North block of Ocean Av. and should bring remedial work at the intersection of Peabody lane and Vallejo to install a dedicated storm drain to deal with the water off East Peabody lane.

It is incumbent from the city of Oakland to install a dedicated " storm drain " at their junction of Peabody Lane & Vallejo along their path of all other street perpendicular to Vallejo street

This has not explained my situation, my occupation, my trade, my profession as a fabricator of mechanical system devices.

First, few novelty, gadget or contraption reach the level of invention granted U,S, and or foreign Patent (Brevet)

An idea surging in the thinking mind is by need, by necessity, by fear, by hunger, by thirst, by mating attraction, is seldom recognized being the creation qualifying as patentable or copy right or brevet able unless the antecedent have been researched for the last 20 years, the expiration time of patent protection then falls into public domain, meaning anyone can copy and make the

product without owning any due or fees for the same of that (copied or plagiarized) idea as an invention even changing the name.

Then from the idea comes the drafting. simple schematic visualising the line, contour and depth as being pencil out.

Second comes the economics, the sacrificial of the monetary investment in devoted time and projected feasible available material source and reliability of supply

Third the realization of the prototype known as " art history " of the invention, the prototype has to function and works in fashion to demonstrate the feasibility of the idea into a concrete object that fulfill the description and the definite conclusion of the patented idea.

Fourth the making estimation of the cost in time and materials of the necessary tooling, tool jigs and related tool equipment readily available and or the fabrication that can be made possible under the projected budget.

Absent of available funds to sustain the development of the idea, nothing is worth the efforts of development patenting. In that order making the design conform the patent office' s guideline from a rough pencil scratch, drawing at least two views with cut out section.

Difficulty piling up in succession as project progress

Fifth the actual production of the finish product to the open market as duties to those investors as well as those participating in the completion of the engineering project.

This is what happened with my six speed transmission dedicated to the 113 V.W, model in a time which V.W, abandoned the production of that model in favor of a liquid cooled " Rabbit ".

It was shoeing a dead horse.

But the business of the inventor is as whole a secrecy matter, engineering project(s) going to be a finish product to be presented in an audience of neophyte having NO clue of what's being presented to them yet ordained to make decision from farting and gut feeling that ends up in disaster for the inventor(s)

It has been almost like such live as natural evolution of life, one witness becoming a constant view of what's going to be " Work in Progress " ?

It was simple replacement for assembly of together since my life is different but a necessary adjunct to all others that appears to me to be parasitical consumers

I am one of those primate that the industry has developed from what it is today, all others are lip services consumers from cradle to burial whilst I am one of those creator.

Professionally against all appearances I must say and it is recognized that I succeeded against all odds, extremely few engineers can say so, they all have their failure stories even when retired they cannot show any kind of finished accomplishment or that their personal influence carried a single engineering project to success to be able to name it without being completely

diluted with a multitude of other involved individual ready to discredit their input in the context of professional jealousy.

I designed, fabricated the solar car " CARP " to a finish product to be named the " manufacturer " in the short list of vehicle manufacturers. A competitive machine, raced under the American flag the CARP twice in Australia and once in Japan.

A worldwide solo private engineering project in the crowd of about 100 University college of engineering solar car project.

The CARP being fabricated having at its core the Carpiaux's " In-Weel Suspension " U.S. Patent # 6.357,770 B1

I designed my one person rescue submarine fabricated at my U.C.B. lab, that the city seized and destroyed before the planned assembly

I made my stainless steel roof as an engineering project that the city scuttled the completion by destroying the custom made scaffolding

The city seized my machine shop with all its tools, machinery and prototype " art history " on my inventions, with it my six speed transmission, all junked.

For the record the city's BUDAKAAT has been the " cunning " in the persecution of the workingman.

The principal reason being none of its elected officials never worked a real job and never will.

I am told being like the " Palestinian " making a claim of my father - ancestral land facing a jury of fanatic Zionists, guest what !

Destroy, demolish my home, throw away up to the dump everything would be a grave error, a bad omen.

Andre' Carpiaux

Flooding

Dear Friends &

Neighbors of Ocean Av, and Peabody Lane (Alley) at 94608 – 1148. Emeryville Ca.

WE are together in geographical situation that has been neglected, willfully NOT recognized by the City of Oakland, Ca. because of the boundaries which are with some uncertainty made all of us being in the North territory of the City of Emeryville, Ca. 94608 – 1148

We all have to various extend been victims of the consequences of the topographical terrain in this area because under certain circumstances most of us have to bear the consequences of excessive water run off coming from above ground elevation which are all Easterly located in the Oakland territory Ca. 94608 - 1148

That area is under the political control of City Councilmember District One Dan Kalb.

Councilman Dan Kalb has ignored all my calls for his attention to our flooding problems.

Understandably that is not a problem affecting his voting constituents who do not experience flooding damages in their Oakland territory, I am not aware of any problem there.

Maps from the assessor's office showing land tracks where properties are subdivided do not shows the elevation relative to each owner's lot and if you are a renter not affected by rain water flooding, there is little to worry about unless your storage gets wet and ruined by molds.

Home owners have a different perspective as flooded properties present a danger to their home(s) foundations in which the leveling of their properties changes affecting the property value not only of their own real estate assets but for the entire neighborhood.

To be known as a flooded area were houses stays damp, wet, with moldy structural walls and floorings result in constant evaporations, react as " heat sink " according to physics laws of thermodynamics, its always cold, its harder to heat, it increases the heating costs significantly regardless if its heat source is electric or gas. Its chilly, the habitat loses its comfort zone.

It harbors rodents seeking water sources, its an invitation to all sort of ground vermin, worms, flies, flees and mosquitoes and become the repository of numerous dead animals stench.

One of the first symptom of leveling change is that gutters may not empty properly, retaining residual dirt from birds, twigs and leafs. Gutter plugs at the down sprout become heavy, sinks or rips from their anchors with discoloration marking of the house paint, then peeling – flacks.

As such the exterior protection is a concerned " appearance " factor against the property value of the area. It will be considered at risk location, as location in real estates market may affect the reputation quality of the housing marked in this area, all because of flooding conditions.

The significances of having a quality terrain which rest upon the foundation of your property is a permanent source of concerns that cannot be overlooked, its serious and has its stands we all have suffered damages to a variety of degree in monetary value. (real estate assets)

All you need to do is to get an estimated price for the leveling of your property that has sunk as a full consequence of the flooding you have been victim as being lower in terrain elevation than the entire Eastern neighboring side of Oakland

Absent of known " French drain " your property sits on a vast pool of rain soaked ground that swell than settle down to new level upon the water receding percolating further down level.

Most properties on the Ocean Av. block have Southern retaining walls that are perforated at the base prominently visible by anyone water pouring after each rains, which means flooding water accumulate over your entire property lot and saturated it finally drains out South.

All properties on the Ocean Av. block from Vallejo to Hollis are succeeded in long alignment sitting South on Ocean Av. having their back on Peabody lane (Alley) paralleled from West on Hollis going upgrade to East on Vallejo.

This is the area that is subjected to flooding on account of uncontrollable water flow from the Oakland territory pouring down Peabody Lane's Oakland territory.

Basically all property owners are responsible to install a French drain the long side from North to South on their property to prevent accumulation of ground water that will by gravity seep down to its next door neighbor level West, a diagonal direction with few dependant factors.

RECEIVED
FEB 12 2016
CITY OF EMERYVILLE
BUILDING DIVISION

Peabody Lane from the intersection of East at Vallejo down grade to the level at about 50 in. to the bottom West of Peabody Lane's Shamlsha " Storm Drain " recently installed collecting the water from the accumulation surfaces of two large parking lot North adjacent to it. Concrete pipes and related materials stand laying in stock until the installation on Shamlsha's Eastern end at the Peabody lane's property lane at the West intersection on Vallejo. Oakland City limit is somewhat on the border East of Vallejo were it intersect with Peabody Lane, a continuation of its starting point at San Pablo Av. in the middle between Ocean Av. and 65 street.

Please note Ocean Av. starting at San Pablo Av. has all along its path storm drains installed at each street intersection to the bottom West at Hollis.

Please note 65 street crossing San Pablo Av at (street light) has also along its path storm drains installed to its bottom West at the railroad track.

Please note that Peabody lane starting East at San Pablo Av. has NO storm drains installed along its path except the storm drain recently installed at West end by on his own property. Absent of storm drain along its path, Peabody Lane channel all its collected water on both its sides from all the properties aligned along its path.

Please note that at the time of Vallejo upgrade re-surfacing years ago, I told to the person in charge (ignoring my observation) that having a roadway surface higher or same level would result in flooding the garage of the corner property of Vanessa Kumerle and would re-route straight ahead all the water pouring down from the Oakland territory.

As a full consequence the garage door lower portion is all rotten and does not lock anymore A total amount so significant that it floods all the subsequent adjacent properties Southwise of Ocean Av. to the lowest elevation at 1264 Ocean Av.

That early flooding starting at the raining season is overwhelming and has precipitated the necessity of pumping the basement with multiple pumps in order to preserve the foundation of the house sitting on the lot of 1264 Ocean Av.

The annual constant degrading in strength of the foundation result of years of willful neglect to remediation grading level works of Peabody Lane with its side gutters and the installation of a dedicated strategically installed storm drain to prevent the flooding of all the Southside Ocean Av. properties.

I am asking all of you to consider joining my grievances against the City of Oakland for its refusal to acknowledge facts of flooding Ocean Av. properties along side between Peabody lane and Ocean Av, in Emeryville territory.

This has been my grievances since 1984 - 85 when I discovered a large lake under my house. The property next door at 1268 has the same flooding, but never took care for any pumping remedies or the installation of any " French drain "

Please its important, let me know your comments, your observations and your experiences dealing with an abnormal, unusual excessive flow of water flooding your properties and deteriorations of your valuable belonging placed in storages, the damages done because of excessive wetness the items that got ruined because of molds of undue corrosions or any other types of damages you recognized as being the cause of excessive moisture present in the area. Please make a list of items you found having been subject to water damages, this is especially significant with electrical power tools, equipment and gardening items that falls apart because of excessive humidity that accelerate the degrading of inside mechanism and related parts.

If you know of other area that have not been covered in my description of the water damages, do not hesitate to let me know so I could include those items in my list of grievances

My E-mail is cxengineers@yahoo.com

My address is at 1264 Ocean Av. Emeryville, Ca. 94608 - 1148

Best,

Andre' Carpiaux

Bass Lake !

RECEIVED

Dear Victor ;

FEB 12 2016

This trailer platform exhibit A is what I have been working on. The large aluminum chassis was constructed specially to support beacon radar monitors of guided missile on the U.S. Canadian border. Its an ideal platform exhibit B because of its rigidity to fasten measuring instruments with electro-mechanical worm gears levelers (four). The hydraulics rams turned out to be too difficult to precision displacement (slack in valves)

All fasteners are stainless steel, all the steel and magnetic material have been removed and the towing subframe can be detached on site in order not to influence the free magnetic fields of the platform, tanks to the advent of photonics and laser light I was able to record the ripple effects of seismic earth tremors thus increasing the projection direction of predictable earthquake. Other scientific journal have commented. This is part of an engineering project I have been working for many years in gathering the necessary componement for the project.

We removed my 95 Cm Newton telescope coupled with the earthquake simulating machine temporary sitting on it to adapt the cargo of belonging to the Walkers my friend moving back to Minnesota, who lost their house at 1166 63 rd str. 94608 -1148. The difficulty encountered with the City of Oakland's building depart, was the main obstacle to keep their house

They are like millions of others across the U.S. to the benefits of the U.S. banks and loaning institutions. How it happened the process is something I followed closely in trying to help them out of the financial stranglehold that involved all the agencies including the Court to end up stealing legally their property, everything perfectly legal, to the full extend of the laws like they said but in the mean time they lost assets they paid for over twenty years. I could not imaging it could be done here in the U.S. I could tell you more but not in writing.

This is why I have not been around, I am working in Fairfield in the back of an old friend's farm in which no one is fussy about the sight of workmen and their activities I enjoy the friendly wild animals and all those birds. My house could sit perfect around here if I could move it with out too much hassle ! Another adventure of trouble and strife or impossible !

Because of the weather conditions and the economics of the parties involved the moving of the Walkers belonging has to fit their budget for fuel, travel expenses, and all others tied up with the most economical way to resolve their financial fallout. The media has somewhat related those unfortunate stories which did not change the outcome.

All the government subsidies went to the banks, those who needed the most forgotten. Our city council BUDAKAAT did the same thing, they gave Millions to their rich friends while those in need where ignored. The BUDAKAAT never put in application the rehabilitation program " Except " for Frances Carthy of Beaudry str. it was a home size fraud worked out by the bully imposition of Nora Davis's BUDAKAAT in violation with the first time home buyer's program, it corrupted all those involved in the line of process.

I have been extremely busy and under pressure for the convoy to leave while the weather outlook is ideal. The idea of getting stuck in snow dealing with chains and freezing conditions is not for everyone to face the prospect of being jammed in the middle of nowhere at the mercy of human vulture You have to live one of those to memorize those events.

Next month, being on fixed on low income, they will be able to afford the price of the replacement parts of their Saab, the first one to drive out of my back yard. Then by April it would be to afford the (yellow) Geo Sprint to go. Then the Mercedes, then the blue P.G.& E utility truck. those two vehicle only need fresh battery and gasoline and are running ready to go.

I did finish repairing the gear box of the brake engine lathe sitting on the little red trailer. it still needs a plastic gear for the lateral feed (it can be done by hand) this is to manufacture the front wheel of solar car, the CARP mine, also the machine of the Stanford Solar Car project and the U.C.B. Cal - Sol 's new machine before the June event of the North American Solar Car Race. All other solar car projects of other California educational (college of engineering) institutions have folded for reasons (

, budget)

I am no longer involved in competition. I only provide specially made part (carbon fiber) for those existing solar cars. So I fabricate the tooling, the tool jigs and the molds for the casting of carbon fiber components. I only have one hub motor S.R,P.M.E.M. made for solar car but that so far would go with my propeller for wind turbine. When it felt it damaged a side radial holder of one P.M. (permanent magnet) soon to be repaired. I still have to erect the mast. That motor for solar car motorization is converted into an alternator , it would produce only enough power for five light bulb of 60 watts that is so much work for so little energy but enough to drive a sump pump to bring water 18 ft high barely enough for my well water flood level at 6 ft tank level supplier. Strong Westerly wind happen in this location daily only between 5 to 7 P m. Voila, unless forced interruptions, that's my work schedule for the next six months ! Wish me luck, I need some of that too.

Andre'

Sasha.

Andre' Carpiaux
1264 ocean Av.
Emeryville Ca.
94608 - 1146
cxengineers@yahoo.com
Reference ; Storm drain

Mr Sasha Shamszad
Construction and development
1280 Ocean Av,
Emeryville. Ca 94608 – 1148

RECEIVED
FEB 12 2016
CITY OF EMERYVILLE
BUILDING DIVISION

TO WHOM IT MAY CONCERN

Dear Mr Sasha Shamszad ;

You are the listed owner of Peabody Lane, starting West at the foot of your building apartment to East at the junction of Vallejo Str. Ever since I purchased my property I have been subject to flooding on my yard and the area under my house and had to work installing sump pumps to evacuate the flooding waters . My complaint to the City of Oakland has been ignored and NO one ever had the courtesy to reply and or to let me know and to question or accept my complaint of suffering flooding on account of the water running down Peabody lane, it collects from Oakland side territory. I have causes of action for damages and plan to file complaints in Oakland Superior Court as soon as I can resolve my office work problems, I am not computer savvy ! I am aware you have been under stress too with your flooding problems resulting from the flooding of Peabody lane the East side extending from San Pablo Av to the junction with Vallejo Str and you have installed a storm drain at the Western end of Peabody Lane in order to evacuate the flooding water accumulated by the front area of the Walker house known as the "Art Studio " listed as an old address on Peabody Lane . I am not aware of any action (grievances) from your part about the rain water coming down on your property from the Oakland territory in which it is their responsibility to bring remedy I am asking you to ally with me and or all of us the neighbors of the Ocean Av. block listed on the assessor's property parcel subdivision because all of us suffer at different degree of flooding from the Oakland territory, the City of Oakland wants to ignore its effects. Oakland failed, avoided, neglected to install a storm drain when many years ago they did the upgrading - resurfacing of Vallejo Str. to meet the existing level of Peabody Lane. At that time I mentioned to the person in charge that the higher leveling ground surface would flood the corner property of Lee Steinmetz & Vanessa Kuemmerle and prevent an effective drainage of their perpendicular adjacent yard " French Drain " As a result the corner property's garage door is all rotten, it needs replacement as the water running down from Peabody Lane Oakland territory floods their garage and behind gardens Previously the leaning South Peabody Lane water would run South on Vallejo street into Ocean Av. side storm drain partially diverting the water coming down from Oakland territory The new higher resurfacing brought to an higher level the connection Peabody Lane & Vallejo Str. resulting in the water coming down from the Oakland territory driven by its momentum to go straight down Peabody Lane flooding all properties South of Ocean Av. including mine. I am in the opinion that WE the Ocean Av. neighbors are being willfully neglected from the City of Oakland since previous submitted letter of complaints have been ignored, thus driving us to the only left available remedy to file suit with causes of actions for damages. Plaintiff Carpiaux will plea the Court for punitive damages because the City of Oakland has willfully ignoring to bring remedial work in an area in which all adjacent street parallel to Peabody Lane have their dedicated storm drain except Peabody Lane thus willfully neglecting their responsibilities to take care of the consequence of the water flooding the property on their West side in the North-East side of Emeryville Ca. 94608 – 1148 that include yours too !

Sincerely Yours,

Andre' Carpiaux.

House

Dear Mr whoever is interested in the transaction of my property at 1264 Ocean Av. Emeryville Ca. 94608 1148

I am flattered you are interested to purchase my property " as is " as a bait and switch ! other real estate agents are interested too even some of my close friends who all claim they would give me the best ever good deal.

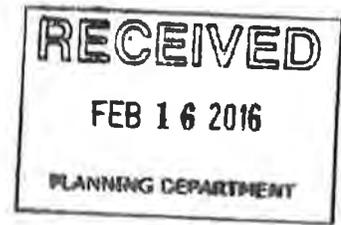
No one as made an offer in writing because they do not want to set a price I may use as a bait to show to those interested a climate of auction to the highest bid. It would be an easy rip off from the city subtracting the liens. Many years ago, I was offered \$ 500 000,0 cash, would take over the remaining mortgage payment, the buyer was a retired Oakland policemen. I trusted he was sincere. The property looked good in good location, location! I was then operating CXEngineers working on engineering projects, one was a six speed transmission to fit racing automobile specifically the Formula V (like Victory). When the commitment failed to materialize I closed my business and moved my machine shop 2 block away the backyard of my property at 1264 Ocean Av. Every one wants to talk about making an offer that is " confidential " and bidding.

I have two sons who are also interested in turning over the property for lucre especially the youngest Patrick who also has all sorts of plans, only the city wants to demolish like the Bay Bridge folks " war junkie " One of his close friend from high school is a wheeler-dealer, flipping property targeting old folks who are strangled by the economic system of fixed income that has not keep up with the rate of inflation and has to adapt with what they can afford. I just received a notice from the assessor's office of tax increase, another one ! With my machine shop in the back of my house I was able to earn a livelihood on small engineering projects farmed out from other business dealing with vehicle repairs and in between teaching classes related to vehicle transportation. While teaching at Los Medanos College the city of Emeryville seized (as armed robbery) my machine shop depriving my livelihood from my home. This city was geared to switch to the housing industry !

Later on I designed and fabricated a one person rescue submarine a monocoque construction that I brought on my property to assemble. Again the city seized all the parts as another armed robbery, the police threw in jail for two days over my protest. I was facing a majority city council BUDAKAAT ignorant - adverse to industries When I decided to again repair my leaky roof, I used stainless steel recycled from scrap yard to make a stainless steel roof as another engineering project because of the assembly mode of installation. Because of the sizes of the panels available coming in roles of 4 ft to 6 ft wide, I needed an unusual scaffolding platform custom made, a scaffolding that is to comply with the safety of the building code, not a step ladder. Again the city invaded my property to destroy demolish my custom made scaffolding in order to prevent me from finishing the work of my stainless steel roof, I have no gutter, panels have shifted. it rains in my house which undermine my foundation to the pleasure of city council dictator's gang.

The location of my house on the Ocean Av, block of 1200 to 1300 is part of a grievances to the city of Oakland because the rear part of my property Northern side is adjacent to Peabody Lane, an old way from San Pablo Av. in Oakland to the Bay shore in Emeryville. Because of the inclination of the relief, the Topography of the area the water from the above Oakland territory pours down the Peabody Lane and flood all the properties South of Peabody Lane perpendicular West in Emeryville side to East in Oakland side. Since I am one of the lowest lot, I am being flooded soon a it rains from the accumulation of water from the above lots of mine. The flooding condition of my property has caused the undermining of the foundation of my house in which I dug a trench for the sump pumps access to remove the water at the lowest level possible, a strata below the clay in that order at the formation of the Bay Area when the Berkeley volcano was active.

The city of Oakland has failed to install a " storm drain " at the junction of Peabody lane and Vallejo street. All the other street parallel to Peabody Lane have a dedicated "storm drain" except Peabody Lane. As a result we get flooded with the Oakland water territory. The developer down Peabody Lane owner of that part has already installed a storm drain at the foot West of Peabody Lane, he has also stocked all the materials needed to install at his end of Peabody Lane in Emeryville to deal with the Oakland flow of water. So far Oakland has refused to acknowledge their negligence in dealing with their water pouring down from their area Peabody lane All the armed raids from the city of Emeryville to robe and destroy my belonging have been billed as double jeopardy liens against my property, the city is now geared in the administrative process to demolish my house. Disappearing from their address will annihilate my grievances about their savage behaviors but it will not solve the flooding problem which they have a join responsibility in the remedial leveling work of the intersection at Peabody lane and Vallejo Street. You may inquire their side of the story to balance my claims of professional " BIAS " that only the workingman-women is subjected to. Good luck buddy. Andre' Carpiaux



Buzz

Dear Charles ;

Ref ;Buzz Cordova (Hoping the spelling is right)

Mr Cordova was already a commission member at the time the city destroyed and junked my custom made scaffolding. That scaffolding was specially made because the large piece of stainless steel that could not be safely handled with the traditionally commercially rental scaffolding standard.

Mrs Nancy Templeton told me she knew roofer that would do the job with ladders. They would come and tell me and show me how to it. NO body ever showed up

I had acquired rolls of 50 ft long by 4 ft and shorter rolls by 5 ft. for this I needed a very stable large surface in which several people could stand with 100's of Lbs of materials without sinking shaking or banking. To said that it was unsafe was " ridiculous " its an opinion made by incompetent observers. The Court record shows that very well

Mr Victor Gonzales came several time. climbed on the structure, he never told me it was unsafe, he never told me I needed a permit, he never told me it was illegal, he never told me to take it down and he never told me that it was not necessary to do the job of installing my stainless steel roof. There is NO written documents about those claims

It was lip service of Nancy Templeton making a fool of herself during Court hearing

On the contrary, I found Mr Gonzales to be a competent person, a logical mind, having experience to back up his observations and most of all to be a friendly gentle reasonable person willing to help out without being a pest or a nag. I like him personally as a person
It is my believe that all persons under his supervision are likewise.

After the first day of dismantling (the destruction) of my custom made scaffolding, it was obvious by what the wrecking crew told me that it was heading to the crap yard not to save any part of it. An older black man confided to me that it was really sickening was he was doing wrecking good stuff which was not his line of work, ever !

The following night a fire had erupted to the house 1258 next door, it house was empty, the last tenant had left because a large pool of water stagnating under the house, all thing molded it was wet with carcass of dead animals. Flies, mosquitos. It was unlivable.

When the neighbor reconstructed his burn house my neighbor " Mrs de Zoniac " was alerted by her real estate agent of an impending decision that it was going to be a two story reconstructed structure which would invade her privacy in her bedroom, kitchen and living room .

As such result it lowered the property value of her house, She quietly sold and moved

It would put my house under the shade in late afternoon and evening, and it came under the decision of the planning commission

Mr Buzz Cordoza voted to let it build the second story disregarding the harm it would cause to my property. Mr Cordoza, aligned himself with Arthur Hoff the unsuccessful candidate to the city council that I did not endorse in both attempts.

It was a political "revenge" To Do Harm.

My reason was strictly demographic, he despised the folks below the rail road track and as Watergate resident it was an overwhelming slant to an already council majority known as BUDAKAAT, it was their crushing ways, nothing else.

Arthur Hoff was an opulent affluent person who could afford gambling at the Oaks Club, bragging about his deals his boat he was offending at the way he joked about the indigents, and of course he was a buddy of Buzz Cordova. The uppity crowd

During the hearing both did not pay any attention to my pleas to save my house from being slotted in the shade, they only saw the future profit to be earned by my neighbor.

As such cold blooded attitude, I will not accept that person to be on the decision process that would whether or not goes to demolish my house.

Perhaps you could guide me into the process of having a replacement a substitute for Mr Buzz Cordova

You may distribute this letter to all commissioners

Best,

Andre'

2/17/16

Bautner

Andre' Carpiaux
1264 Ocean Av.
Emeryville Ca.
94608 - 1148

Board of commissioners
Chairman John Bautner
City Hall Emeryville Ca.
94608

cxengineers@yahoo.com

Ref ; home owner occupy demolition

-----T O W H O M I T M A Y C O N C E R N -----

Dear Mr John Bautner ;

My name is Andre' Carpiaux, the undersigned, residing at the above address.

I am writing to you to express my sincere gratitude to a time extension before appearing at the hearing set before the Board of Commissioners to decide the fate of my home. Unmovable asset as private property protected by constitutional laws by State and Federal status.

The treat of " demolition " is understood by all concerned parties as Act of Vengeance on account of my critics about " integrity " of our city council old majority BUDAKAAT

You are new to me in this city as many other strangers moving in making your home as I did in 1968, My first visit was in 1962 when I visited " Coulter Steel Forges " as heavy industry.

I am joining a draft to be attached to my complaint as cause of action to the City of Emeryville to be filed soon as I can assemble most of the evidences as exhibits supporting my grievances.

I am also filing a complaint as cause of action to the City of Oakland for being the responsible party for the flooding of my property and that the whole North block of Ocean Av between Vallejo and Doyle. The city of Oakland has neglected the remedial work necessary as such as " storm drain " to divert the flooding water originating from their territory pouring down on by ways of Peabody Lane to the lower elevation of the Emeryville territory. As a victim of that condition of terrain relief (topography) I have been battling the flooding water each time it rains since my house purchase in 1968.

It did not come overnight but it got worse over time by man made mistakes especially when the intersection of Vallejo Street and Peabody lane meet. The effects are clearly visible.

Legal counsel advised me the facts that the hearing set to demolish my house is premature, unnecessary but misdirected because factors conditioning as such as flooding situation that the demolition of my property will NOT cure the flooding of that part of North Ocean av. block. Except as an evil opportunity " To Do Harm " to my estate and patrimony to my sons without damages compensation. This recognized by the Oakland City inspector the time we met over it. He advised to build by my backyard " weirs " as I have done all preceding years conveniently omitting the flooding comes lateral combination of property lengthwise adjacent East of mine.

The new owner of Peabody Lane Mr Sasha Shamszad " construction " recognized the flooding water problem of that area and in order to prevent flooding water to undermine the foundation of HIS projected apartment has laid down a " Storm drain " West end of Peabody Lane. Another storm drain lays on the side of his property to be installed at time according to City of Oakland

to correct the work existing water flooding part of North-East Emeryville Ca. 94608 - 1148

Please take notice that the whole neighborhood is upset by the questionable police raids on my property and that as an elderly I am entitle to remedy protection by federal laws, Titled " Elder Abuse " part of it on account of fixed income being below poverty level.

To answer Mr Victor Gonzales' concern, NO, I do not have a legal counsel, but consultation with an attorney advised me that this case should be resolved at the administrative level only.

The city should cooperate in the " rehabilitation " of my home instead of demolition, record shows giving \$ 1 600 000 to four other homes needing repairs but not historical like mine in lieu of active participation in making of my life " miserable " without mercy.

Sincerely Yours

Andre' Carpiaux

Dear Mr John Bautner ;

Ref; Request for a postponement of meeting of March 02 016

Thank you so much for requesting to view the work site of my house, I was hoping you requested that because I did not want to ask the Board to come and see for yourself in order to prove doubt about the city's witnesses claims of being extremely dangerous. Again, the city's witnesses present an inherent conflict of interest as one being both employee and witness and that his employment would be at stake if he did not testify in aggravating manner to please the city council so inclined " To Do Harm " to Carpiaux. In the instance of Mr Dean Iwasa hired by the City of Emeryville who appears (status unknown to me) it is also of his interest to aggravate the condition of my property to please the wishes of the city council " To Do Harm " to Carpiaux. Therefore it is a relief for me you did it. Their claims of imminent collapse far exceed any skeptical view and it is the result of both not having been exposed in the environment of mining work as I did. This appellation of " imminent " collapse is being magnified to impress upon by Attorney Bayer to the listeners unaware of the condition that miners enter mine shaft without fears or apprehension whilst unknowledgeable stays clear either from the environment of the mining business altogether. It is also Mr Dean Iwasa who's testimony in the last case proved the Court to be abashed that he lacked basic competency in testifying about the safety construction of my custom made scaffolding other than eyeballing which is professionally unacceptable from the point of view of science in engineering. I would therefore advice the three of you to visit mining shaft in the Concord area and in the Calavera County before entering my basement so that no one could claim of your decision without basis of observational facts. As such the visiting of my basement date of March second may be too early and should be rescheduled after you ventured in one of those open mines weather permitting. I am also asking you to get a copy of your recorded proceeding because according to my witnesses, the testimony of Mr Dean Iwasa was highly exaggerated in its description of the condition of my property and may in part be the result of having suffered humiliation from our last Court appearance together when he was not able to answer any technical questions. I have to admit that I did not understand several portions of Mr Dean Iwasa's statement because of the poorly spoken pronunciation into microphone and his native Indian accent of which I am not familiar, especially because English is my third language as I am bilingual French and German.

I regret that no one was present who has had actual practical experience in trenching and or excavating. I also regret having none as Board of Commissioners being the product and training of a profession such as plumber, carpenter, electrician. mechanic, machinist or one of those multiple trade associated as being " hands-on " labor. Those contractors I had contacted expressed fears of retaliation in the event they would apply for a permit under their jurisdiction. They also said that getting permits to do the repair of the damage done so far from the flooding could be difficult because the City of Emeryville would require certain conditions for approval

in order to meet specific compliances. Therefore they would not want to be witnesses in my favor or the contractors to repair those damages. The fact that those damages are the full consequence of the flooding coming from Oakland makes them uncomfortable since both cities are involved: one City causing the damages and the other City claiming violations. One contractor said he had already experienced such a climate which made it impossible to meet their asinine demands, making the overall cost so high that it would overrun him and the owner of the property. This alone (the contractors' talks) is depressing because of the never ending nit picking aggravation causing one to be trapped by the economics in the outcome of the bid. It strikes me that those two witnesses avoided mentioning the cause of my basement condition as a result of the flooding, which can be clearly seen. I have been experiencing this from the city of Oakland's territory for many years, and as such until my gravamen is lodged against the city of Oakland to acknowledge their responsibility in full, I am in the handicapped zone to effectively defend myself against the allegations from the City of Emeryville. They want to pretend that the unsafe condition of my house is strictly caused by the excavation of my basement, as if for no other reason than my own, without any necessity to prevent the deterioration of my house's foundation from the flooding condition.

Attorney Bayer pushed forward a bumper crop of academic credentials peppered with words such as "based on your expertise and experience"..... putting Mr. Victor Gonzales in a precarious position as city Inspector for so many years. One cannot on one hand be assigned full time to the administration of inspecting work sites by reading the building codes and on the other hand gain experience and expertise by building retaining walls and foundations. There is a difference between doing the work of manipulation "hands-on" and being a red velvet arm chair work site gawker, acknowledging that you cannot pretend to be an expert in any matter whatsoever unless you have actually experienced the matter by having performed it to completion at least once! You do not gain experience and become an expert by reading, listening and viewing any type of work (also called Hollywood teaching) by film strip and video. It appears that Attorney Bayer may have boosted the "expertise and experience" from such show cases. As such I can pretend to be only an "expert" in laying a stainless steel roof because of the extensive work done on my home roof and because of the virtue of stainless steel itself being different in its laying, attachment, and fastening from any other metal roof. It can be said that based on my handling experience through "trial and error" I have gained "expertise" over the neophyte. Along the same lines, I am also an expert (based on my experience in building three solar cars with monocoque bodies and a chassis out of pre-impregnated carbon fiber) in fabrication, design, measurement, and bringing ideas to conclusion. I am also an expert (based on my experience in fabricating the C.N.C. milling-machine of the mold and working out the procedure to lay effectively the tread of carbon fiber sheet for the best calculated strength per unit of surface consistency to unit of weight. Other expertise I have gained during my operation of CXEngineers on engineering projects that included extensive research and development of fasteners, which allowed me to attend many senate meetings regarding the failure of the bolts on the new Bay Bridge. My input on how to solve the problem of the fastening of the bridge was highly appreciated with respect and regard. I am sharing this

background so you may understand that I have the knowledge, experience, and tools to reinforce the foundation of my house and make it completely safe. I have collected girders and beams with the intention of furthering the stability of the foundation. Unfortunately the city stole all of the cement blocks I had acquired for the raising of the house, at the time they robbed me at gun point of my submarine

As I let you know in my testimony, there is a long history of the City of Emeryville invading my property for the purpose of "cleaning up," however it is more a case of "cleaning me out" of materials, tools, machinery, and inventions I have used for my livelihood. What they called clean up was the systematic destruction of my " industrial library " as it turned out that those tool of my trade and all myriad related tools and materials as an " industrial library " are so much more useful now a days than all those books library that are effectively substituted by the Internet. Today the tool library are so much more useful than any and all other kind of book library once so venerated by the so called intellectual class of pretender that the proliferation of " tool library has taken an unprecedented expansion all over the world by those cities who can afford to loan tools instead of book. The City of Emeryville seized and junked my tool library, the first ever to be destroyed by a city council bent by ignorance and contempt regard of the workingman and the tool of his trade based on the complainer next door an employee of the money library the bank industries. There has never been any junk taken, it is always the expensive equipment or the necessary items needed for the improvement of my property or for production to earn my living absent of a regular full time job. The City did not keep an inventory of the items they stole. There was never an apology nor an admission of their illegal behavior. Time after time they entered my property with the intention of "doing harm" and with their due process a procedure laced with paper work in the pursuit of selective persecution of the workingman. Not once did they follow procedure to contact you, the Board of Commissioners, to determine what was fair and just. The city council did everything to deny your existence and my right to seek your intervention the city council avoided at all cost for their fear of the outcome because they could not control your decision output. (as Nora Davis control freak bully leading) the gang of BUDAKAAT (Bukowski, Davis, Kassis. Atkin.) This was brought out by Attorney Greg harper who happened to be the lone minority on the council thus his contention being annihilated from any proceeding something City Attorney Micheal Biddle was fully aware but felt powerless to seek redress without endangering his career as being the highest paid city employee. City attorney Micheal Biddle docile listening of the council majority BUDAKAAT was his financial reward. Instead they prejudicially ransacked the property of a working man who didn't fit their image of "Better Homes and Gardens." They don't barge into the homes of clerks, lawyers, librarians, accountants and others who do paperwork or computer work. All their books are to them as my bolts, nuts, and accessory materials are to me. The City chooses to go after someone (me) who appears to be different because his supplies make him look eccentric, and does not appears in three pieces suit jazzing up University language or frame an unusual front yard. Why do they come with police and assault rifles? Why, if I verbally protest, am I wrestled to the ground, handcuffed, and thrown in jail ? Is it because I regularly attend City Council meetings and air my concerns without

regard for diplomacy when I see something outrageously imbalanced ? I annoy members of the City Council when I criticize their decisions or their misappropriation of funds when its too late to change or modify on account of being done in secretive way in the privacy of closed session so arranged to be " air tight " I ask questions regarding budgetary spending, such as why \$ 3 000,o was paid to a friend of the mayor's for her poetry, which could be from all the poetry I read simple plagiarism. Those \$ 3 000 taken from the general funds instead of Miss Atkin own income as earner of over \$ 150 K / yr for the promotion of her political influence, thus following the foot step of Nora Davis dispensing from the " redevelopment funds " \$ thousands to individual home owner with paint job, fences and other private home improvement boosting her popularity with loyal devotee to be re-elected for 28 yrs. Why a million and six hundred thousand dollars was spent to rehabilitate four different properties, or why hundreds of millions of dollars were given to developers, or why money was spent for kids to chase balls when there is a need for vocational training (not taught in the Emeryville schools), or why a million and a half to put in a park, or why a quarter of a million to make a skateboard playground ? These types of questions irritate Nora Davis and Ruth Atkin, both of whom stare, glare, or ignore me totally, often cutting me short. They want to make my life difficult because they are either insulted by my concerns or disgusted by the fact that I expose their hypocrisy, favoritism, ignorance or unfairness. I have also reminded them of the many invasions they have perpetrated against me, so to them I may seem like a loose cannon, shooting ideas and emotions from territory they would rather not visit.

My role as a concerned citizen and as an active participant at City Council meetings goes far beyond the questioning of budget decisions. In the 1990's, I was at the forefront of recommendation for installing solar panels in the roof of the city hall. Van Dyke, city engineer, was pleased with the big check PG&E forwarded to Emeryville for its decision to go solar. Throughout the years I have made avant-garde suggestions such as adopting go-around traffic intersection circles (which were approved, though not with the smooth angle curves I had recommended to prevent tire rim damage), such as installing cameras at busy traffic intersections to prevent whimsical ticket writing by police (though backfired by scaring visitors away who were getting too many tickets), and such as taxing big businesses who make millions (Pixar). I also made a presentation for an all metal monocoque bridge (like a rocket or airplane) engineering technology which would be highly resistant to an earthquake (this was not approved). I also did a three minute presentation regarding a mid-air transportation system, like the one in (Wuppertahl) Germany, but was cut short. They seem to think my ideas are irrational or too new age. Then there are the criticisms they don't want to hear. I have complained about the City's continual violation of the American Disability Act when meetings are scheduled in rooms where there is not the infra red system for hearing (only in the City Hall) and I am given a toylike peripheral device which affords too much noise from all sides of the microphone. I have stood against protesters of Trader Vic's, emphasizing the need for their many employees to make a living. I have vehemently exposed Nora Davis for dismissing the police when Michael Smela was run over and killed by then mayor Ken Bukowski, who has gone scot-free in spite of his irresponsible behavior. I have also passionately disagreed with the

animal-like style of discharge of the black superintendent, Stephen Wesley, who was dismissed without a hearing, presided over by Bukowski. I have insisted that the Council take action regarding the withholding of wages of foreigners who worked for the Woodfin Hotel. I have stood against the consideration for more bicycle pathways, citing the record which shows that the bike is the most dangerous mode of transportation in a city of highly moving traffic. All of these examples show that I am a mouthpiece for positive change, protection against abuse of power, and representation of the people for the people!

My understanding of government is that it is in place to protect and serve the people. The City of Emeryville, by taking my storage container of equipment back in 1987, began a series of breaches of my privacy and civil rights, mainly at that time the right to employ myself as an inventor and mechanical engineer. I became suspicious and paranoid of the whole democratic process and began to attend City Council meetings to follow their political maneuvers. Emeryville has been at my throat by denying me a livelihood or by encroaching on my privacy for over thirty years! By attending the meetings and occasionally expressing my outrage at their inappropriate behavior, they consider me a thorn in their side. Every time the City entered my property to clean me out, they put high liens against the house as a double jeopardy. This is an example of the inner workings and overreaching of the politics of Emeryville City Council. Once they get back in to tear my house down, they will certainly put the liens back on as a way of taking everything away from me. I appeal to you to quell this abuse of power and allow me to live my remaining days in dignity, in my own home. I accept any help which may come my way, whether through the City of Oakland (restitution) or the City of Emeryville (damages). An example of such damage occurred in one of the breaches when they took my scaffolding, thus causing the effect of water damage, showing that one thing leads to the next, and that by denying me my tools and then cursing me, I can no longer solve the problem I was working on and I am made to look worse! The exaggerated use of the term "imminent collapse" is ridiculous but it pleases the City council out to get me any way possible with their employee doing the biting. If, during the big rains of this past month, I had stayed away and not dealt with the flooding, then maybe the saturation could have undermined the soil and caused a collapse. By breaking the law and entering my "deemed unsafe" home, I actually saved it from deterioration. The home on 64th street, which the City is also wanting to demolish, has apparently been abandoned. This is not the case with my home! I want to do everything I can to make sure it is habitable. Yes I have made many enemies amongst those promoters of that EBOT (Emeryville, Berkeley, Oakland, Tram) in which both Berkeley and Oakland rejected mainly because it would add another system that clutter the street with its dedicated rails-way which has the poorest stopping efficiency (steel against steel) vs roadway and rubber tire, but it did not matter they followed the forma procedure with petition, signature and numerous meeting and executive session with its officers until it was approved by the M.T.C. with a "grant" to the tune of two hundred thousand \$ that now its officers can write their own check with. This is the foot in the door for more money years to come in which the tram may never materialize for reasons of being unpopular and it does not matter to the promoter of that gimmick got paid well enough to initiate a new scheme (scam). It was the same with the "Cap

and Trade " ! Carpiaux never got a straight answer of how it was its mode of operation and its purpose but in the mean time its promoters enjoys large monetary compensation as another racket. The project of suspended mid-air " Wuppertaltdt " German system of transportation was sabotaged right from the start by the EBOT people

I hope I can read you soon, R.S.V.P.

Andre'

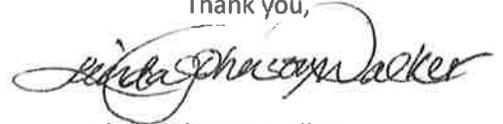
A handwritten signature in cursive script that reads "Andre Carpiaux". The signature is written in dark ink and is positioned below the typed name "Andre'".

March 1, 2016

To Whom This May Concern:

My plan to return all of my vehicles (in Andre's backyard at 1264 Ocean Av in Emeryville) to Pick N Pull has been derailed due to the fact my briefcase, with all of the titles to my cars, was stolen when my car was taken. It is my intention to reapply for duplicates of these titles when I return to Minnesota this month. It takes about 2-3 weeks to get the copies. I will then sell these cars to Pick N Pull. There are three of my cars in the backyard: a 1990 geo, a 1989 saab, and a 1970 mercedes.

Thank you,



Linda Johnson Walker

03-02-16 *SL*

03-02-16 P02:46 RCVD *8*

Δ EXHIBIT I-1

Dear Members of the Board of Commissioners:

03-02-16 P02:45 RCVD 

If my father, Andre Carpiaux, is willing to quitclaim his house at 1264 Ocean Avenue to me, his son, I am happy to comply with the wishes of the City of Emeryville by doing the following:

Clear the front, back, and side yards of all clutter, debris, and materials

Clear the interior of the house of all clutter, debris, and unnecessary materials

Bring the electricity into compliance

Sheetrock the walls

Reinstate EBMUD

Hook up to PG&E

Pay for monthly garbage service

Complete the roof so it is no longer leaking

\ Make the foundation strong, stable and safe

I am willing to work with city officials to bring this property back into its original simplicity, making it fit into the neighborhood as an attractive home. I cannot do this if the home remains in my father's possession, because he is stubborn about keeping all of his materials as hopeful projects. There are too many to complete, but he is incapable of letting go of his ideas which he wants to translate into workable equipment or new inventions.

Thank you for your consideration.

Sincerely,



Patrick Carpiaux

Dear Members of the Board of Commissioners:

03-02-16 P02:45 RCVD *jc*

If my father, Andre Carpiaux, is willing to quitclaim his house at 1264 Ocean Avenue to me, his son, I am happy to comply with the wishes of the City of Emeryville by doing the following:

Clear the front, back, and side yards of all clutter, debris, and materials

Clear the interior of the house of all clutter, debris, and unnecessary materials

Bring the electricity into compliance

Sheetrock the walls

Reinstate EBMUD

Hook up to PG&E

Pay for monthly garbage service

Complete the roof so it is no longer leaking

Make the foundation strong, stable and safe

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Thank you for your consideration.

Sincerely,



Patrick Carpiaux

RECEIVED

AUG 17 2015

Andre' Carpiaux
1264 Ocean Av.
Emeryville, Ca.
94608 - 1148 tel 510 292 9807
cxengineers @ yahoo.com

CITY OF EMERYVILLE
BUILDING DIVISION
Bldg chief Inspector Victor Gonzales
Emeryville City Hall

Ref; code violations appeal

1333 Park Av. Emeryville, Ca.

To Whom It May Concern

Dear Mr Victor Gonzales ;

I am appealing your finding of the code violations of my property located at the above address. Although it was issued from the result of an order " warrant " it was done in a questionable fairness way. It was done in an ambush tactic without my presence in a military type of operation, the police department was witnessed by the whole neighborhood and was " terrified " by the raid and expected the worse

All that for your crew to fish for code violations in order to red tag my house and dislodge me and my homeless friends by declaring it " Unsafe " for occupancy, you call them " vagrants - rodents ". One of them my friend of thirty years Elaine Teune aged 79 is a survivor and witnessed as a child those brutal raids by the " GESTAPO " in the politic of " persecution " to annihilate them. When she lost her home, I rescued her (no questions asked). Now she lives in her car but has been evicted (yesterday) by her Jewish friends from the Jewish Synagogue's parking lot. As of today she hangs around in Alameda close by her lockers. She is aware of those past raids one of which was the " hauling off " my machine shop in 1987 by evil- hearted Council Women Nora Davis's council majority, Civil Right Attorney Greg Harper opposed the seizure of the tool of my trade.

My other friend Lin Walker also lost her home of 20 years, the property located at 1166 63 rd Str. Oakland. Most of her belongings are still locked in my house, she has been moving slowly her properties back to Minnesota. Nora Davis had her truck " a vehicle carrier " stolen by her police friend " Aimee " on phony charges, it billed us \$ 910,0 to get it out of " storage " after a lengthy procrastination by the police (in order to get the storage charge fees at the highest possible). As a consequence it sacrificed the money set aside for most of the fuel, her trip back home has been postponed ever since, because, registrations and insurances cost keeps piling up.

Mark Desmond's personal belonging has been since crushed. Mark now camp (small tent) in my back yard. Mark and I thank you so much for not red tagging my back yard, I still have access to my material stock for my on-going engineering projects but Mark is suffering from sever emotional trauma. The city viciously stole his " habitat " with personal belonging

On my E – mail addressed to you on July 28 015, " Exhibit A " I was then begging you to leave me alone without giving you explanations. There is a precedent to this traumatic invasion of my property in which I made objection to Judge Horace Witley at the last Court proceeding of this property which was " sustained ".

Judge Witley agreed with my contention that you could not be in charge of doing any inspection as a full time employee under that majority because of the inherent " conflict of interest " Judge Witley understood that you where under the barrel of a gun and that unless the wish of the City council is satisfy, you would loose your job, your livelihood. The inspection was then carried on by an independent inspector nominated by the Court and my house was not " red " tagged.

It appears the " hired gun " new special counsel " Bayer " knowingly ignored and misled the Court to a Judge to exact the warrant order who was not aware of that standing objection. This would have to be sorted out by legal standard, not by the whim of the council minority who took an override on the majority on account of not being honestly advised. It was a cinch to them as a political backstabbing. But you pursued regardless, unfortunately, It was another low blow from the corrupt two old girls and again it carries the stigma that the new majority has been " taken " for a ride as new comers by the experienced tricky " intrigue ".

The new majority being misled into a scheme of legal significance by the " sneaky minority " may be casted as vicious of the two old girls and be exploited as irresponsible which in turn is politically devastating for the new majority, the next election would be interesting.

To sum up, I am super busy on engineering projects of great magnitude, thus making my life " miserable " I am pressed on time and peace in mind. Then I have to deal with persecution of a city fomenting troubles, the record shows happens with Mayor Ruth Atkin and Vice Mayor Nora Davis, from the old council majority BUDAKAAT known for its professional bias

Councilwomen Nora Davis was on board when the city " stole " my machine-shop, then they " stole " my one person rescue submarine, then the city " junked " my custom made scaffolding, then this one using the subterfuge of a defective warrant order to " RED " tag my house

One of my engineering project is an " earthquake " simulating machine, " Exhibit B " the other is my telescope " Newtonian " principle that I plan to compound in order to make projected denomination about the time frequency corresponding to recorded earthquake in magnitude Instrument Units (I.U.) and scrambling to find the right combination to the puzzle. I am still struggling with ullage mercury dish to offset the earth magnetism with my dysprosium setting

I believe that dominant earthquake can be forecast in fashion consistent with the existing laws of astrophysics, the construction of my machine would be the brainchild of further R & D unless proof to contrary, should the validation be recognized as fundamental in that direction.

Modification on gimbaled rigging to cope with the gear assembly that need to be timed with the atomic clock, while I figured out how to, I have not assembled because further machining is in the work and your barging into my life is highly traumatizing, I could live in peace without this

I am requesting that you follow my demands for the " storm drain " on Peabody Lane to prevent flooding of my basement, I have addressed many postings not only to you but to Maurice and the public work department without knowing what's going on and to whom I should really address my grievances over that problem that have aggravated over the year, my real worry !

My understanding was the developer down the alley as responsible since he is the new owner doing excavation and filling to " cap " the existing ground. His hired excavator a (courteous man) had problem with the site because the rainbow ground stain developed from being soaked over the years with spilled (or dumped) lead acid battery's' content (sulfated lead) accumulation that had not yet dissolved since the rail road spur end of the line was abandoned. It would be another grievance to activate the rate of decayed lead into half-life

His excavator carried heavy earth moving equipment through the alley subsequently deformed the roadway of Peabody lane who in the past leaned North. The roadway sank South lengthwise

The flooding aggravated, that even with sand bags graciously given by the fire department it could not prevent the seeping water from flooding not only my property but all the up leveled East other properties too. Since my property is lower on account of an ancient sink hole, the water accumulate by gravity on the West side and surges to lot level like a pound. I have an adequate pumping spot that empty the pound by gravity once the flow is primed.

If you consider the entire size of the block in between Ocean Av. & Peabody Lane, it measures a very large surface, anyone can witness that the smallest amount of rains, the accumulation spills through the relief holes pierced at the base of the retaining walls all along Ocean Av.

Considering the huge amount of water draining down Peabody Lane as a whole spilling from inadequate drainage accumulated from San Pablo av., you would not be surprised to recognized the gravity of the water drainage situation that has aggravated ever since I first alarmed the earthmoving equipment contractor, WHO SAID ; talk to the owner, I am not responsible if the roadway sank South side, he hired me, he knew, he saw my heavy operating equipment.

You would also notice that the parking lots on the North side of Peabody lane lean South therefore the whole surface area accumulate and drains into the lower grade of Peabody lane, this represent a huge amount of water to deal with, obviously neither cities paid any attentions except when I reported the problem on account of the flooding of my property and the flooding of my basement, I have emergency pumps in order not to undermine my house's foundation

The neighbor West on 1268 has also a large pound under his property that drains slowly in unknown direction, but to me, I suspect in the direction of my property because the broken gutters of his two back to back bldg. on his East side and the water stagnate and disappears from the soaked ground, his contractor did not preview any visible slant toward the South side (Ocean Av.) he scoffed at my inquiring why he did not want a " French drain " that " twice " I dug for him the length of his property, rejecting the piping I gave him, he said the owner did not want me to be involved in his reconstruction project except the fact he used my electrical power the entire length of his project,

They removed the front face of the main breaker box to install one of their female receptacle and but did not refurbish like it was before they barged in my property.

They took my 2 1/2 steel piping shaped welded into a barn style to be an assembled structure of 21 ft by 10 ft that disappeared and that no one of the crew knew what happened to it. Except that a neighbor across said they all loaded the assembly in their grey pick up truck going East

One joked that the city (thieves) came and took it like the rest of the other material stocks and scaffolding contraption ! wondering WHY the scaffolding was taken down to be scrapped

I was not surprised of my neighbor's ungrateful attitude, years ago I dug out his replacement sewer line because he could not fold enough his frame under his cramped basement (Mr Greer's inspector) he then at that time skipped to said thank you.

The water flooding on my property is the gravest urgency at all the time, since the City of Oakland has ignored to remedy the flow of water pouring from San Pablo av. into Peabody lane. It is also compounded with all the down sprout of all the adjacent both side properties.

In the past the water was channeled on the leaned North side of Peabody lane and flooded the formerly battery depot down the alley empty lot. It percolated in the aquifer down to the bay

It needs a strategically placed " storm drain " as well as a lower roadway surface yet still lower than the garage level of the corner property (Vanessa Kumerle) You would notice that the garage door is rotten from being soaked at the slightness rain so they cannot store anything but well above ground level, inches away from the would be experienced invading water level.

You would notice the junction of Peabody lane and Vallejo does NOT have a dedicated " storm drain ", asking the City of Oakland to deal with its run down water by gravity is a reasonable responsibility that should not require a Civil Court action, but it appears to be the ONLY option available since I exhausted all administrative remedy to solve their water flooding problems.

This issue does not diminish the condition of my stainless steel roof, it rains in my house, absent of a gutter system the water runs down along the walls, soaking my house foundation. Its well known, an undisputed fact that the raining season in this area is from October until April even in a drought winter it still rains with certainty, for sure in the exact time that no one wants to venture forecasting days in advance

The removal and subsequent destruction of my custom made scaffolding by the city council majority " BUDAKAAT " needs not to be any more an object of debate. Even primate use tree branches to move around so. Prehistoric people used that too. Exhibit " C "

The city must provide restitution like any other theft by any other thieves and city elected officials ignorant at that time must take responsibility for its illegal removal and destruction.

As a full consequence, the property has been deteriorating steadily ever since and that there is just so much I can do in the meantime even if it appears to the outside world that I have been neglecting the proper step to take care off. I have been waiting patiently for the city to initiate an overture to help me reconstruct my scaffolding that would be appropriate in surfaces dimensions to handle large area of stainless steel to finish my roofing project. started on or about June 2000 and by definition a project not finished is always in perpetual code violations. Projects has to be finished to be sign - off.

My demand to Mayor Ruth Atkin and Vice mayor Nora Davis asking for financial assistance to re-construct my custom made scaffoldings as an erecting structure of adequate size and shape for the exercise safety to comply with the safety code of the stainless steel roofing jobs.

Being in " denial " from all those years is questions of integrity .

The building department should emphasize to the recalcitrant city council that a scaffolding is part of any outside job that require stepping above horizontal level to handle the jobs other than provisional ladders

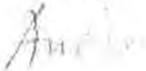
Please take notice.

I am NOT faulting you and or the bldg department, I am NOT faulting the legal department, I am very upset of their obvious lack of legitimate consideration that Oakland does NOT take care of its public work area of the " storm drain " that tumble into North Emeryville Peabody Lane 's adjacent properties in which I am the hardest hit.

I wish major remedy takes place as soon as possible for the block's property concerned owners.

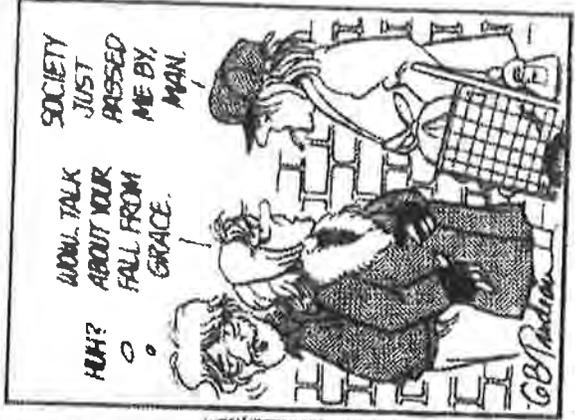
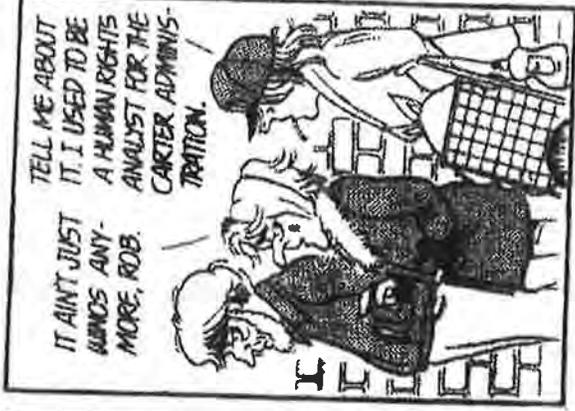
Peace,

Andre'





LEWIS & CLARK © 1964 G. B. TARDON



February 24, 2016

Dear Members of the Board of Commissioners:

Please accept this packet of Andre Carpiaux's communication, via letters / emails / complaints, which establish repeated "appeals" to several City of Emergville employees, neighbors, judges of the Superior Court, friends and acquaintances. Each letter or plea represents a problem for which he has sought redress. There is also an overview of the long history of Andre's ongoing relationships with the City Council of Emergville, beginning with "BUDAKAAT" (Bukowski, Davis, Kassis, Atkins) and progressing to new members who may be influenced toward prejudicial judgment without fair background information. When he was denied his livelihood with the illegal theft of his 40' container, he was no longer able to function as the vibrant civil servant he had been. With the confiscation of his tools and resources, he was reduced from a highly effective member of society to someone the City Council considers a "laughing stock". I believe he went from highly organized to desperately seeking any project which could bring him a living wage. He began to randomly collect all kinds of broken projects which

he might fix to make a buck. Thus his backyard ² grew into a conglomeration of strange "stuff" which to the normal eye seems haphazard. But to Andre that stuff is part of his resource pool which may easily become part of a fabrication of machinery, equipment, or a unique invention. Woven in and around his collections are various and sundry items which literally have no meaning (were aware of), but this should not oblivate the importance of his amazing backyard shop with lathes, drills, and numerous tools used for projects you can't even imagine!

The City of Emeryville considers Andre irrational. I consider him an arcane eccentric with a far greater scope of knowledge than anyone most people have ever met. In the 37 years I've known him, I've NEVER seen him watch television! Instead he reads voluminously in a wide array of subjects including history, geography, military facts, physics, advanced mathematics, famous inventions, automotive repair, architecture, astronomy, chemistry, to name a few! Andre has often been ahead of his time, as exemplified by the writing of his thesis on "Pollution Control" back in the sixties when society hardly knew we had such a problem.

When Frank and I sold our homes on 63rd St. and 54th St. in 2007, we gave our \$3000.⁰⁰ scaffolding to Andre, which he incorporated into a ~~monster~~ large system

3

allowing him to move large pieces of stainless steel onto his roof. Many buildings have scaffolding up for YEARS until their work is complete (without permits!). But the City of Emergville once again took away his basic tools (not only the scaffolding, but anything of value on the scaffolding!). Now they criticize him for not completing his project. <wheew!>

If you choose to make this man homeless, you will be doing him a major injustice. You will interfere with his peace of mind which allows him to continue "shifting reality" to meet the needs of modern society. He has been a driving force for social change behind many controversial issues such as homelessness, minimum wage protection, transportation, road safety, construction of bridges, pyrotechnics, earthquake prediction, abuse of power, elder abuse, prejudicial bias, law and due process, redevelopment of housing, architecture, education, and vocational training. His other interests are varied as well: sports (solar car racing, motocross, skiing, swimming, running, piloting aircraft, boating), oceanography, mining, mountaineering, inventing and designing.

I plead on Andre's behalf to let him work with you and the City of Emergville to ameliorate this situation. If you take his house, please wait until he is DEAD and GONE!!! Thank you, Anna Walker

no date (2016)
To Neighbors of Ocean Av
and Peabody Lane

Summary:

Andre explains the consequences of being victims of topographical terrain, describing specific areas affected, asking for support in joining his grievances against the City of Oakland

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piperacillin sodium/Lederle

Flooding

Dear Friends &

Neighbors of Ocean Av, and Peabody Lane (Alley) at 94608 – 1148. Emeryville Ca.

WE are together in geographical situation that has been neglected, willfully NOT recognized by the City of Oakland, Ca. because of the boundaries which are with some uncertainty made all of us being in the North territory of the City of Emeryville, Ca. 94608 – 1148

We all have to various extend been victims of the consequences of the topographical terrain in this area because under certain circumstances most of us have to bear the consequences of excessive water run off coming from above ground elevation which are all Easterly located in the Oakland territory Ca. 94608 - 1148

That area is under the political control of City Councilmember District One Dan Kalb.

Councilman Dan Kalb has ignored all my calls for his attention to our flooding problems.

Understandably that is not a problem affecting his voting constituents who do not experience flooding damages in their Oakland territory, I am not aware of any problem there.

Maps from the assessor's office showing land tracks where properties are subdivided do not shows the elevation relative to each owner's lot and if you are a renter not affected by rain water flooding, there is little to worry about unless your storage gets wet and ruined by molds.

Home owners have a different perspective as flooded properties present a danger to their home(s) foundations in which the leveling of their properties changes affecting the property value not only of their own real estate assets but for the entire neighborhood.

To be known as a flooded area were houses stays damp, wet, with moldy structural walls and floorings result in constant evaporations, react as " heat sink " according to physics laws of thermodynamics, its always cold, its harder to heat, it increases the heating costs significantly regardless if its heat source is electric or gas. Its chilly, the habitat loses its comfort zone.

It harbors rodents seeking water sources, its an invitation to all sort of ground vermin, worms, flies, fleas and mosquitoes and become the repository of numerous dead animals stenches.

One of the first symptom of leveling change is that gutters may not empty properly, retaining residual dirt from birds, twigs and leaves. Gutter plugs at the down sprout become heavy, sinks or rips from their anchors with discoloration marking of the house paint, then peeling – flakes.

As such the exterior protection is a concerned " appearance " factor against the property value of the area. It will be considered at risk location, as location in real estates market may affect the reputation quality of the housing marked in this area, all because of flooding conditions.

The significances of having a quality terrain which rest upon the foundation of your property is a permanent source of concerns that cannot be overlooked, its serious and has its stands we all have suffered damages to a variety of degree in monetary value. (real estate assets)

All you need to do is to get an estimated price for the leveling of your property that has sunk as a full consequence of the flooding you have been victim as being lower in terrain elevation than the entire Eastern neighboring side of Oakland

Absent of known " French drain " your property sits on a vast pool of rain soaked ground that swell than settle down to new level upon the water receding percolating further down level.

Most properties on the Ocean Av. block have Southern retaining walls that are perforated at the base prominently visible by anyone water pouring after each rains, which means flooding water accumulate over your entire property lot and saturated it finally drains out South.

All properties on the Ocean Av. block from Vallejo to Hollis are succeeded in long alignment sitting South on Ocean Av. having their back on Peabody lane (Alley) paralleled from West on Hollis going upgrade to East on Vallejo.

This is the area that is subjected to flooding on account of uncontrollable water flow from the Oakland territory pouring down Peabody Lane's Oakland territory.

Basically all property owners are responsible to install a French drain the long side from North to South on their property to prevent accumulation of ground water that will by gravity seep down to its next door neighbor level West, a diagonal direction with few dependant factors.

Peabody Lane from the intersection of East at Vallejo down grade to the level at about 50 in. to the bottom West of Peabody Lane's Shamsha " Storm Drain " recently installed collecting the water from the accumulation surfaces of two large parking lot North adjacent to it. Concrete pipes and related materials stand laying in stock until the installation on Shamsha's Eastern end at the Peabody lane's property lane at the West intersection on Vallejo. Oakland City limit is somewhat on the border East of Vallejo were it intersect with Peabody Lane, a continuation of its starting point at San Pablo Av. in the middle between Ocean Av. and 65 street.

Please note Ocean Av. starting at San Pablo Av. has all along its path storm drains installed at each street intersection to the bottom West at Hollis.

Please note 65 street crossing San Pablo Av at (street light) has also along its path storm drains installed to its bottom West at the railroad track.

Please note that Peabody lane starting East at San Pablo Av. has NO storm drains installed along its path except the storm drain recently installed at West end by on his own property. Absent of storm drain along its path, Peabody Lane channel all its collected water on both its sides from all the properties aligned along its path.

Please note that at the time of Vallejo upgrade re-surfacing years ago, I told to the person in charge (ignoring my observation) that having a roadway surface higher or same level would result in flooding the garage of the corner property of Vanessa Kumerle and would re-route straight ahead all the water pouring down from the Oakland territory.

As a full consequence the garage door lower portion is all rotten and does not lock anymore. A total amount so significant that it floods all the subsequent adjacent properties Southwise of Ocean Av. to the lowest elevation at 1264 Ocean Av.

That early flooding starting at the raining season is overwhelming and has precipitated the necessity of pumping the basement with multiple pumps in order to preserve the foundation of the house sitting on the lot of 1264 Ocean Av.

The annual constant degrading in strength of the foundation result of years of willful neglect to remediation grading level works of Peabody Lane with its side gutters and the installation of a dedicated strategically installed storm drain to prevent the flooding of all the Southside Ocean Av. properties.

I am asking all of you to consider joining my grievances against the City of Oakland for its refusal to acknowledge facts of flooding Ocean Av. properties along side between Peabody lane and Ocean Av, in Emeryville territory.

This has been my grievances since 1984 - 85 when I discovered a large lake under my house. The property next door at 1268 has the same flooding, but never took care for any pumping remedies or the installation of any " French drain "

Please its important, let me know your comments, your observations and your experiences dealing with an abnormal, unusual excessive flow of water flooding your properties and deteriorations of your valuable belonging placed in storages, the damages done because of excessive wetness the items that got ruined because of molds of undue corrosions or any other types of damages you recognized as being the cause of excessive moisture present in the area. Please make a list of items you found having been subject to water damages, this is especially significant with electrical power tools, equipment and gardening items that falls apart because of excessive humidity that accelerate the degrading of inside mechanism and related parts.

If you know of other area that have not been covered in my description of the water damages, do not hesitate to let me know so I could include those items in my list of grievances

My E-mail is cxengineers@yahoo.com

My address is at 1264 Ocean Av. Emeryville, Ca. 94608 - 1148

Best,

Andre' Carpiaux

no date
to Mayor Dianne Martinez

Summary:

Andre's adversarial relationship with Nora Davis due to her imposing views (without sensitivity)... her misconduct has made it impossible for Andre to work out an amiable solution

Andre requests city's attention to the flooding problem

PIPRACIL^{IVIM}
piperacillin sodium/Leclerle

Parker !

Andre' Carpiaux
1264 Ocean Av.
Emeryville Ca.
94608 - 1148
cxengineers@yahoo.com

Mayor Dianne Martinez
Vice-Mayor Scott Donahue
Council member Jacqueline Asher
Council member Ruth Atkin

TO WHOM IT MAY CONCERN

Reference ; Reprimand !

Dear Mayor Dianne Martinez.

The city council by a majority vote elected you as their Mayor, as such you are vested with the authority to conduct the tempo of the city council meeting as to regulate the flow of items named on the agenda that may have been viewed or learned in close session prior to the regular city council open for the public.

You are the pilot commanding the city council ship's self discipline to modulate your own behavior on a wide range of activities and personal conduct toward each others and the public that will reflect the best possible civil manner such as respecting the tenure of those coming to the pulpit to speak on matter of direct or indirect interest such as public work or private contracted within city's jurisdiction.

Member of audience Andre' Carpiaux the undersigned residing at the above address has observed, witnessed council member Nora Davis wrongful behavior toward member(s) of the audience as public and as party having business dealing with item(s) listed on the agenda. This is not sparsely instances but it follows a long pattern as an habit to be listed as a professional malpractice at the level of city council politics.

Andre' regular attendee is informed and believe it is " wrong " to tolerate this type of behavior without questioning its right to practice such as a malicious deformation of character specifically owned to people having the bully mentality wanting to impose their views on others recklessly without due consideration that the affected party's sensitivity is subjected to verbal abuse containing and not limited to allusion, allegation of misconduct on a wide variety of understanding.

Councilwomen Nora Davis has never from the record sent any writing comment(s) from her diatribes to focused party although it is video recorded, it is difficult to the targeted party to form a response that would be defensible or adjust the fairness of her derogatory opinions.

Specifically, a month or so ago appeared Mr Parker or his representative trying to address answers to explanation about " work in progress " that council member Nora Davis asserted was going too slow, meaning at her speeds which is vague and encompassing. It contained elements known as " can of worm " and " hornet's nest." to be opened !

Council member Nora Davis did not submit any mean of measurable evidence(s) to be acceptable by both parties or at least to be challenged as defensible. She blurted her gut feeling, without basis of facts, an impression or a suggestion taken at best by consulting astrological charts.

Nora Davis did not name any basics such as standard model to be compared with. As such Council member Nora Davis was aware of the condition right at the beginning since it was under her council control-tenure that the contract was initiated and approved by her: If she forgot and or renegade her pass acceptance, then it contradicts the initial agreement, this is not tolerable.

It was another show of misleading concern to be noticed by the public unaware of the strategical politics to put people down in asserting her rights to questions the person in charge of the project before letting the targeted project known in advances that such questioning would take place by surprise, by ambush without first being appraised that such questioning would happen in public meeting known as blow below the belt.

For instance when the member of that company appeared at the podium, he was then dismissed as a non equitable proxy, Nora Davis insisted wanting to confront the responsible guy in person and blurted " I do not buy that " as the representative gave reasons for her allegations of mismanagement relating in postponement of the work scheduled.

She meant as everybody understood that the person was making a misrepresentation of facts, lying or making it up for the occasion being jammed in public without the ability to quipping effectively.

That " I do not buy that " is slogan used by school teacher to scold children making excuses for wrongdoing, here we deal with adult matured professionals, they need not be confronted with affront.

This was a public insult casted on that company implying all sort of imaginary contrivance not to appear facing allegations of wrong doing without qualified evidence that had been looked upon by the parties involved taken as a defamation of character where probity would be in question.

The other instance was the meeting before last involved the contractor of site " B " who also facing accusation of poor performance and other defaming allegations implying lack of management skills, loose control and runaway cost of the work in progress ! all this is NOT O.K.s.

Again it was another set of insults ridden insinuation that was also tying our city engineer office in a situation of work in progress that penalized because of the weather elements we have been pounded with a high incidence of rainy days and work stoppage from it when its overcast, too dark to work safely under such condition that is described by O.S.H.A. violation RISK's workmen's compensation prudence policy.

The liability insurance may impose fine or cancellation in high risk area. The insinuation did not set apart external causes for delays such as ecological push by different group of environmental zealots barging into the entrepreneur's business demanding compliance to their own whim or caprices in which dealing with is another set of frustration from those group trying to set their importance in the rank and file of the ecological intrusion movement.

It appears council member Nora Davis has displayed a lack of understanding of working management of developers who are struggling for the efficiency of their work force and without proper informations she lays insidious allegations that are affecting the economics of their invested capitals.

Investors may therefore take into consideration such obnoxious renting in public as embarrassment and a nuisance that the city of Emeryville may suffer in the future as a full consequence of investors lack of wanting to do business in Emeryville

Please take notice, be aware that if you are tolerating such behavior out of respect to an elder to the city council, the offended party may not share your respecting conviction and deduct that you are in civil conspiracy to defame them by letting Nora Davis be the voice (trump) of her targeted renting.

Nora Davis as an elected official has become a " liability " as bad egg to the whole city council taking advantage of your naïve personality compared with her cunning maneuvering especially to your reputation thus undermining not only your future political ambition but also the days after your

political venture expire at your will or the will of those who have elected you.

Please be aware it will reflect on you in your term as the Mayor and thereafter that you tolerated, or avoided or neglected and to a worse extent endorsed such behavior and that being accused of not having a " tight ship "

As such since I endorsed, (thank you so much for Jennifer) supported, worked on your election as city council member, I take the moral obligation to make you aware of those events just in case it did not strike your attention. Be careful of the video recording as being a double edged sword !

I also take the opportunity for you to recognize the facts that I have been on the agenda of Council women Nora Davis for varieties of work performed on my property that are properly legal being the privileged right of owner occupy over its maintenance prevention and other needed work arising from event " element " of unusual rainy season that are part of my grievances against the City of Oakland.

Indeed the city of Oakland's lack of responsibility in dealing with the flooding of the whole block of Ocean Av. in which because I am in lower elevation receive the bulk of flooding water surging on my property lot ever since I owned the property.

I was not aware of the source of problem until the owner of Peabody Lane Sasha Salmansza construction built a storm drain West of his property in the back end house of the Walkers Art Studio.

I was told by a contractor specializing (as an Expert) in house leveling in the hilly area of Orinda that my flooding problem originated from Oakland territory that did not contain their flow of rain waters, because it is impossible to maintain a durable house foundation that is subject to flooding

Mr Sasha Salmansza has stored all the equipment & material to install another storm drain East of Peabody lane (his private property limit) in the cooperation work project with the city of Oakland .

The city of Oakland never fulfilled its responsibility to build a dedicated " storm drain " at the junction of Peabody Lane intersection with Vallejo street like as well as other intersection parallel to Peabody Lane ,such as Ocean A.to 64 th street down South and 65 th street upward North on Vallejo Street.

Only Peabody lane does NOT have a dedicated storm drain to deal with the flooding water running down from Peabody lane Eastern portion on Oakland territory starting from San Pablo Av. a full block of descending elevation from East to West.

I am requesting your attention to this problem affecting my property and that of the whole block to a variable extent of lower priority because their flooding lots are descending next to another until it reaches my property undermining my house's foundation.

As a full consequence I had to install sump pumps to maintain the water level low enough to prevent the liquefaction of " ground sediment alluvium - silt- clay - basalt " channeled (from the Berkeley volcanoes) of my under bases foundation.

It would be disastrous if I did not take the necessary precaution - preventive work of installing sum pumps to keep it in a level state of dried in solid clay.

Sincerely Yours,

Andre'

6-02-15

TO Ruth Atkin, Mayor
Nora Davis, Vice Mayor

Summary:

Andre requests financial
assistance to reconstruct
scaffolding

PIPRACIL™ IVIM

piperacillin sodium/Lectera

Andre' Carpiaux

June 02 2015

1264 ocean Av.

Mayor Ruth Atkin

Emeryville Ca.

Vice Mayor Nora Davis

94608 – 1148

Emeryville City Council

City Hall, Emeryville Ca.

Ref ; Scaffolding ,

To Whom It May Concern.

Dear Mayor Ruth Atkin, Dear Vice Mayor Nora Davis.

I am requesting you attention to my urgent need of a " scaffolding "

As you are aware any maintenance, repair and or work on any construction site require the use of a scaffolding in order to embark in any kind of business involving use of tools, toll jigs and set up to facilitate the work but mainly as a safety requirement from the building department .

Because of the nature of the job itself the innovation of a roof surface made out of stainless steel from an anti-pollution remedy because the majority of all the other roofing materials, deteriorate with the element, decays, crack inevitably all leaks as a full consequence of the nature of the petroleum composite base , the sealant also made compatible to each other to form an adhesion that perform until subject to the different coefficient of expansion from heat

Because the least amount of overlap jointure result in less chance of water seeping laterally the larger the size the better.

Since most of my covering are four feet X ten feet up to thirty feet, a regular off the market or rental outfit are inadequate, I was obliged to construct a custom made scaffolding-contraption to be able to handle very large section of stainless steel using well tested and proved ultra safe materials from home depot shelving.

It was recycling materials purchased very cheap but the engineering construction with labor involved added to be overall expensive.

I am asking for your financial assistance, thank you,

Sincerely Yours

Andre' Carpiaux

no date)
to Charles

Summary:

Regarding the scaffolding structure: V. Gonzales came several times to Andre's home, climbed on the structure, never mentioned unsafety or need for permit or illegality or asked him to take it down

Regarding Cruz Cordova, Andre asked that he be replaced due to political revenge

PIPRACIL IVIM
piperacillin sodium/Lecterle

Buzz

Dear Charles ;

Ref ;Buzz Cordova (Hoping the spelling is right)

Mr Cordova was already a commission member at the time the city destroyed and junked my custom made scaffolding. That scaffolding was specially made because the large piece of stainless steel that could not be safely handled with the traditionally commercially rental scaffolding standard.

Mrs Nancy Templeton told me she knew roofer that would do the job with ladders. They would come and tell me and show me how to it. NO body ever showed up

I had acquired rolls of 50 ft long by 4 ft and shorter rolls by 5 ft. for this I needed a very stable large surface in which several people could stand with 100's of Lbs of materials without sinking shaking or banking. To said that it was unsafe was " ridiculous " its an opinion made by incompetent observers. The Court record shows that very well

Mr Victor Gonzales came several time. climbed on the structure, he never told me it was unsafe, he never told me I needed a permit, he never told me it was illegal, he never told me to take it down and he never told me that it was not necessary to do the job of installing my stainless steel roof. There is NO written documents about those claims

It was lip service of Nancy Templeton making a fool of herself during Court hearing

On the contrary, I found Mr Gonzales to be a competent person, a logical mind, having experience to back up his observations and most of all to be a friendly gentle reasonable person willing to help out without being a pest or a nag. I like him personally as a person
It is my believe that all persons under his supervision are likewise.

After the first day of dismantling (the destruction) of my custom made scaffolding, it was obvious by what the wrecking crew told me that it was heading to the crap yard not to save any part of it. An older black man confided to me that it was really sickening was he was doing wrecking good stuff which was not his line of work, ever !

The following night a fire had erupted to the house 1258 next door, it house was empty, the last tenant had left because a large pool of water stagnating under the house, all thing molded it was wet with carcass of dead animals. Flies, mosquitos. It was unlivable.

When the neighbor reconstructed his burn house my neighbor " Mrs de Zoniac " was alerted by her real estate agent of an impending decision that it was going to be a two story reconstructed structure which would invade her privacy in her bedroom, kitchen and living room .

As such result it lowered the property value of her house, She quietly sold and moved

It would put my house under the shade in late afternoon and evening, and it came under the decision of the planning commission

Mr Buzz Cordoza voted to let it build the second story disregarding the harm it would cause to my property. Mr Cordoza, aligned himself with Arthur Hoff the unsuccessful candidate to the city council that I did not endorse in both attempts.

It was a political "revenge" To Do Harm.

My reason was strictly demographic, he despised the folks below the rail road track and as Watergate resident it was an overwhelming slant to an already council majority known as BUDAKAAT, it was their crushing ways, nothing else.

Arthur Hoff was an opulent affluent person who could afford gambling at the Oaks Club, bragging about his deals his boat he was offending at the way he joked about the indigents, and of course he was a buddy of Buzz Cordova. The uppity crowd

During the hearing both did not pay any attention to my pleas to save my house from being slotted in the shade, they only saw the future profit to be earned by my neighbor.

As such cold blooded attitude, I will not accept that person to be on the decision process that would whether or not goes to demolish my house.

Perhaps you could guide me into the process of having a replacement a substitute for Mr Buzz Cordova

You may distribute this letter to all commissioners

Best,

Andre'

9-02-14
Emeryville City Council
Agenda 8.1

Summary:

Andre spoke vehemently
against the distribution
of funds to the boss of
Athins' roommate, citing
"nepotism"

He was also outraged by
the payment of rent for
this person at \$5000.00
per month

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Northwest Corner Of Stanford Avenue And Doyle Street From PO
Park/Open Space To MUR Mixed Use With Residential.
(Charles S. Bryant / Miroo Desai)
(Continued from July 15, 2014 City Council Regular Meeting)

8. ADMINISTRATIVE ITEMS

8.1 Resolution Of The City Council Of The City Of Emeryville Authorizing The City Manager To Execute A \$25,000 Professional Services Agreement With The Emeryville Chamber Of Commerce To Provide Services Related To Implementation Of The Economic Development Strategy In Fiscal Year 2014-15. (Charles S. Bryant / Michelle E. De Guzman)
(Continued from July 15, 2014 City Council Regular Meeting)

8.2 Resolution Of The City Council Of The City Of Emeryville Approving And Authorizing The City Manager To Enter Into And Execute An Agreement Terminating The Agreement To Be Recorded Affecting Real Property, Memorandum Of Termination Agreement, And First Amendment To The Grant Regulatory Agreement And Declaration Of Restrictive Covenants By And Between The City Of Emeryville, PAC Operating Limited Partnership, And PAC Residential Group, Inc., Affecting The East BayBridge Bridgecourt Apartment Complex Located At 1325 40th Street, Emeryville, CA (APN 049-619-001; 049-619-004). (Charles S. Bryant / Michelle E. De Guzman)

8.3 Transportation Committee Report - July 2014. (Ken James)
Council Recommendations:

8.3.1 Approve the prohibition of overnight commercial truck parking on Christie Avenue between 59th and 64th Streets.

9. CITY AS HOUSING SUCCESSOR

10. COMMUNICATION AND REPORTS

10.1 Department Heads

10.2 Council Members

10.3 Council Members Reporting on Meetings Attended

11. COMMUNITY ADVISORY BODY VACANCIES

11.1 Standing Committees

11.1.1 Child Development Center Advisory Committee: 2 Vacancies
(1 parent; 1 parent of student receiving State subsidized tuition -

10-15-13
to Dan Karb, Old Council
Member

10-16-13 to Andre
from Darnette Lambert
Community Services Coordinator

Summary:

Andre asks for acknowledgment of flooding from "your territory". Darnette offers to meet with him to talk it over.

10-17-13 to D. Lambert
Andre responds, offering to meet at 9 am on the 21st of Oct 2013 to find a positive resolution of storm drain problems

PIPRACIL IV/DM

pipercillin sodium/1.0/ertp

10-16-13

NewRetirement **A Reverse Mortgage Now?** **Sponsored**

Wednesday, October 16, 2013 5:51 PM

storm drain

From: "Lambert Dannette" <DLambert@oaklandnet.com>
To: cxengineers@yahoo.com

Hi Andre,

I am responding to your email to Council Member Kalb about the issues with the storm drain in your neighborhood.

Is it possible to talk on Monday about this situation to see what we can do?

Dannette Lambert
 Community Services Coordinator
Office of District 1 City Council Member Dan Kalb
City of Oakland
 1 Frank H. Ogawa Plaza, Suite 230 · Oakland, CA 94612
 (o) 510-238-7001 · (d) 510-238-7014 · (e) dlambert@oaklandnet.com

10-17-13

NewRetirement **A Reverse Mortgage Now?** Sponsored

Thursday, October 17, 2013 9:39 AM

Re: storm drain

From: "Andre Carpiaux" <cxengineers@yahoo.com>
 To: "Lambert Dannette" <DLambert@oaklandnet.com>

Dear Dannette Lambert ;

I would be more than happy to talk to you in the prospect of a positive resolution of the storm drain problems affecting the residents downstream from your area of San Pablo Av. your district One. I am available Monday 21 at 9 Am, having an appointment at Kaiser set for 11 A.m I would be tied up the rest of the day coming back home at around 9 P.m. I am using public transportation, this has its limitation. If you are available, at this time, please come to my home address and I could show you around the area, I have been around since I purchased my home in 1968 and I know the area well. I have hearing impairment, be prepared to deal with that handicap in oral communication. My cell phone is 510 292 9807 you have to speak slowly, loud enough and I may ask you to repeat. Please take no offense, Thank you for your attention, let me know soon. Sincerely yours
 Andre' Carpiaux

On Wednesday, October 16, 2013 5:53 PM, "Lambert, Dannette" <DLambert@oaklandnet.com> wrote:
 Hi Andre,

I am responding to your email to Council Member Kalb about the issues with the storm drain in your neighborhood.

10-07-13
To Dan Kaeb
Orled Council Member

Summary:

description of specifics of
water accumulation; use
of sandbags inadequate,
constant monitoring with
use of 3 sump pumps

action from City of Orled
urgently needed

suffering significant damage,
irrigation expenses

needing a remedy to
this situation

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10-07-13

your district # 1.

Years ago at the time of the renovation upgrade of San Pablo Av. that part of the cross traffic from Alcatraz - near the offset of Ocean Av. a divider was installed which prevented the old way access to Alcatraz from Ocean Av and vice-versa.

In that reconfiguration somehow the rain water accumulation along West San Pablo Av does not reach the storm drain South and as a result that water accumulation overflows and drain down Peabody Lane. Further rain accumulation from roof drains onto Peabody Lane render that alley as a channel were the water end at the foot of a new apartment being constructed at 12 74 Ocean Av. Emeryville. 94608 The developer of that property (a group of investors) owner of that portion of Peabody Lane have excavated that West dead end of Peabody Lane and installed a large storm drain so that the rushing water coming down would NOT flood the new construction's foundation.

This is in recognition that the vacant lot (before construction) was always flooded and having a storm drain was a required necessity. That parcel had problems and could not be dug out for under ground parking ! Since I have my property at 1264 above East of that new development, the water coming down Peabody Lane, it first drains into the preceding properties including mine and we have for all those years aligned sand bags along the channel line.

As you know sand bags still let water through in reduced quantity but enough to flood and transform into swamp like adjacent above properties which in turn pours into my property.

I have dug out on the East side of my property a long N. to S " French drain " to collect water from the rainy season (coming soon) But have not finished up because the uncertainties of the flow of water from above properties and Peabody Lane.

At the cross road the " S " of Peabody Lane and Vallejo (Oakland & Emeryville) City limit the Vallejo part of Emeryville has been re-done and or re-surface City work (jointly may be ?)

The problem I noticed and mentioned to the contractor at that time was ;

1. that the level of the street is higher of that the adjacent property making the North portion of that property at lower level that the street level ! and would subsequently flood the property parcel from street water.

2. Since the level of the street is higher, it prevents the water coming down Peabody Lane from leaning left South into Vallejo and running down into the storm drain on Ocean Av. as it was before.

As a result since the water coming down Peabody Lane is no longer (since that time) diverted, the whole flow leans and runs toward all those properties all along South of Peabody Lane and I got yhe bulk of it.... that I have to deal with.

Since drainage water cannot be channeled into the sewer system, I end up having three pumps working

to pour the water on the street gutter in order not to have my basement flooded. This require constant monitoring event though I have cascades automatic level control (one in which has its own independant electrical power plant) in case of regional power failure as a way to prevent undermining my house's foundation.

I have counsel of an attorney dealing with such responsibilities since the water originates from the Oakland end of Peabody Lane flowing into Emeryville, an action from the City of Oakland's Bldg department is urgently needed to stop that water from pouring down in whatever ways it pleases you. I am informed from the City of Emeryville " public work " that the corner of Pleabody Lane junction at Vallejo is NOT their responsibility because up to the property line it belongs to the developer (those appartment developer owners) and that as a condition of approval (if ever finished) they have to instal a storm drain. The concrete piping are there laying along North - West Peabody lane, but NO one have an estimate off how long its going to take to install a storm drain at a location that would prevent the fooding of those said properties.....and its not going to be this winter I am told. In the mean time I am in crisis over the flooding ! But, the original source of rain water comes from Oakland and you have to deal with that immediatly. My neighbors have questioned my work and of course its difficult to explain the whole scene without going into details and along the way avoiding to make them feel they are comprehension stupid. I will take time to go along touring with you the neighborhood and area topography that include old creek , culvert and canal that would explain why its called Ocean Av. at a time that is convenient to your schedule

Please, could you pay attention to this problem, it has affected me all those years and I have suffered significant damages and irrigation expenses in trying to remedy a situation that is the result of incompetent contractors, neglect in planning, poor oversight and ignoring my critics of basic physics common sense

Sincerely Yours (you do not need my vote) right !

Andre' Carpiaux

10-15-13

NewRetirement **A Reverse Mortgage Now?** Sponsored

Re: storm drain Tuesday, October 15, 2013 1:56 PM

From: "Andre Carpiaux" <cxengineers@yahoo.com>
To: "dkalb@oaklandnet.com" <dkalb@oaklandnet.com> "Vanessa Kumerle" <vee@lmi.net>
 "emeryvillewest@gmail.com" <emeryvillewest@gmail.com> "Brian donahue" <sophbeau1@yahoo.com>
 "Kurt@intrepidelectronic.com" <Kurt@intrepidelectronic.com> : more ...

Dear Mr Dan Kalb ;

I have NOT had the courtesy of your response nor an acknowledgment of your reading my posting. Should I come to your city council and voice my concern about my problems originating from your Oakland territory ?
 The raining season is coming soon and I would appreciate that you do not neglect looking into the matter of flooding down stream from your area.
 Please let me know, thank you.

Andre' Carpiaux

10-07-13

On Monday, October 7, 2013 4:43 PM, Andre Carpiaux <cxengineers@yahoo.com> wrote:

Dear Mr Dan Kalb ;

My name is Andre' Carpiaux the undersigned, I reside in the city of Emeryville at 1264 Ocean Av. This is a continuation of Ocean Av. from perpendicular to San Pablo Av. North Oakland

10-04-13

to Maurice Kaufman

Summary:

Andre asks for schematic
of location of storm drain.
communicates ways he
is dealing with flooding
(sandbags, french drain)

expresses frustration:
in limbo, hung up,
can't move forward

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10-04-13

23andMe DNA Genealogy Test Sponsored

Friday, October 4, 2013 2:36 PM

Re: Storm drain ?

From: "Andre Carpiaux" <cxengineers@yahoo.com>
To: "Maurice Kaufman" <mkaufman@ci.emeryville.ca.us>

Dear Maurice ;

Would it be possible I get a shematic of the location inlet of the storm drain .
Can you leave it at the front desk for me to pick it up ?

As I mentioned earlier the traffic of heavy earth moving equipments ever since the developer stored his vehicle (or rental) severely deformed the roadway of Peabody lane to a point that the surface leans South which because of the slant the water pours toward the adjacent properties including mine.

I have stacked up sand bags on the side of the fence north but the water that has accumulated up from other properties east drain into mine and the water surge up in several locations. its messy !

I have dug up a " French " drain along the fence on my East side to collect the run off but I cannot finish the job because I do not know how much flow I am going to have to deal with like another lateral oblique drainage pipe. Everything on my property is " temporary " waiting for the socks to be on before shoeing

I am left in limbo because of this and since the city wants to barge into my property to inspect (what) I am at lost on how to proceed except that I have lots of work hang up, impossible to move forward. Its frustrating to say the least.

10-04-13
to Andre Carrière

Summary:

Maurice Kaufman
verifies the City is
not constructing a
storm drain on
Peabody Lane

PIPRACIL^{IV/IM}
piperacillin sodium / Leclerc

10-04-13

This is new to me that it is now the responsibility of the developer to take care of the storm drain and judging at the rate of speed in developing his apartment complex, it looks like its going to be a while.

While the developer had a ground work contractor that was friendly and cooperative, the developer himself turn out to be an unpleasant person of a blaming all others character.

Neighbors are upset with his attitude.

So we have another new bad ass coming to town (ocean av.)

let me know,

Andre'

From: Maurice Kaufman <mkaufman@ci.emeryville.ca.us>
To: Andre Carpiaux <cengineers@yahoo.com>
Sent: Friday, October 4, 2013 1:32 PM
Subject: RE: Storm drain ?

Dear Andre, the City is not constructing a storm drain on Peabody lane. However, the developer of the residential property under construction on Ocean Ave near Doyle Street is required to as a condition of approval of his project. The new storm drain inlet will be near the western end of Peabody lining up with the west side of the residential project. It will carry flows from the Baker Metal site and adjacent parking lot. I'm not sure that it will impact the existing drainage on your property but it will help the situation if improvements to the private street grades on Peabody lane are ever made. The new storm drain will be on private property and connect to the public line at Ocean/Doyle street. That developer has been working really slow and I don't know the status of his schedule to construct the storm drain. When I find out I will let you know. Thanks for your patience.

MAURICE
Maurice Kaufman

10-04-13
to M. Piddle, city atty

Summary:

Andre objects to inspection
based on illegal violation
of rules of the court

raid of destruction by the
city left a mess,
compounded by flooding

Andre awaits city to deal
with storm drain to
prevent flooding of his
property

Oct 08 inspection violates
precedent of ~~same~~ ~~same~~ ~~same~~
for same grievance

10-04-13

NewRetirement A Reverse Mortgage Now? Sponsored

precedent ! Friday, October 4, 2013 12:05 PM

From: "Andre Carpiaux" <xcngineers@yahoo.com>
To: "Mike Biddle" <mbiddle@ci.emeryville.ca.us>

Dear Micheal ;

At the last lawsuit, attorney Micheal Guina requested from the Court to have an inspection of my property, I objected on the ground that it constitutes a conflict of interest and the court agreed and appointed an independent Bldg Inspector Mr Cantor. I never saw the report but the city went ahead anyway with raiding my property although I had appealed the court order by the city as an unreasonable action with the aim at destroying my custom made scaffolding for the construction of my stainless steel roof since the judgment was not final, the raid was illegal, unlawful since it violated the process in the rules of Court. The condition of my property is as bad as when you left it at the conclusion of the unlawful raid of destruction, further it has been compounded with the aggravation of the flooding during the raining season at its yearly onset. I was told that the city had to deal with all sort of other work in emergency and unscheduled, but I have too and since the socks have to be on before the shoeing, I have been waiting patiently for the city to keep me abreast of the work

in progress to deal with the storm drain to prevent the flooding of my property
My claim of the conflict of interest has two fold, one it obliges the city employee to fish for fault imaginary, real or
not.

If the finding is not pleasing to the wish of the city council member majority that employee may be terminated at the
whim of the city council majority and the votes are anonymous. I am not aware of the appeal process.

In this instance, it put the city in an uncomfortable situation were his/ her integrity is at a challenge and since its a
question of bread and butter, the court found it was a conflict of interest.

Because that conflict of interest has not be challenged successfully I can only assume the it is still standing, thus
the

inspection of your city inspector set for October 08 violates its precedent that was decided on the same case
involving

the same plaintiff and the same defendant. for the same grievance(s) or complaint(s).
Please answer me, thank you.

Andre'

10-03-13
to V. Gonzalez

summary:

persecution of working
man by obsessed
council members,
professional bias,
elder abuse

backyard = research lab
engineering of solution
for May bridge bolts
under tension

"leave me alone please"

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10-03-13

NewRetirement **A Reverse Mortgage Now?** Sponsored

Thursday, October 3, 2013 5:04 PM

private property inspection !

From: "Andre Carpiaux" <cxengineers@yahoo.com>
To: "Victor Gonzales" <vgonzales@ci.emeryville.ca.us> "Emeryville City Council" <citycouncilmembers@ci.emeryville.ca.us>
 "emeryvillewest@gmail.com" <emeryvillewest@gmail.com> "Brian donahue" <sophbeau1@yahoo.com>
 "Chris Selwood" <chris@wsc.org.au> more ...

Dear Mr Victor Gonzales ;

Your are NOT authorized to invade my property unless we agree on the purpose of the exploratory raid.
 Enough is Enough. Enough fishing for those miserable minds.
 Can the city go after those ugly folks, looking for trouble, wormed by vermine !

That you are shoved to initiate another persecution proceeding by obsessed council member(s) is a
 question that has to be resolved internally, but nothing can go forward until I am given a reasonable
 opportunity to comply with the complainer(s) if any or created for the sake of continuing the persecution
 of the "workingmen" the record is abundant, who needs the recital of those past nasty days.

I need to confront accuser(s) and find their ultimate motive(s) than go from there on to resolve the
 issue amicably without using the city as pitbul to do the biting even if that practice has benefitted the
 re-election of incumbents.

The new city manager may not be attuned of the vicious older practices of having councilmember(s)
 barging into the department heads and ordering them what to do next to fit their gut feeling and or state

of mind as in the past with Mrs Templeton " soliciting " complaint(s) or else job termination.

The new city manager must order the end as a challenge of that practice or the city will be faced with a discriminatory cause of action and drag with them former and present city council member of the BUDAKAAT gang. Those thieves in the name blight. ! the latest the Adam machine shop land seizure !

That " immunity " with the culture of impunity has reached an untenable level affecting my life which is compounded by the " elder abuse " and " professional BIAS " That you have trampled on my " culture " that I learned from my father that he learned from his father is something so fundamental in the evolution of the industrial revolution in this country that those incoming european skillfully workers build upon their arrival. SO what's your city problem(s) not yours

I am an inventor with U.S. patent and Europeans patents and I recently patented a new system of for the production of nuclear energy called " Fast Reactor " Cocheilaire system and I am working on the prototype for demonstration without fuel " plutonium ", but the ignition is the secret !

If you ever wonder why I patented in Europe ? do you remember all the misery I had to fight off you guys bureaucrats (to be polite)

Several months ago I applied (and was turned down) to present a proposal of a new nuclear plan for city of San Carlos which are on the target stop for the bullet train (H.S. R.) this in order not to be caught of garde in future demand of electrical power for the launch acceleration to cruising speed of the huge amount of surge in electrical energy that only nuclear plant can provide . " on demand "

As such my backyard is my " research lab " which cannot be violated for external appearance that has to do with what is " experimental " or neighbors that want me to think and or behave like they are.(.....)

One of them assailed with my looks and clothing appeance and called me " not normal " so was also my acivities, the noise of the machines and equipments and my material stoch that he call " junks " the general definition of a typical ignorant. His condescenting harange always when he was " stoned " or doped, he left the area, gone for good, I do not welcome " junkie " in and around our neighborhood.

I am not in possession of dangerous chemicals and or nuclear materials and or any radioactive elements

Further, I met with the top engineers of the new Bay Bridge and presented them with designs prototype of replacement bolts instead of the girdle (glue, tape, bailing wire, rope & cable) that rigged up saddle is NOT engineering even if it appeases the ignorant media reporters with their sensationizing exaggeration.

I also presented a solution to monitor and control each bolt under tension, a novelty in structural civil engineering that could be applicable worldwide in all constructions and controlled by remote or by land line using telephone voltage in put. With this system, danger in the transportation roadways could be detected immediatly upon any stress that exceed the safety limit of the fasteners, warning motorists.

I have a stake at the roadway safety since I am the manufacturer of the solar car CARP

Although I submitted 9 designs to the bridge authorities I have not formulated the descriptions and the claims to be " patent " ready since I asked partnership with a bridge engineer so that the cost of patenting could be sharing in part or all with the bridge authority being the mandater of my invention.

A patent require lot of research, designs and writing and the City's miserable hassling would force me again to patent in Europe (your lost,)

Those designs (I am the only one who presented them amongst all the other luminaries who did all the talking) were presented in May 2013 at the senate hearing chaired by Senator Mark de Saulnier in charge of the transportation department. Our Senator Loni Hancock was noticeably absent (flake)

I am presently modifying my old engine lathe to fabricate cone shape thread at 22 degree angle with an overlap sleeve to fit the bore in the mass of the bridge pillar, those bolt (my bolt) will be made of stainless steel 316 (hospital grade) and not be subject to hydrogen embrittlement (if you believe in that dihydrogen monoxide hoax).

My backyard is SECRET in the fabrication procedure since nobody wants to partner the manufacturing because of the research-development time required, I am in a course against time to present a retro-fitting with an upgrade that will superseed present designs. they will stretch but not snap

Violating my secrets is an attack in the integrity of the confidentiality of my intellectual property and view of the " art history " of the invention is infringing upon my right and privilege as an inventor, be award.

I am in real crisis, could you leave me alone please, again leave me alone please.

You own me respect an apology for your past mischevous behavior.

Peace,

Andre'

10-02-13

From: Victor Gonzales <vgonzales@ci.emeryville.ca.us>
To: "cxengineers@yahoo.com" <cxengineers@yahoo.com>
Cc: Charles Bryant <cbryant@ci.emeryville.ca.us>; Michael Guina <MGuina@ci.emeryville.ca.us>; Michael G. Biddle <mbiddle@ci.emeryville.ca.us>
Sent: Wednesday, October 2, 2013 2:56 PM
Subject: FW:

Mr. Carpiaux – I'm sorry to hear of your misfortune, however please be advised rescheduling of this inspection is denied and the City will move forward for inspection purposes on the scheduled date and time. As property owner you have the option of a representative to act on your behalf. Furthermore as stated during my visit to your property in posting the notice to inspect, the inspection is merely to observe and document allegations of illicit property maintenance, blight, and construction on the premise. No items will be move or removed during this inspection.

Please seriously consider the matter of providing representation for inspection purposes in order to facilitate the process.

Thank you.

Vic Gonzales
Chief Building Official

10-02-13

City of Emeryville
Building Division
(510) 596-4310
vgonzales@emeryville.org

From: Andre Carpiaux [mailto:cxengineers@yahoo.com]
Sent: Wednesday, October 02, 2013 1:21 PM
To: Victor Gonzales
Subject:

Dear Mr Gonzales ;

I just got out of Kaiser hospital to deal with the right tumb injury that turned bad because I did not take car of it when it happened yesterday in East Oakland on Keller Av.
I am now out of commision and under medication, it affects my whole right arm and since I am right handed its a dangerous awkward handicap.
I am returning this afternoon for more test
I am asking for a reasonable postpoment in order to guide and assist your inspection. Thank you,

Andre'

07-24-15
to Superior Court

Summary:

Andre has suffered 26
years of miserable
pursuit from City of
Emerville over tools of
his trade and requests
protective action from
the court

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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF ALAMEDA

Department 109

Dated July 24 2015

Andre' Carpiaux
1264 Ocean Av.
Emeryville, Ca.
94608 - 1149

No.....

PLAINTIFF

Vs

COMPLAINT FOR FALSE
WARRANT
and or ORDER

City of Emeryville et al.
EMERYVILLE, Ca.
DEFENDANT

C O M P L A I N T

1. PLAINTIFF Andre' Carpiaux, has for the last 26 years suffering from the miserable pursuit from the City of Emeryville over the tools of his trade and the accumulation of his stock materials that constitute the core in the making of his engineering projects.
 2. DEFENDANT have surprised him with a false warrant of inspection.
 3. PLAINTIFF requests referral to the law & motion Court depart. 14 which he has contacted and will report to.
 4. PLAIN T I F F request protective action from the Court
- Andre' Carpiaux Property owner Signature.....

9-30-13
10-01-13

To Maurice Kaufman
City Engineer
Public Works Director

Summary:

Andre asking about progress on storm drains asking why ignored or bypassed. Questions why all the \$ for skate-board park and \$ for storm drains

Andre establishes the fact that there IS FLOODING, acknowledged by fact that one was made PIPRACT.11/11/11 at end of Peabody with a line zone,

10-01-13

To: Maurice Kaufman
Subject: Re: Storm drain ?

Dear Maurice ;

What 's happening with the storm drain situation on Peabody Lane , any clue before I get flooded ?

Andre'

From: Andre Carpiaux <xcengineers@yahoo.com>
To: Maurice Kaufman <mkaufman@ci.emeryville.ca.us>
Sent: Tuesday, October 1, 2013 11:12 AM
Subject: Re: Storm drain ?

Dear Maurice ;

I do not want to be a pest but the last time we talked about the storm drain you said that the city's budget did not have any money surplus to afford the work of installing another storm drain,

The fact that a storm drain was made at the end of Peabody lane indicates that there is in fact flooding and that storm drain was made so that the new apartment would not get flooded.

I did not object nor got involved as a neighbor and be a negative voice although historically I knew the site as a depot of the railroad end line for the maintenance of the locomotive P L S o4 battery pack. The grease jobs was also there !

At the time of the digging last year I witnessed feet thick of ground dirt soaked with the sulfuric acid that the owner did not want to excavate for an underground parking and instead capped with 3 or 4 feet of virgin dirt in order to save on his budgeted capital to raise his bldg project. I purposely subtracted myself from being seen on the site for one who knew too much about the area something Larry Baker (my friend)discussed at length.

I did retrieve lots of different type of brick all soaked with ...chemicals, anyone could smell the emanating fumes

I had a stake in that chemical contamination because of my well (potable water) which could be in danger of suddenly being subject to gravity

seepage , percolating to the lower aquifers from the site and this because of heavier the density of PL So4. I did not bring the issue of lead peroxide in order not to inflame the situation but its a real object of exploitation for those screaming environmentalists, those people are trouble !!! Unlike petroleum base product which will float and surface and carried toward the Bay

So,..... all the other properties up the street like mine where forgotten, by passed, whatever ignored and I know its not your fault, because of the money situation.

Now, what happened to the six hundred thousand dollars we go back from Sacramento ?

I was present when Micheal made the announcement at that city council meeting ?

Was it a joke ? a bait and switch ? part of a Nigerian scam to feel good ?

I made myself unpopular in objecting, being negative about the amount of money projected to make the skateboard play ground for " fun and entertainment " with the motive that the money could be wisely spend for practical purpose in the making of the Peabody storm drain as a priority for being practical contrary to the quality of life for those who have nothing else to do except seeking their own enjoyment.

I want to remain your friend, that of the other city staff and my neighbors, peace.

Andre'

From: Andre Carpiaux <cxengineers@yahoo.com>

To: Maurice Kaufman <mkaufman@ci.emeryville.ca.us>

Sent: Monday, September 30, 2013 1:21 PM

Subject: Storm drain ?

Any progress on the storm drain on Peabody lane ?

Its going to rain and my back yard is going tp be another swamp

Andre'

no date
to C. Lehr, City Manager

summary:
record shows persecution
(for 26 years) of the
working man

Nora Davis = what's left
of original gang preju-
dicing new mayor Atkin

request for financial
assistance; no loan
can be secured due to
liens by city during its
many seizures

incompetent and ~~ignorant~~ ignorant councilmen

Andre' Carpiaux
1264 Ocean Av.
Emeryville, Ca
94608-1148

tel 510 292 9807

cxengineers@yahoo.com

Ref ; Theft of Homeless Habitat;

Dear Mrs Carolyn Lehr ;

Mrs Carolyn Lehr Emeryville City Manager
Emeryville City Hall
1333 Park Av. Emeryville Ca 94608

To Whom It May Concern

My name is Andre' Carpiaux the undersigned at the above address, I have been a resident in Emeryville since 1968. Welcome to the City of Emeryville Ca.

I came in 1962 as an " Exchange " sponsored by the N.A.D.A. met my wife Eleanor from the U.C. French depart. married in 1964. Met " Ingrid " a Swiss German, inviting me to stay in Emeryville

Recently, a 2004 Mazda Green Van last temporary registered to my name disappeared on Monday June 01 2015 Ocean av. In Emeryville 94608-1148.

I was aware that vehicle was not running since it had no battery, neighbors informed me it had been " stolen " by E.P.D. which police services called impounding for D.M.V. violations.

That vehicle was the " habitat " of an homeless man Mark Desmond, the E.P.D. was well aware

A transformation of vehicle(s) into an " habitat " is for any " homeless " his home, a conception housing, it does not need signs or appearance of an house or barn or camp gears or anything that cover against the element but most surely locks trying to secure, hold personal belonging.

Everybody recognize an homeless habitat forced in that situation by the operation of economics

Mr Mark Desmond's economics is the full consequence of debilitating limbs medical conditions

That seizure was " cruel, unreasonable ", situated in front of an empty property, was not an off street parking spot, it was not polluting, that vehicle was not deteriorating the ground or curb.

The housing authority had not issued any notice of unsanitary, unhealthy or blight conditions.

All other cities surrounding Emeryville have similar homeless vehicle in parked conditions,

All other cities give reasonable warning notice to move it pending if necessity arise, that is not at the arbitrary caprices of the police officer(s) in charge of calling the towing outfit Cy.

This is a blunt theft by the E.P.D. acting with convenient pretexts from D.M.V. violation(s)
This was not State or Federal violations of the laws that a person must be secure in his home.

The D.M.V. violation(s) is being challenged on the ground that " IF " this vehicle was taken " impounded " for lack of current registration and or being more that 72 hrs parked on the same location, it was being " chosen " specifically because it was an homeless " HABITAT ". Because, Across Ocean Av, was sitting for weeks a white Dodge pick up truck Ca. .D.M.V. 3U25 869 it has been out of Ca. D.M.V. registration since April 2011 a four years laps in time without " non operation permit " and not " operable " because of mechanical problems.

When I offered the owner's mother to repair it, she said; it was her sons and was not around.

The next day I told her sons that I had the tooling to repair the locked steering mechanism in which the ignition key's barrel had jammed pins and could not be activated in order the unlock the shifting mechanism out of PARK to be moved with its own power or not.

In the mean time the ticketing lady officer had come to have the vehicle removed from the street but the mother interceded in asking for a relief until the time in which I repaired the key-lock system device. I told her I would make it operable with a flat head screw driver until a new lock mechanism could be purchased, be snapped right in its machined lodging. He said, he did not have the money and he could not afford it, his Mon would not loan it to him and " his " mechanic friends all wanted to do was to " get " another whole steering column assembly.

A " NO CHARGE " helping was a courtesy owned to newly neighbors in the subsidized housing

It appears conclusive that an older pick up truck suited to move stuff was not being sighted as a possible " habitat " therefore benefitting the status of NOT enforcing the pretexted D.M.V. violations except housing violation of may be " unsanitary, unsightly and an offensive blight "

The city has not to my knowledge issued an ordinance prohibiting " habitat " on or off the street to enforcing the D.M.V. code violations to mask its dislike of the homeless population

I know of three other instances in which the E.P.D. police officers targeted me " specifically " I will tell tale the events if I have to emphasize my allegations of being the focused target yet I am not accusing the E.P.D. officers involved because I am " told " (informed and believe) that their actions originate from city council person(s) wanting to arm my economic budget and the E.P.D. is doing just that by doing the biting in stealing my belonging or that of my friends in which expenses are being shared in part or whole.

You are aware the city council can terminate your job (livelihood) anonymously by a simple majority rendering them immune from anyone seeking redress to challenge their decisions.

This type of action (BACK STABING) has been for the most part the single reason WHY most councilmember have resigned their elected duty as city council person

The record shows that I have been " persecuted " ever since a new city council was elected some 26 yrs.' Ago, it was known as " BUDAKAAT ", they cannot cope with the workingmen doing work from his property. This is a parallel situation to all those artists doing work in their loft. I am not aware of any artist being raided with the aim of destroying the work of their occupation. They never had the city fishing for code-violations The Artsy-Crafty crowd would make a revolution of such invasion of privacy. Councilwomen Nora Davis is what's left of the original gang adding to the prejudiced mentality the newly nominated Mayor Ruth Atkin.

Under their domination mentality my life here in Emeryville has been " MISERABLE ", it is the anathema of the American Dream, if you are attuned with the plight of the immigrant seeking a better life. I am now 81 and this continuance of persecution constitute de facto " Elder Abuse "

I have addressed to both Mayor and Vice-Major a demand for financial assistance because I am NOT able to secure any loan because of all the " liens " attached to my property. Those liens are the expenses occurred by the city " demolition crews " invading raids to steal my belonging which constituted the tools of my trade as cultured art, the tool jigs, the machinery, the materiel stocks, the prototype of my invention(s) " art history " U.S. Patent and E.U. (brevets)

I had my complete machine shop taken under then Mayor Ken Bukowski, then I had my One Person Rescue Submarine with its fuel cell engine and sealed battery pack taken, the whole its whereabouts unknown, then under Mayor Ruth Atkin, " they " for two day destroyed my custom made scaffolding, a contraption specially designed and fabricated to handle large section of " stainless steel " that constitute the roofing material of my house. An engineering project I started in June 2000 to commemorate the new millennium.

Except for two past minority councilmen having then no voice in decision processes and now with newly elected Scott Donahue, every other elected city council person have been from the record " industry ignorant " having NO clues of what going-on in mechanical, technological, engineering and or " state of the art " novelty. Having taught engineering it is difficult for me to call those people " incompetent " yet their actions reflect just that !

Sincerely Yours

Andre' Carpiaux

no date
to Brian

summary:

BUDAKAAT power trip re
Steven Westley affair (fired
with no hearing)

progressive majority overlooks
that 90% of students are
of color

new school = no room for
vocational training,
all "play"

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reliable

Dear Brian ;

I sent you a posting asking you if your candidacy is in line to become a school board member ? It is my opinion that you would be a major player in decision making process consistent with the education code.

The education code basically protects the teachers those under the crowd of administrators and their abuse of power when given a chance as such you have exposed so far EXCEPT an affair concerning Steven Westley, it also protect the administrators from the action of the Board of Trustee violating state and federal laws, the basics, the constitutional. such as due process and of course the right of an hearing, the hearing that listen to both side of the issue not just the big guys and gals moving along their imposing mentality to bull things their ways.

School Board of Trustees are under jurisdiction of majority city council, here a progressive majority. You missed the last city council meeting in which a new police officer was " sworn in " again. He used to be part of the Emeryville force for many years when he moved to Concord Ca.

So he is coming back here with us. I remember him too, he is a nice man. You would feel comfortable with him being around, WE need those !

Since the " sworn in " is about the laws and constitution I took the chance to speak up on the Steven Westley affairs (as I told you I would do so a while ago) and of course I pointed the finger to those city council women who had the power to stop and implement the education code which obviously ignored or faked its existence , So I spoke denouncing Nora Davis and Ruth Atkin ! It did not move them at all, Except in the audience in the back row was sitting a black man who happen to be the father of the new policeman. The whole family of the new policeman was present, wife, children et al. They saw that at least, I was not one of those (hypocrite) racist folks from the Concord area !

On the city council crowd, no one made the " motion " to exhume the Steven Westley affair.

It is my opinion that the progressive majority should re - open the case and I would wish Jacqueline Asher to take the initiative as an U.C.B. lecturer and as her husband teaching laws (computers) seconded by either Dianne or Scott the man on the council.

The black community would feel relieved (comfortable) having the progressive majority (white folks) initiate the fairness of the shameful event that happened during Nora's BUDAKAAT power trip.

The progressive majority should realize that 90 % of the children attending our school are people of color feeding the earning of the mostly white staff, just keep that in mind. (I have no factual numbers WE own the black community to repair, to mend past and now s days injustice. It would be a giant political leap for the progressive majority ! I would be the firebrand pushing the issue

Do not worry about the Watergate folks, do not count on them, they were our adversary during our effort to support the Woodfin's worker grievances, I was personally offended being a foreigner too.

The other issue I want to bring to you is in the new school, there is no room dedicated for the trades the vocational area, the technical formation of tomorrow's labor forces ! its all for " play " whatever you name it, for fun and entertainment, little or NO work at all, not even a room to teach " art " as starter in educational inspiration – intuition, called " industrial arts " it teaches how to work, tricks of the trade Where would your brother Scott fit in the new school if its all for " lip services " classes of whatever you call them, nothing hands-on except the clavier of viewing monitors

Would you like teaching the " remodeling trade ", the study of the building code the " International " one as events progress of new emerging technology application of new materials for adult to gain contractor licenses with most of them practices having great problems reading standard English !

I look at you both like my sons for we have been together in the labor movement, I have faith and I care for you and support both of you wholeheartedly .

You may count on me without failing, no excuses, no alibis, just reliable.

Andre'

no date
to G. Johnson, College of
Engineering

Summary:

Andre's criticism of
city council re: construc-
tion costs of new school
and re: lack of concern
for no vocational training

Andre's concern for
human safety (World
Solar Challenge 2001)
praised by technical
committee

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pipernallin sodium/Lederte

Dexterity ;

Andre' Carpiaux
1264 Ocean Av,
Emeryville Ca.
94608-1148
cxengineers@yahoo.com

Professor George Johnson
College of Engineering
Etchevery Hall. U.C.B.

ref; Dexterity

Dear Professor George Johnson

At the last Emeryville City Council meeting, I opened a "can of worms"
I criticized the city council to allow the school board to be taken again and over again with the construction cost of their new school. All the regional politicians had their glorious day photo taken, safety equipment, hard hat, pick and shovels, you know the line cutting the ribbon with a large scissor. One of them "Ruth Atkin" posing as Mayor, she was not nominated yet as the process was still worked out through the political shenanigan. Rainy days, delays and cost overrun being the staple, a trap with fish hooks. I saw no shame or embarrassment. The real estate seizure (eminent domain) being dedicated for sport bouts where students are going to be "chasing balls". Every one expecting to become a star and being seen on T.V. slurping beers. My critics focused on the lack of concern for the trade and vocational education, not a cent is set aside for the vocational area, there will be NO shops to teach any trade, nothing to provide training in any skills. No body to know about anything how things are made, no electrician, no machinist, no mechanic, no maintenance – repair. Except an area lined with computers and classes for computers at all levels Everything to be "junked". You would be flabbergasted if you could see what is being thrown away to the scrap pile, that is sorted out not to be saved but to be channeled to the proper melting furnace. Unless you seen the waste especially from torn down labs worth fortunes, its unimaginable. I have seen it as a virtual reality, a position of experience to make such statement having fabricated all sort of contrivances, tool jigs and a long list of prototype as "art history" of inventions. I am familiar with "Aaron Metals Product" a scrap yard where I have had the privilege to have access to their stock of stuff that arrive constantly during business hrs. All ends there or in other similar scrap metal operation depending on bids of demolition-destruction. I must mention to you that all supplies I ever got from them "FREE" was to help the S.M.V. and the Cal-Sol projects. They also gave us for the "Stanford Solar Car Projects and for the construction of my solar car "CARP"
This is from 1993 on my first involvement, from father Paul to son Aaron the "Forckash" To enumerate what I seen would be an endless tale, but for what I know in the business the total amount energy used from conception to smelting furnace would represent a coefficient of calorie of necessity a factor to take into consideration in the production of anything as an area of displacement of unit in watt economy. Many factors would be interlaced but to work out a formulation to a solution of prediction uncertainty would help in the start of the feasibility study and save in the long run in the natural resource wealth. I am not aware of any feasibility study an area dealing as a factor the cost of disposal at the end of useful life and its cost to be ready as virgin material stock. From my prospective, what I seen after investment amortizement the cost is enormous It is my belief now that the vocational area abandoned should be resuscitated to its original intent setting aside That only few can attain fame and glory through the business of education academics science and liberal arts, The rest must be taken care through vocational education that provide jobs to sustain a decent livelihood. Myself, I learned the mechanic-machinist trade from my father, he learned from his father and his father in farming equipment, I earned diplomas and certificatès and an engineering degree from San Francisco State. Cal Berkeley was to expensive to end up teaching automotive technology in colleges, I also wrote a book on "Vehicle Emission Control" (390 pages) that rewarded me with so many enemies in the oil industries that would affect (shorten) my teaching career . But I was well taken care off during my college life with all those interesting classes I took in all available vocational area including aircraft technology. This is something the

generation of my sons have been deprived the opportunities because those classes were not offered and now have been annihilated from education upbringing program altogether.

I am sure you understand my concerns, untold number of graduates are produced every year worldwide without adequate hands – on skills they should have learned concurrently if that would have been part of the curriculum.

During my tenure with your S.M.V. and Cal – Sol projects I saw that first hand of what was evident from a lack of tool dexterity and know how to go about getting involved with out the usual hesitation of a debutant. Its more than safety from being clumsy, it is an appreciation of trade- technical know how of those who are not academic inclined but are nevertheless the necessary component of achieving a project that does not falls apart. It is not necessary at this point to show and tell how my involvement has been beneficial to the participating students, result obtained The good time of being the recipient of trophy and be in the winner circle are over. I must remind you that during my participation at three W.S.C. in Australia 1996 (Berkeley-Stanford) that the governing body laying out the program for the participant competitors having in the average some 50 solar car teams, it demanded that teams provide a specific study to be presented to the W.S.C. technical committee, the “ Experts “. Something I missed in 1996 in the “ Rush “

In 1999 @W.S.C. I presented to the technical committee a paper five pages detailing the subject of roadway “ Trepidation “ with testing comparative results of different grade of roadway surfaces with references some evaluation of the testing machine at the Richmond Field Station and my own observation from the “ CARP “ The technical committee expressed their interest and contentment with “ excellence “ in the subject matter.

In 2001 @ ^{World Solar Challenge} W.S.C. I presented “ Pilot “ also a four page paper dealing with Pilot safety. I fabricated two large device that would plug in either side of the solar car to release the locks, activated from outside or inside for the purpose of freeing the exit of the pilot in any accident in which a pilot would be jammed inside a body containing fire-explosive material-element of either chemical (battery) or fuel .

Again, technical committee praised my presentation as “ Excellent “ of human safety transportation concern

Its only lately that I was advised that I was the only one ever out of thousand participants to have submitted technical papers to satisfy the wish of the W.S.C. organizers having in mind that “ Solarmotions “ was still part of U.C. Berkeley and me part equal of their volunteer staff and me being the “ old man “ of the team

I still have those presentation papers, hand written, hand designs, and those two mechanical system device safety release. I could provide this to you to see my works. I know you will appreciate my craftsman ship. I never though that those things would one day re-surface but I was advice to present them to you for what ever appreciation. I have not made any project for patent in either U.S or E.U. (brevet) its written in English

Sincerely Yours,

Andre' Carpiaux

no date
to Brian

summary:

Ken Pukowski, as mayor;
critical of workingman,
cold-blooded, socially
indifferent, ignorant;
seized machine shop
and submarine.....
JUNKED IT ALL.

Michael Donahue (city aty)
against the "armed robbery";
resigned; was blamed

illegal maneuvering by
BEDAKAAT (Pukowski,
DAVIS, KASSIS, ATKINS)

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pipracillin sodium/Lederle

Dear Brian :

Most people do not understand WHY I stand behind Steven Westley regardless of the amount of charge. I must remind you that in the state of Texas alone over two hundred innocent have been executed on charges that were not properly challenged from a prosecution at all level obsessed with scoring a conviction to death. So I should explain to you (to you) what comes up in my mind.

Most of those people never worked out what is called " legal reasoning " in the Common Law or the Code Napoleon or with the Italian Law (Canon Law)

My father a car dealer with a machine shop explained to me that people can be repaired without " junking " them what is called in English speaking counties " firing " In French speaking countries its called "congedier " which is a temporary holiday in no one else's known motive

The tough prison sentences harden people but does not repair them of their criminal tendencies driven by needs rather than economics, this explain the " recidivism " and the three strikes has not proved conclusive except for increasing the incarceration cost dramatically (to the joys) of Nancy Templeton an Alameda County Sheriff Female Officer ." the Jailer " Their job is punishment.

In needs is the motives in peace like in wars

This is what most people who divorced recognize that things could have been worked out without blowing things apart no matter how outrageous it was. Divorce Court's counselors are the worse, my wife admitted that she was enflamed out of control to our condition because her counselor was herself a divorcee and was again dating other guys, She joined a group of divorcee (women) who were experiencing their high school good time flirting again, they were from the women movement at U.C.B. (a women caucus) were she met my friend Vivianne, a Parisienne , another French radical

The L.B.G.T. stuff had not yet reached the media maturity and it was a timid overture driven by aggressive homosexual who invariably succumbed to the " aids " virus. All those fags I knew as such sexual depolarized are dead, the medicine was not fast enough to catch up with the spread of the disease, so millions perished. In Europe anyone having symptoms was automatically dismissed from his / her employment for urgent health reasons " S.I.D.A. " plague had driven to health care professional spinning for effective remedies

Ken Bukowski's lover passed away much quicker than expected, he left the benefit of his estate assets to Ken. I do not know if Ken is still on the H.I.V. state health care supported program (the Harvey - Milk) bills

Ken Bukowski now receive the income of HIS rental properties and can afford NOT to have a real job which he never had,.....and never will. So he can criticize the workingmen for something he never had to do. Working has never been his level of intellect. Dumb people do that he says like those in assembly line That's WHY he is president of Emeryville property owner club. I am not aware if he publishes a monthly newsletter !

That WHY his cold blooded attitude when as Mayor he seized my machine shop and junked it, This did not bother him a bit when the city seized my one person submarine and junked it, It was not assembled he said no body could tell was it was, so ignorance was the driving force. Those individuals like Nora, Ruth and Kassis are guilty of human social indifference something that is the specific characteristic of "Jailers "and prison torturers (our Guitmo shame)

While Ken was laughing at the drama and the shock of my state of mind, the city attorney at that time (Micheal Donahue) was unhappy because something happened under his supervision and he realized then that the control of his operation could be manipulated by a city councilmember acting under the guise of the majority and came to apologize for being part of the first armed robbery, when he was alerted that most of the content of my shop ,

tools, power equipment's where for sale at "Urban Ore" their first location in Berkeley. My own fabrication 200 T hydraulic press was there. He soon resigned to take another job, and of course they blamed him.

That's how Biddle came him as a novice, but he was prudent always aware of legal traps created by ignorant-irresponsible council folks, He was fair until "pushed to do illegal maneuvering" under BUDAKAAT threats.

That was Biddle's sorrow in cheating property owner under the threat of "Eminent Domaine", a legal theft
BUDAKAAT = BUKOWSKI, DAVIS, KASSIS, AKIN
See Adams's machine shop and pumps as now site "B"

The most attentive - sensitive person was Greg Harper who had voted NO and he was devastated by the blunt of the seizure, the law protecting private property was steam rolled over, there was no reasons to make the then majority listen to the minority of Greg Harper and Nelly Hanon. That was there first experience in democratic dictator atmosphere, Greg Harper suffered the most he was repeatedly humiliated as I witnessed powerless.

They had a deaf hear to his most credible reasoning and as a matter of record Greg was never involved in any employee dismissal. Greg was finally Mayor but was also cheated of another one too, so was HIS frustration !

Dick Kassis did not get along with Greg Harper, Dick was using his majority gang member to irritate-provoke Greg on every little matter.

When Greg ran for Congress challenging departing Ron Dellums strategic tactic for his sheninagan replacement by an incompetent office associated "Barbara Lee" he did not even get the endorsement from the Emeryville city council,!

That was THAT bad, but it was normal from a nasty gang headed by bullying Nora Davis.

In recent history of teaching evolution from what I learned from my great Uncle who had a professorship (a Chair) at the University of Liege Belgium, the competence and fitness for the position was then determined by an examination called the " Jury Central " It was open to the public much like a Court Room, If you failed you could repeat. And the examination was " FREE "

The paper work called, record, certificate, degree, diploma P.h.D what have you as elective because attendance in classroom type situation was only reserved for the very few and the profession usually succeeded that of the father, the knowledge and skills passed on down from generations to next, it was the normal expectation in the skills development of the vocabulary commonly in usage as the trade evolution that made progress explode in such rapid space.

It was especially true in medical, surgery, and medicine and mid wife, you learned in the family the trick of the trade good or bad, except the bad got bad reputation fast and bad mouth was feared the most based on facts. The access to the " profession " was difficult to reach because you had not learned through the family ropes line of practitioners. The practitioners made their own medicine, both allopathy and homeopathy carefully monitored, recorded passing it on amongst health practitioners

From this understanding it is difficult to associates job performance with earned " receipt " of expenses in time and money from the " educational industries ". This is WHY most of these " receipts " are good enough to show off, brag and pretend to be somebody but unfortunately are not the certification of Competency or Fitness or Adaptation for the job at hand.

This is now a days the practical approach of most " hands - on " job to see how eager you are at the practical aspect of performance, quick to learn and the duration of efforts and be " reliable "

It is my believe that Steven Westley's goal was to " by-pass " all the administrative-academic hurdle and sit on the job to see how it was to be " somebody " like a " superintendent ". Steven Westley had not hang around enough the colleges and the universities to learn and develop the " university type of talks ", the study jargon,

the jokes associated with those lounging time in all the students activities as participant or stand by gawker. He had to work to earn a living and survive, he did not chase those girlie, those cheer leaders, those hang on black feminist radicals and the " Uncle Tom " society

This is were you find the crowd of " Loni Hancock ". when she displays pictures of her at Selma Alabama with Dr Martin Luther King, She is " fluent " in " Advances University Conversation " and drops names like hails. Loni Hancock also had herself " jailed " during the Woodfin worker's protest (just for the record) you know ! as a populous strategy worked out by her closest political P.R. aids

Steve Westley was NOT a " frat-boy " either. He did not have any of those diary attached with his college pals he could rely on for a push " connections " He was not of an identifiable person from the " chosen people of God " as an ethnics religious group or having a name and as a loner was " vulnerable " from any pack of wolves or any other " hates " group under any disguise.

Those known actively involved in Steven Westley affairs included but not limited to Joshua Simons (illustrator) and Nannette Ivanoff (feature writer,) Robert (Bob) Cantor C.E.O. of Chamber of Commerce) producer of the Emeryville news and Ruth Atkin city councilwomen. Ruth Atkin's room mate being the secretary of Bob Cantor. SO, here absent of compassion, sympathy and friendly mitigated feeling was one known ethnic group tearing down a member of another individual from the black community. A questionable integrity made up to hurt Steven Westley " To Do Harm " Is it for the Veritas ?

I am aware of two other instance of misrepresentation of qualifications. One involved a U.C.(L.A.) professor, one of those luminaries which upon his review of qualification for the tenure track turned out to be a complete disaster as far as any truth, everything was fake even his identity, he came from Israel ! with full conspiracy of the Israeli University's administration. who officially responded as a continuous anti Semitic pattern.

The case of Bill Gate and Steve Job both merit special attention, both flunk school as channelled human chattel , they rejected all those academic honorary degrees as a social distraction that rewarded the educational industries as a front troop shock publicity. Steve Job in particular rejected to proposals college of San Mateo and Stanford University " custom build " transcript that would have made them famous " alumni " with glorious guiding professors being their follow the academic light of geniuses. The whole scenario (fictitious) This was in fact the OPPOSITE of Steven Westley and it made Steve Job view the educational industry that lowered itself to the racketeering of the lowest grade. It created so much turmoil within those two educational industry scandal that Steve Job only agreed to say that he had attended " audited " some physics classes. NO details, NO references NO witness, NO proof. I knew one staff at the college of San Mateo so its NO imagination. Steven Westley was screwed because he was black, period.

WE had another one recently at Mills' college. (driven by hate) professional jealousy and very attractive sex appeal !

It was a French women (U.S. citizen) very articulate, excellent devoted teacher I knew from a long time, she got also dismissed on an insignificant details. SHE also never had an hearing (not required in private institution)

The most famous case on record is " Albert Einstein, " HIS wife being four years older, petite and deformed was the " mathematician physicist, " She was far more advanced than Albert and was HIS tutor, HIS wife developed the theory of relativity and all the other written stuff. BUT the politic of Women as child bearer was an unsurmountable barrier that had not been challenged to access the higher education level of graduation WHO passed it on her husband " In the family "

Pierre and Marie Curie is another tale

Albert never claimed it was HIS !, SHE said WE , Albert never said WE or ME, so he got the Nobel prize money, bought her income properties, she could live from her income and he left her after the deal was settle, She did not file a " quit claim " on the scientific discovery or on the Nobel prize either because that fight was fought and won by the Curie(s) many years later a ruling that was not made retroactive. They had lost their only daughter Elzie together. and decided to left him alone with all his other women she was upset and disgusted with that guy. HIS son came later we another women.

Albert Einstein fame came after the " Jewish Goebellizer industry " got hold of his case and promoted as a stallion of the Jewish scientific dominance. His first wife was born a raised Catholic.

Andre'

ADMINISTRATIVE RECORD

1994

**UNIFORM CODE
FOR THE
ABATEMENT OF
DANGEROUS
BUILDINGS™**



ADMIN.RECORD 1

INTERNATIONAL CODE COUNCIL

Item No. 105S94

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CODES AND RELATED PUBLICATIONS

The International Conference of Building Officials (ICBO) publishes the family of Uniform Codes, each correlated with the *Uniform Building Code*[™] to provide jurisdictions with a complete set of building-related regulations for adoption. Other reference materials and related codes are available to improve knowledge of code enforcement and administration of building inspection programs. Publications are continually being added, so inquiries should be directed to Conference headquarters for a listing of available products. The following publications are available from ICBO:

UNIFORM CODES

Uniform Building Code, Volumes 1, 2 and 3. The most widely adopted model building code in the United States, the performance-based *Uniform Building Code* is a proven document, meeting the needs of government units charged with the enforcement of building regulations. Volume 1 contains administrative, fire- and life-safety and field inspection provisions; Volume 2 contains structural engineering design provisions; and Volume 3 contains material, testing and installation standards.

Uniform Mechanical Code[™]. Provides a complete set of requirements for the design, construction, installation and maintenance of heating, ventilating, cooling and refrigeration systems; incinerators and other heat-producing appliances.

Uniform Fire Code[™], Volumes 1 and 2. The premier model fire code in the United States, the *Uniform Fire Code* sets forth provisions necessary for fire prevention and fire protection. Published by the International Fire Code Institute, the *Uniform Fire Code* is endorsed by the Western Fire Chiefs Association, the International Association of Fire Chiefs and ICBO. Volume 1 contains code provisions compatible with the *Uniform Building Code*, and Volume 2 contains standards referenced from the code provisions.

Uniform Housing Code[™]. Provides complete requirements affecting conservation and rehabilitation of housing. Its regulations are compatible with the *Uniform Building Code*.

Uniform Code for the Abatement of Dangerous Buildings[™]. A code compatible with the *Uniform Building Code* and the *Uniform Housing Code* which provides equitable remedies consistent with other laws for the repair, vacation or demolition of dangerous buildings.

Uniform Sign Code[™]. Dedicated to the development of better sign regulation, its requirements pertain to all signs and sign construction attached to buildings.

Uniform Administrative Code[™]. This code covers administrative areas in connection with adoption of the *Uniform Building Code*, *Uniform Mechanical Code* and related codes. It contains provisions which relate to site preparation, construction, alteration, moving, repair and use and occupancies of buildings or structures and building service equipment, including plumbing, electrical and mechanical regulations. The code is compatible with the administrative provisions of all codes published by the Conference.

Uniform Building Security Code[™]. This code establishes minimum standards to make dwelling units resistant to unlawful entry. It regulates swinging doors, sliding doors, windows and hardware in connection with dwelling units of apartment houses or one- and two-family dwellings. The code gives consideration to the concerns of police, fire and building officials in establishing requirements for resistance to burglary which are compatible with fire and life safety.

Uniform Code for Building Conservation[™]. A building conservation guideline presented in code format which will provide a community with the means to preserve its existing buildings while achieving appropriate levels of safety. It is formatted in the same manner as the *Uniform Building Code*, is compatible with other Uniform Codes, and may be adopted as a code or used as a guideline.

Uniform Zoning Code[™]. This newest addition to the Uniform Codes family is dedicated to intelligent community development and to the benefit of the public welfare by providing a means of promoting uniformity in zoning laws and enforcement.

Dwelling Construction under the Uniform Building Code[™]. Designed primarily for use in home building and apprentice training, this book contains requirements applicable to the construction of one- and two-story dwellings based on the requirements of the *Uniform Building Code*. Available in English or Spanish.

Dwelling Construction under the Uniform Mechanical Code[™]. This publication is for the convenience of the homeowner or contractor interested in installing mechanical equipment in a one- or two-family dwelling in conformance with the *Uniform Mechanical Code*.

Quick-reference Occupancy Guidelines to the 1994 U.B.C. Code requirements are compiled in this publication by occupancy groups for quick access. These tabulations assemble requirements for each occupancy classification in the code. Provisions, such as fire-resistive ratings for occupancy separations in Table 3-B, exterior wall and opening

protection requirements in Table 5-A-1, and fire-resistive ratings for types of construction in Table 6-A, are tabulated for quick reference and comparison.

Supplements to U.B.C. and related codes. Published each of the two years between editions, the Supplements contain all changes approved during that year, plus an analysis of those changes.

Metricated Tables and Figures of the 1994 Uniform Codes. The tables presented in the 1994 Uniform Codes tabulate values in inch-pound units system and are provided with multiplying factors to convert values to the SI equivalent. This publication provides all the tables and figures of the Uniform Codes completely metricated. All tabulated values will be presented in SI units without reference to the inch-pound equivalent.

Uniform Building Code—1927 Edition. A special 60th anniversary printing of the first published *Uniform Building Code*.

CABO CODES

CABO One and Two Family Dwelling Code. Jointly sponsored by ICBO and the other model building code organizations, this code eliminates conflicts and duplications among the model codes to achieve national uniformity. Covers mechanical and plumbing requirements as well as construction and occupancy.

Application and Commentary on CABO One and Two Family Dwelling Code. An interpretative commentary on the *CABO One and Two Family Dwelling Code* intended to enhance uniformity of interpretation and application of the code nationwide. Developed by the three model code organizations, this document includes numerous illustrations of code requirements and the rationale for individual provisions.

CABO Model Energy Code. This code includes minimum requirements for effective use of energy in the design of new buildings and structures and additions to existing buildings. It is based on American Society of Heating, Refrigeration and Air-conditioning Engineers Standard 90A-1980 and was originally developed jointly by ICBO, BOCA, SBCCI and the National Conference of States on Building Codes and Standards under a contract funded by the United States Department of Energy. The code is now maintained by CABO and is adopted by reference in the *Uniform Building Code*.

TECHNICAL REFERENCES AND EDUCATIONAL MATERIALS

Analysis of Revisions to the Uniform Codes™. An analysis of changes between the previous and new editions of the Uniform Codes is provided. Changes between code editions are noted either at the beginning of chapters or in the margins of the code text.

1991 to 1994 Cross-reference Directory of the Reformatted U.B.C. and U.M.C. Both the U.B.C. and U.M.C. have been reformatted and reorganized for the 1994 editions. This publication provides two directories for both the U.B.C. and U.M.C. to cross-reference the provisions from the 1991 format to the 1994 format. The first cross-reference for each code lists the 1991 section numbers and indicates where provisions from the 1991 U.B.C. and U.M.C. are located in the 1994 editions. Other cross-reference tables list the 1994 U.B.C. and U.M.C. section numbers and refer to their origin in the 1991 codes.

Handbook to the Uniform Building Code. The handbook is a completely detailed and illustrated commentary on the *Uniform Building Code*, tracing historical background and rationale of the codes through the current edition. Also included are numerous drawings and figures clarifying the application and intent of the code provisions. Also available in electronic format.

Handbook to the Uniform Mechanical Code. An indispensable tool for understanding the provisions of the current U.M.C., the handbook traces the historical background and rationale behind the U.M.C. provisions, includes 160 figures which clarify the intent and application of the code, and provides a chapter-by-chapter analysis of the U.M.C.

Uniform Building Code Application/Interpretation Manual. This manual discusses sections of the *Uniform Building Code* with a question-and-answer format, providing a comprehensive analysis of the intent of the code sections. Most sections include illustrative examples. The manual is in loose-leaf format so that code interpretations published in *Building Standards* magazine may be inserted. Also available in electronic format.

Uniform Mechanical Code Application/Interpretation Manual. As a companion document to the *Uniform Mechanical Code*, this manual provides a comprehensive analysis of the intent of a number of code sections in an easy-to-use question-and-answer format. The manual is available in a loose-leaf format and includes illustrative examples for many code sections.

Plan Review Manual. A practical text that will assist and guide both the field inspector and plan reviewer in applying the code requirements. This manual covers the nonstructural and basic structural aspects of plan review.

Field Inspection Manual. An important fundamental text for courses of study at the community college and trade or technical school level. It is an effective text for those studying building construction or architecture and includes sample forms and checklists for use in the field.

Building Department Administration. An excellent guide for improvement of skills in departmental management and in the enforcement and application of the Building Code and other regulations administered by a building inspection department. This textbook will also be a valuable aid to instructors, students and those in related professional fields.

Building Department Guide to Disaster Mitigation. This new, expanded guide is designed to assist building departments in developing or updating disaster mitigation plans. Subjects covered include guidelines for damage mitigation, disaster-response management, immediate response, mutual aid and inspections, working with the media, repair and recovery policies, and public information bulletins. This publication is a must for those involved in preparing for and responding to disaster.

Building Official Management Manual. This manual addresses the unique nature of code administration and the managerial duties of the building official. A supplementary insert addresses the budgetary and financial aspects of a building department. It is also an ideal resource for those preparing for the management module of the CABO Building Official Certification Examination.

Legal Aspects of Code Administration. A manual developed by the three model code organizations to inform the building official on the legal aspects of the profession. The text is written in a logical sequence with explanation of legal terminology. It is designed to serve as a refresher for those preparing to take the legal module of the CABO Building Official Certification Examination.

U.M.C. Workbook. Designed for independent study or use with instructor-led programs based on the *Uniform Mechanical Code*, this comprehensive study guide consists of 16 learning sessions, with the first two sessions reviewing the purpose, scope, definitions and administrative provisions and the remaining 14 sessions progressively exploring the requirements for installing, inspecting and maintaining heating, ventilating, cooling and refrigeration systems.

Concrete Manual. A publication for individuals seeking an understanding of the fundamentals of concrete field technology and inspection practices. Of particular interest to concrete construction inspectors, it will also benefit employees of concrete producers, contractors, testing and inspection laboratories and material suppliers.

Reinforced Concrete Masonry Construction Inspector's Handbook. A comprehensive information source written especially for masonry inspection covering terminology, technology, materials, quality control, inspection and standards. Published jointly by ICBO and the Masonry Institute of America.

You Can Build It! Sponsored by ICBO in cooperation with CABO, this booklet contains information and advice to aid "do-it-yourselfers" with building projects. Provides guidance in necessary procedures such as permit requirements, codes, plans, cost estimation, etc.

Guidelines for Manufactured Housing Installations. A guideline in code form, implementing the *Uniform Building Code* and its companion code documents to regulate the permanent installation of a manufactured home on a privately owned, nonrental site. A commentary is included to explain specific provisions, and codes applying to each component part are defined.

Accessibility Reference Guide. This guide will be a valuable resource for architects, interior designers, plan reviewers and others who design and enforce accessibility provisions. Features include accessibility requirements, along with detailed commentary and graphics to clarify the provisions; cross-references to other applicable sections of the U.B.C. and the Americans with Disabilities Act Accessibility Guidelines; a checklist of U.B.C. provisions on access and usability requirements; and many other useful references.

U.B.C. Field Inspection Workbook. A comprehensive workbook for studying the provisions of the U.B.C. Divided into 12 sessions, this workbook focuses on the U.B.C. combustible construction requirements for the inspection of wood-framed construction.

Educational and Technical Reference Materials. The Conference has been a leader in the development of texts and course material to assist in the educational process. These materials include vital information necessary for the building official and subordinates in carrying out their responsibilities and have proven to be excellent references in connection with community college curricula and higher-level courses in the field of building construction technology and inspection and in the administration of building departments. A full line of videotapes and automated products are also available.

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Chapter 1 TITLE AND SCOPE

SECTION 101 — TITLE

These regulations shall be known as the *Uniform Code for the Abatement of Dangerous Buildings*, may be cited as such, and will be referred to herein as "this code."

SECTION 102 — PURPOSE AND SCOPE

102.1 Purpose. It is the purpose of this code to provide a just, equitable and practicable method, to be cumulative with and in addition to any other remedy provided by the Building Code, Housing Code or otherwise available by law, whereby buildings or structures which from any cause endanger the life, limb, health, morals, property, safety or welfare of the general public or their occupants may be required to be repaired, vacated or demolished.

The purpose of this code is not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this code.

102.2 Scope. The provisions of this code shall apply to all dangerous buildings, as herein defined, which are now in existence or which may hereafter become dangerous in this jurisdiction.

SECTION 103 — ALTERATIONS, ADDITIONS AND REPAIRS

All buildings or structures which are required to be repaired under the provisions of this code shall be subject to the provisions of Section 3403 of the Building Code.

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Chapter 2 ENFORCEMENT

SECTION 201 — GENERAL

201.1 Administration. The building official is hereby authorized to enforce the provisions of this code.

The building official shall have the power to render interpretations of this code and to adopt and enforce rules and supplemental regulations in order to clarify the application of its provisions. Such interpretations, rules and regulations shall be in conformity with the intent and purpose of this code.

201.2 Inspections. The health officer, the fire marshal and the building official are hereby authorized to make such inspections and take such actions as may be required to enforce the provisions of this code.

201.3 Right of Entry. When it is necessary to make an inspection to enforce the provisions of this code, or when the building official or the building official's authorized representative has reasonable cause to believe that there exists in a building or upon a premises a condition which is contrary to or in violation of this code which makes the building or premises unsafe, dangerous or hazardous, the building official may enter the building or premises at reasonable times to inspect or to perform the duties imposed by this code, provided that if such building or premises be occupied that credentials be presented to the occupant and entry requested. If such building or premises be unoccupied, the building official shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry. If entry is refused, the building official shall have recourse to the remedies provided by law to secure entry.

"Authorized representative" shall include the officers named in Section 201.2 and their authorized inspection personnel.

SECTION 202 — ABATEMENT OF DANGEROUS BUILDINGS

All buildings or portions thereof which are determined after inspection by the building official to be dangerous as defined in this code are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedure specified in Section 401 of this code.

SECTION 203 — VIOLATIONS

It shall be unlawful for any person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy or maintain any building or structure or cause or permit the same to be done in violation of this code.

SECTION 204 — INSPECTION OF WORK

All buildings or structures within the scope of this code and all construction or work for which a permit is required shall be subject to inspection by the building official in accordance with and in the manner provided by this code and Sections 108 and 1701 of the Building Code.

SECTION 205 — BOARD OF APPEALS

205.1 General. In order to hear and decide appeals of orders, decisions or determinations made by the building official relative to the application and interpretations of this code, there shall be and is hereby created a board of appeals consisting of members who are qualified by experience and train-

ing to pass upon matters pertaining to building construction and who are not employees of the jurisdiction. The building official shall be an ex officio member and shall act as secretary to said board but shall have no vote upon any matter before the board. The board of appeals shall be appointed by the governing body and shall hold office at its pleasure. The board shall adopt rules of procedure for conducting its business and shall render all decisions and findings in writing to the appellant, with a duplicate copy to the building official. Appeals to the board shall be processed in accordance with the provisions contained in Section 501 of this code. Copies of all rules or regulations adopted by the board shall be delivered to the building official, who shall make them freely accessible to the public.

205.2 Limitations of Authority. The board of appeals shall have no authority relative to interpretation of the administrative provisions of this code nor shall the board be empowered to waive requirements of this code.

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Chapter 3 DEFINITIONS

SECTION 301 — GENERAL

For the purpose of this code, certain terms, phrases, words and their derivatives shall be construed as specified in either this chapter or as specified in the Building Code or the Housing Code. Where terms are not defined, they shall have their ordinary accepted meanings within the context with which they are used. *Webster's Third New International Dictionary of the English Language, Unabridged*, copyright 1986, shall be construed as providing ordinary accepted meanings. Words used in the singular include the plural and the plural the singular. Words used in the masculine gender include the feminine and the feminine the masculine.

BUILDING CODE is the *Uniform Building Code* promulgated by the International Conference of Building Officials, as adopted by this jurisdiction.

DANGEROUS BUILDING is any building or structure deemed to be dangerous under the provisions of Section 302 of this code.

HOUSING CODE is the *Uniform Housing Code* promulgated by the International Conference of Building Officials, as adopted by this jurisdiction.

SECTION 302 — DANGEROUS BUILDING

For the purpose of this code, any building or structure which has any or all of the conditions or defects hereinafter described shall be deemed to be a dangerous building, provided that such conditions or defects exist to the extent that the life, health, property or safety of the public or its occupants are endangered:

1. Whenever any door, aisle, passageway, stairway or other means of exit is not of sufficient width or size or is not so arranged as to provide safe and adequate means of exit in case of fire or panic.
2. Whenever the walking surface of any aisle, passageway, stairway or other means of exit is so warped, worn, loose, torn or otherwise unsafe as to not provide safe and adequate means of exit in case of fire or panic.
3. Whenever the stress in any materials, member or portion thereof, due to all dead and live loads, is more than one and one half times the working stress or stresses allowed in the Building Code for new buildings of similar structure, purpose or location.
4. Whenever any portion thereof has been damaged by fire, earthquake, wind, flood or by any other cause, to such an extent that the structural strength or stability thereof is materially less than it was before such catastrophe and is less than the minimum requirements of the Building Code for new buildings of similar structure, purpose or location.
5. Whenever any portion or member or appurtenance thereof is likely to fail, or to become detached or dislodged, or to collapse and thereby injure persons or damage property.
6. Whenever any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting a wind pressure of one half of that specified in the Building Code for new buildings of similar structure, purpose or location without exceeding the working stresses permitted in the Building Code for such buildings.
7. Whenever any portion thereof has wracked, warped, buckled or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction.

8. Whenever the building or structure, or any portion thereof, because of (i) dilapidation, deterioration or decay; (ii) faulty construction; (iii) the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building; (iv) the deterioration, decay or inadequacy of its foundation; or (v) any other cause, is likely to partially or completely collapse.

9. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.

10. Whenever the exterior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one third of the base.

11. Whenever the building or structure, exclusive of the foundation, shows 33 percent or more damage or deterioration of its supporting member or members, or 50 percent damage or deterioration of its nonsupporting members, enclosing or outside walls or coverings.

12. Whenever the building or structure has been so damaged by fire, wind, earthquake or flood, or has become so dilapidated or deteriorated as to become (i) an attractive nuisance to children; (ii) a harbor for vagrants, criminals or immoral persons; or as to (iii) enable persons to resort thereto for the purpose of committing unlawful or immoral acts.

13. Whenever any building or structure has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the building regulations of this jurisdiction, as specified in the Building Code or Housing Code, or of any law or ordinance of this state or jurisdiction relating to the condition, location or structure of buildings.

14. Whenever any building or structure which, whether or not erected in accordance with all applicable laws and ordinances, has in any nonsupporting part, member or portion less than 50 percent, or in any supporting part, member or portion less than 66 percent of the (i) strength, (ii) fire-resisting qualities or characteristics, or (iii) weather-resisting qualities or characteristics required by law in the case of a newly constructed building of like area, height and occupancy in the same location.

15. Whenever a building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air or sanitation facilities, or otherwise, is determined by the health officer to be unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease.

16. Whenever any building or structure, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire-resistive construction, faulty electric wiring, gas connections or heating apparatus, or other cause, is determined by the fire marshal to be a fire hazard.

17. Whenever any building or structure is in such a condition as to constitute a public nuisance known to the common law or in equity jurisprudence.

18. Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

Chapter 4

NOTICES AND ORDERS OF BUILDING OFFICIAL

SECTION 401 — GENERAL

401.1 Commencement of Proceedings. When the building official has inspected or caused to be inspected any building and has found and determined that such building is a dangerous building, the building official shall commence proceedings to cause the repair, vacation or demolition of the building.

401.2 Notice and Order. The building official shall issue a notice and order directed to the record owner of the building. The notice and order shall contain:

1. The street address and a legal description sufficient for identification of the premises upon which the building is located.
2. A statement that the building official has found the building to be dangerous with a brief and concise description of the conditions found to render the building dangerous under the provisions of Section 302 of this code.
3. A statement of the action required to be taken as determined by the building official.
 - 3.1 If the building official has determined that the building or structure must be repaired, the order shall require that all required permits be secured therefor and the work physically commenced within such time (not to exceed 60 days from the date of the order) and completed within such time as the building official shall determine is reasonable under all of the circumstances.
 - 3.2 If the building official has determined that the building or structure must be vacated, the order shall require that the building or structure shall be vacated within a time certain from the date of the order as determined by the building official to be reasonable.
 - 3.3 If the building official has determined that the building or structure must be demolished, the order shall require that the building be vacated within such time as the building official shall determine is reasonable (not to exceed 60 days from the date of the order); that all required permits be secured therefor within 60 days from the date of the order; and that the demolition be completed within such time as the building official shall determine is reasonable.
4. Statements advising that if any required repair or demolition work (without vacation also being required) is not commenced within the time specified, the building official (i) will order the building vacated and posted to prevent further occupancy until the work is completed, and (ii) may proceed to cause the work to be done and charge the costs thereof against the property or its owner.
5. Statements advising (i) that any person having any record title or legal interest in the building may appeal from the notice and order or any action of the building official to the board of appeals, provided the appeal is made in writing as provided in this code and filed with the building official within 30 days from the date of service of such notice and order; and (ii) that failure to appeal will constitute a waiver of all right to an administrative hearing and determination of the matter.

401.3 Service of Notice and Order. The notice and order, and any amended or supplemental notice and order, shall be served upon the record owner and posted on the property; and one copy thereof shall be served on each of the following if known to the building official or disclosed from official public records: the holder of any mortgage or deed of trust or other lien or encumbrance of record; the owner or holder of any lease of record; and the holder of any other estate or legal interest of record in or to the building or the land on which it is located. The failure of the building official to serve any person required herein to be served shall not invalidate any proceedings hereunder as to any other person duly served or relieve any such person from any duty or obligation imposed by the provisions of this section.

401.4 Method of Service. Service of the notice and order shall be made upon all persons entitled thereto either personally or by mailing a copy of such notice and order by certified mail, postage prepaid, return receipt requested, to each such person at their address as it appears on the last equalized assessment roll of the county or as known to the building official. If no address of any such person so appears or is known to the building official, then a copy of the notice and order shall be so mailed, addressed to such person, at the address of the building involved in the proceedings. The failure of any such person to receive such notice shall not affect the validity of any proceedings taken under this section. Service by certified mail in the manner herein provided shall be effective on the date of mailing.

401.5 Proof of Service. Proof of service of the notice and order shall be certified to at the time of service by a written declaration under penalty of perjury executed by the persons effecting service, declaring the time, date and manner in which service was made. The declaration, together with any receipt card returned in acknowledgment of receipt by certified mail shall be affixed to the copy of the notice and order retained by the building official.

SECTION 402 — RECORDATION OF NOTICE AND ORDER

If compliance is not had with the order within the time specified therein, and no appeal has been properly and timely filed, the building official shall file in the office of the county recorder a certificate describing the property and certifying (i) that the building is a dangerous building and (ii) that the owner has been so notified. Whenever the corrections ordered shall thereafter have been completed or the building demolished so that it no longer exists as a dangerous building on the property described in the certificate, the building official shall file a new certificate with the county recorder certifying that the building has been demolished or all required corrections have been made so that the building is no longer dangerous, whichever is appropriate.

SECTION 403 — REPAIR, VACATION AND DEMOLITION

The following standards shall be followed by the building official (and by the board of appeals if an appeal is taken) in ordering the repair, vacation or demolition of any dangerous building or structure:

1. Any building declared a dangerous building under this code shall be made to comply with one of the following:
 - 1.1 The building shall be repaired in accordance with the current building code or other current code applicable to the type of substandard conditions requiring repair; or
 - 1.2 The building shall be demolished at the option of the building owner; or
 - 1.3 If the building does not constitute an immediate danger to the life, limb, property or safety of the public it may be vacated, secured and maintained against entry.
2. If the building or structure is in such condition as to make it immediately dangerous to the life, limb, property or safety of the public or its occupants, it shall be ordered to be vacated.

SECTION 404 — NOTICE TO VACATE

404.1 Posting. Every notice to vacate shall, in addition to being served as provided in Section 401.3, be posted at or upon each exit of the building and shall be in substantially the following form:

**DO NOT ENTER
UNSAFE TO OCCUPY**

It is a misdemeanor to occupy this building, or to remove or deface this notice.

Building Official
..... of

404.2 Compliance. Whenever such notice is posted, the building official shall include a notification thereof in the notice and order issued under Section 401.2, reciting the emergency and specifying the conditions which necessitate the posting. No person shall remain in or enter any building which has been so posted, except that entry may be made to repair, demolish or remove such building under permit. No person shall remove or deface any such notice after it is posted until the required repairs, demolition or removal have been completed and a certificate of occupancy issued pursuant to the provisions of the Building Code.

Chapter 5 APPEAL

SECTION 501 — GENERAL

501.1 Form of Appeal. Any person entitled to service under Section 401.3 may appeal from any notice and order or any action of the building official under this code by filing at the office of the building official a written appeal containing:

1. A heading in the words: "Before the board of appeals of the of"
2. A caption reading: "Appeal of," giving the names of all appellants participating in the appeal.
3. A brief statement setting forth the legal interest of each of the appellants in the building or the land involved in the notice and order.
4. A brief statement in ordinary and concise language of the specific order or action protested, together with any material facts claimed to support the contentions of the appellant.
5. A brief statement in ordinary and concise language of the relief sought and the reasons why it is claimed the protested order or action should be reversed, modified or otherwise set aside.
6. The signatures of all parties named as appellants and their official mailing addresses.
7. The verification (by declaration under penalty of perjury) of at least one appellant as to the truth of the matters stated in the appeal.

The appeal shall be filed within 30 days from the date of the service of such order or action of the building official; provided, however, that if the building or structure is in such condition as to make it immediately dangerous to the life, limb, property or safety of the public or adjacent property and is ordered vacated and is posted in accordance with Section 404, such appeal shall be filed within 10 days from the date of the service of the notice and order of the building official.

501.2 Processing of Appeal. Upon receipt of any appeal filed pursuant to this section, the building official shall present it at the next regular or special meeting of the board of appeals.

501.3 Scheduling and Noticing Appeal for Hearing. As soon as practicable after receiving the written appeal, the board of appeals shall fix a date, time and place for the hearing of the appeal by the board. Such date shall not be less than 10 days nor more than 60 days from the date the appeal was filed with the building official. Written notice of the time and place of the hearing shall be given at least 10 days prior to the date of the hearing to each appellant by the secretary of the board either by causing a copy of such notice to be delivered to the appellant personally or by mailing a copy thereof, postage prepaid, addressed to the appellant at the address shown on the appeal.

SECTION 502 — EFFECT OF FAILURE TO APPEAL

Failure of any person to file an appeal in accordance with the provisions of Section 501 shall constitute a waiver of the right to an administrative hearing and adjudication of the notice and order or any portion thereof.

SECTION 503 — SCOPE OF HEARING ON APPEAL

Only those matters or issues specifically raised by the appellant shall be considered in the hearing of the appeal.

SECTION 504 — STAYING OF ORDER UNDER APPEAL

Except for vacation orders made pursuant to Section 404, enforcement of any notice and order of the building official issued under this code shall be stayed during the pendency of an appeal therefrom which is properly and timely filed.

Chapter 6

PROCEDURES FOR CONDUCT OF HEARING APPEALS

SECTION 601 — GENERAL

601.1 Hearing Examiners. The board may appoint one or more hearing examiners or designate one or more of its members to serve as hearing examiners to conduct the hearings. The examiner hearing the case shall exercise all powers relating to the conduct of hearings until it is submitted to the board for decision.

601.2 Record. A record of the entire proceedings shall be made by tape recording or by any other means of permanent recording determined to be appropriate by the board.

601.3 Reporting. The proceedings at the hearing shall also be reported by a phonographic reporter if requested by any party thereto. A transcript of the proceedings shall be made available to all parties upon request and upon payment of the fee prescribed therefor. Such fees may be established by the board, but shall in no event be greater than the cost involved.

601.4 Continuances. The board may grant continuances for good cause shown; however, when a hearing examiner has been assigned to such hearing, no continuances may be granted except by the examiner for good cause shown so long as the matter remains before the examiner.

601.5 Oaths—Certification. In any proceedings under this chapter, the board, any board member, or the hearing examiner has the power to administer oaths and affirmations and to certify to official acts.

601.6 Reasonable Dispatch. The board and its representatives shall proceed with reasonable dispatch to conclude any matter before it. Due regard shall be shown for the convenience and necessity of any parties or their representatives.

SECTION 602 — FORM OF NOTICE OF HEARING

The notice to appellant shall be substantially in the following form, but may include other information:

“You are hereby notified that a hearing will be held before (the board of appeals or name of hearing examiner) at on the day of, 19, at the hour, upon the notice and order served upon you. You may be present at the hearing. You may be, but need not be, represented by counsel. You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You may request the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by filing an affidavit therefor with (board of appeals or name of hearing examiner).”

SECTION 603 — SUBPOENAS

603.1 Filing of Affidavit. The board or examiner may obtain the issuance and service of a subpoena for the attendance of witnesses or the production of other evidence at a hearing upon the request of a member of the board or upon the written demand of any party. The issuance and service of such subpoena shall be obtained upon the filing of an affidavit therefor which states the name and address of the proposed witness; specifies the exact things sought to be produced and the materiality thereof in detail to the issues involved; and states that the witness has the desired things in possession or under control. A subpoena need not be issued when the affidavit is defective in any particular.

603.2 Cases Referred to Examiner. In cases where a hearing is referred to an examiner, all subpoenas shall be obtained through the examiner.

603.3 Penalties. Any person who refuses without lawful excuse to attend any hearing or to produce material evidence which the person possesses or controls as required by any subpoena served upon such person as provided for herein shall be guilty of a misdemeanor.

SECTION 604 — CONDUCT OF HEARING

604.1 Rules. Hearings need not be conducted according to the technical rules relating to evidence and witnesses.

604.2 Oral Evidence. Oral evidence shall be taken only on oath or affirmation.

604.3 Hearsay Evidence. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence, but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions in courts of competent jurisdiction in this state.

604.4 Admissibility of Evidence. Any relevant evidence shall be admitted if it is the type of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions in courts of competent jurisdiction in this state.

604.5 Exclusion of Evidence. Irrelevant and unduly repetitious evidence shall be excluded.

604.6 Rights of Parties. Each party shall have these rights, among others:

1. To call and examine witnesses on any matter relevant to the issues of the hearing;
2. To introduce documentary and physical evidence;
3. To cross-examine opposing witnesses on any matter relevant to the issues of the hearing;
4. To impeach any witness regardless of which party first called the witness to testify;
5. To rebut the evidence;
6. To be represented by anyone who is lawfully permitted to do so.

604.7 Official Notice.

604.7.1 What may be noticed. In reaching a decision, official notice may be taken, either before or after submission of the case for decision, of any fact which may be judicially noticed by the courts of this state or of official records of the board or departments and ordinances of the city or rules and regulations of the board.

604.7.2 Parties to be notified. Parties present at the hearing shall be informed of the matters to be noticed, and these matters shall be noted in the record, referred to therein, or appended thereto.

604.7.3 Opportunity to refute. Parties present at the hearing shall be given a reasonable opportunity, on request, to refute the officially noticed matters by evidence or by written or oral presentation of authority, the manner of such refutation to be determined by the board or hearing examiner.

604.7.4 Inspection of the premises. The board or the hearing examiner may inspect any building or premises involved in the appeal during the course of the hearing, provided that (i) notice of such inspection shall be given to the parties before the inspection is made, (ii) the parties are given an opportunity to be present during the inspection, and (iii) the board or the hearing examiner shall state for the record upon completion of the inspection the material facts observed and the conclusions drawn therefrom. Each party then shall have a right to rebut or explain the matters so stated by the board or hearing examiner.

SECTION 605 — METHOD AND FORM OF DECISION

605.1 Hearing before Board Itself. When a contested case is heard before the board itself, a member thereof who did not hear the evidence or has not read the entire record of the proceedings shall not vote on or take part in the decision.

605.2 Hearing before Examiner. If a contested case is heard by a hearing examiner alone, the examiner shall within a reasonable time (not to exceed 90 days from the date the hearing is closed) submit a written report to the board. Such report shall contain a brief summary of the evidence considered and state the examiner's findings, conclusions and recommendations. The report also shall contain a proposed decision in such form that it may be adopted by the board as its decision in the case. All examiner's reports filed with the board shall be matters of public record. A copy of each such report and proposed decision shall be mailed to each party on the date they are filed with the board.

605.3 Consideration of Report by Board—Notice. The board shall fix the time, date and place to consider the examiner's report and proposed decision. Notice thereof shall be mailed to each interested party not less than five days prior to the date fixed, unless it is otherwise stipulated by all of the parties.

605.4 Exceptions to Report. Not later than two days before the date set to consider the report, any party may file written exceptions to any part or all of the examiner's report and may attach thereto a proposed decision together with written argument in support of such decision. By leave of the board, any party may present oral argument to the board.

605.5 Disposition by the Board. The board may adopt or reject the proposed decision in its entirety, or may modify the proposed decision.

605.6 Proposed Decision Not Adopted. If the proposed decision is not adopted as provided in Section 605.5, the board may decide the case upon the entire record before it, with or without taking additional evidence, or may refer the case to the same or another hearing examiner to take additional evidence. If the case is reassigned to a hearing examiner, the examiner shall prepare a report and proposed decision as provided in Section 605.2 hereof after any additional evidence is submitted. Consideration of such proposed decision by the board shall comply with the provisions of this section.

605.7 Form of Decision. The decision shall be in writing and shall contain findings of fact, a determination of the issues presented, and the requirements to be complied with. A copy of the decision shall be delivered to the appellant personally or sent by certified mail, postage prepaid, return receipt requested.

605.8 Effective Date of Decision. The effective date of the decision shall be as stated therein.

Chapter 7
ENFORCEMENT OF THE ORDER
OF THE BUILDING OFFICIAL
OR THE BOARD OF APPEALS

SECTION 701 — COMPLIANCE

701.1 General. After any order of the building official or the board of appeals made pursuant to this code shall have become final, no person to whom any such order is directed shall fail, neglect or refuse to obey any such order. Any such person who fails to comply with any such order is guilty of a misdemeanor.

701.2 Failure to Obey Order. If, after any order of the building official or board of appeals made pursuant to this code has become final, the person to whom such order is directed shall fail, neglect or refuse to obey such order, the building official may (i) cause such person to be prosecuted under Section 701.1 or (ii) institute any appropriate action to abate such building as a public nuisance.

701.3 Failure to Commence Work. Whenever the required repair or demolition is not commenced within 30 days after any final notice and order issued under this code becomes effective:

1. The building official shall cause the building described in such notice and order to be vacated by posting at each entrance thereto a notice reading:

DANGEROUS BUILDING
DO NOT OCCUPY

It is a misdemeanor to occupy this building, or to remove or deface this notice.

Building Official
 of

2. No person shall occupy any building which has been posted as specified in this subsection. No person shall remove or deface any such notice so posted until the repairs, demolition or removal ordered by the building official have been completed and a certificate of occupancy issued pursuant to the provisions of the Building Code.

3. The building official may, in addition to any other remedy herein provided, cause the building to be repaired to the extent necessary to correct the conditions which render the building dangerous as set forth in the notice and order; or, if the notice and order required demolition, to cause the building to be sold and demolished or demolished and the materials, rubble and debris therefrom removed and the lot cleaned. Any such repair or demolition work shall be accomplished and the cost thereof paid and recovered in the manner hereinafter provided in this code. Any surplus realized from the sale of any such building, or from the demolition thereof, over and above the cost of demolition and of cleaning the lot, shall be paid over to the person or persons lawfully entitled thereto.

SECTION 702 — EXTENSION OF TIME TO PERFORM WORK

Upon receipt of an application from the person required to conform to the order and by agreement of such person to comply with the order if allowed additional time, the building official may grant an extension of time, not to exceed an additional 120 days, within which to complete said repair, rehabilitation or demolition, if the building official determines that such an extension of time will not create or perpetuate a situation imminently dangerous to life or property. The building official's authority to extend time is limited to the physical repair, rehabilitation or demolition of the premises and will not in any way affect the time to appeal the notice and order.

SECTION 703 — INTERFERENCE WITH REPAIR OR DEMOLITION WORK PROHIBITED

No person shall obstruct, impede or interfere with any officer, employee, contractor or authorized representative of this jurisdiction or with any person who owns or holds any estate or interest in any building which has been ordered repaired, vacated or demolished under the provisions of this code; or with any person to whom such building has been lawfully sold pursuant to the provisions of this code, whenever such officer, employee, contractor or authorized representative of this jurisdiction, person having an interest or estate in such building or structure, or purchaser is engaged in the work of repairing, vacating and repairing, or demolishing any such building, pursuant to the provisions of this code, or in performing any necessary act preliminary to or incidental to such work or authorized or directed pursuant to this code.

ADMIN.RECORD 1-20

Chapter 8

PERFORMANCE OF WORK OF REPAIR OR DEMOLITION

SECTION 801 — GENERAL

801.1 Procedure. When any work of repair or demolition is to be done pursuant to Section 701.3, Item 3, of this code, the building official shall issue an order therefor to the director of public works and the work shall be accomplished by personnel of this jurisdiction or by private contract under the direction of said director. Plans and specifications therefor may be prepared by said director, or the director may employ such architectural and engineering assistance on a contract basis as deemed reasonably necessary. If any part of the work is to be accomplished by private contract, standard public works contractual procedures shall be followed.

801.2 Costs. The cost of such work shall be paid from the repair and demolition fund, and may be made a special assessment against the property involved, or may be made a personal obligation of the property owner, whichever the legislative body of this jurisdiction shall determine is appropriate.

SECTION 802 — REPAIR AND DEMOLITION FUND

802.1 General. The legislative body of this jurisdiction shall establish a special revolving fund to be designated as the repair and demolition fund. Payments shall be made out of said fund upon the demand of the director of public works to defray the costs and expenses which may be incurred by this jurisdiction in doing or causing to be done the necessary work of repair or demolition of dangerous buildings.

802.2 Maintenance of Fund. The legislative body may at any time transfer to the repair and demolition fund, out of any money in the general fund of this jurisdiction, such sums as it may deem necessary in order to expedite the performance of the work of repair or demolition, and any sum so transferred shall be deemed a loan to the repair and demolition fund and shall be repaid out of the proceeds of the collections hereinafter provided for. All funds collected under the proceedings hereinafter provided for shall be paid to the treasurer of this jurisdiction who shall credit the same to the repair and demolition fund.

ADMIN.RECORD 1-21

Chapter 9 RECOVERY OF COST OF REPAIR OR DEMOLITION

SECTION 901 — ACCOUNT OF EXPENSE, FILING OF REPORT

The director of public works shall keep an itemized account of the expense incurred by this jurisdiction in the repair or demolition of any building done pursuant to the provisions of Section 701.3, Item 3, of this code. Upon the completion of the work of repair or demolition, said director shall prepare and file with the clerk of this jurisdiction a report specifying the work done, the itemized and total cost of the work, a description of the real property upon which the building or structure is or was located, and the names and addresses of the persons entitled to notice pursuant to Section 401.3.

SECTION 902 — NOTICE OF HEARING

Upon receipt of said report, the clerk of this jurisdiction shall present it to the legislative body of this jurisdiction for consideration. The legislative body of this jurisdiction shall fix a time, date and place for hearing said report and any protests or objections thereto. The clerk of this jurisdiction shall cause notice of said hearing to be posted upon the property involved, published once in a newspaper of general circulation in this jurisdiction, and served by certified mail, postage prepaid, addressed to the owner of the property as the owner's name and address appears on the last equalized assessment roll of the county, if such so appears, or as known to the clerk. Such notice shall be given at least 10 days prior to the date set for the hearing and shall specify the day, hour and place when the legislative body will hear and pass upon the director's report, together with any objections or protests which may be filed as hereinafter provided by any person interested in or affected by the proposed charge.

SECTION 903 — PROTESTS AND OBJECTIONS

Any person interested in or affected by the proposed charge may file written protests or objections with the clerk of this jurisdiction at any time prior to the time set for the hearing on the report of the director. Each such protest or objection must contain a description of the property in which the signer thereof is interested and the grounds of such protest or objection. The clerk of this jurisdiction shall endorse on every such protest or objection the date of receipt. The clerk shall present such protests or objections to the legislative body of this jurisdiction at the time set for the hearing, and no other protests or objections shall be considered.

SECTION 904 — HEARING OF PROTESTS

Upon the day and hour fixed for the hearing, the legislative body of this jurisdiction shall hear and pass upon the report of the director together with any such objections or protests. The legislative body may make such revision, correction or modification in the report or the charge as it may deem just; and when the legislative body is satisfied with the correctness of the charge, the report (as submitted or as revised, corrected or modified) together with the charge, shall be confirmed or rejected. The decision of the legislative body of this jurisdiction on the report and the charge, and on all protests or objections, shall be final and conclusive.

SECTION 905 — PERSONAL OBLIGATION OR SPECIAL ASSESSMENT

905.1 General. The legislative body of this jurisdiction may thereupon order that said charge shall be made a personal obligation of the property owner or assess said charge against the property involved.

905.2 Personal Obligation. If the legislative body of this jurisdiction orders that the charge shall be a personal obligation of the property owner, it shall direct the attorney for this jurisdiction to collect the same on behalf of this jurisdiction by use of all appropriate legal remedies.

905.3 Special Assessment. If the legislative body of this jurisdiction orders that the charge shall be assessed against the property, it shall confirm the assessment, cause the same to be recorded on the assessment roll, and thereafter said assessment shall constitute a special assessment against and a lien upon the property.

SECTION 906 — CONTEST

The validity of any assessment made under the provisions of this chapter shall not be contested in any action or proceeding unless the same is commenced within 30 days after the assessment is placed upon the assessment roll as provided herein. Any appeal from a final judgment in such action or proceeding must be perfected within 30 days after the entry of such judgment.

SECTION 907 — AUTHORITY FOR INSTALLMENT PAYMENT OF ASSESSMENTS WITH INTEREST

The legislative body of this jurisdiction, in its discretion, may determine that assessments in amounts of \$500.00 or more shall be payable in not to exceed five equal annual installments. The legislative body's determination to allow payment of such assessments in installments, the number of installments, whether they shall bear interest, and the rate thereof shall be by a resolution adopted prior to the confirmation of the assessment.

SECTION 908 — LIEN OF ASSESSMENT

908.1 Priority. Immediately upon its being placed on the assessment roll the assessment shall be deemed to be complete, the several amounts assessed shall be payable, and the assessments shall be liens against the lots or parcels of land assessed, respectively. The lien shall be subordinate to all existing special assessment liens previously imposed upon the same property and shall be paramount to all other liens except for state, county and property taxes with which it shall be upon a parity. The lien shall continue until the assessment and all interest due and payable thereon are paid.

908.2 Interest. All such assessments remaining unpaid after 30 days from the date of recording on the assessment roll shall become delinquent and shall bear interest at the rate of 7 percent per annum from and after said date.

SECTION 909 — REPORT TO ASSESSOR AND TAX COLLECTOR: ADDITION OF ASSESSMENT TO TAX BILL

After confirmation of the report, certified copies of the assessment shall be given to the assessor and the tax collector for this jurisdiction, who shall add the amount of the assessment to the next regular tax bill levied against the parcel for municipal purposes.

SECTION 910 — FILING COPY OF REPORT WITH COUNTY AUDITOR

If the county assessor and the county tax collector assess property and collect taxes for this jurisdiction, a certified copy of the assessment shall be filed with the county auditor on or before August 10th. The descriptions of the parcels reported shall be those used for the same parcels on the county assessor's map books for the current year.

SECTION 911 — COLLECTION OF ASSESSMENT: PENALTIES FOR FORECLOSURE

The amount of the assessment shall be collected at the same time and in the same manner as ordinary property taxes are collected; and shall be subject to the same penalties and procedure and sale

in case of delinquency as provided for ordinary property taxes. All laws applicable to the levy, collection and enforcement of property taxes shall be applicable to such assessment.

If the legislative body of this jurisdiction has determined that the assessment shall be paid in installments, each installment and any interest thereon shall be collected in the same manner as ordinary property taxes in successive years. If any installment is delinquent, the amount thereof is subject to the same penalties and procedure for sale as provided for ordinary property taxes.

SECTION 912 — REPAYMENT OF REPAIR AND DEMOLITION FUND

All money recovered by payment of the charge or assessment or from the sale of the property at foreclosure sale shall be paid to the treasurer of this jurisdiction, who shall credit the same to the repair and demolition fund.

ADMIN.RECORD 1-24

ADMIN.RECORD 1-25

November 17 2015

Victor Gonzales

City of Emeryville

RESPONSE AND DENIAL BY ANDRE CARPIAUX

RECEIVED
NOV 18 2015
CITY OF EMERYVILLE
BUILDING DIVISION

Concerning your recent challenge to demolish my house:

I specifically deny the conditions you allege.

I am now arranging for my own expert contractor.

I deny that any of your actions this year have any real validity.

Andre Carpiaux

ANDRE CARPIAUX

1268 Ocean Avenue 94608

mpd

Stada Walker



CITY OF EMERYVILLE

INCORPORATED 1880

OFFICE OF THE CITY ATTORNEY
1333 PARK AVENUE
EMERYVILLE, CALIFORNIA 94608-3517

TEL: (510) 596-4370 FAX: (510) 596-3724

December 23, 2015

Via US Mail and Email: cxengineers@yahoo.com

Andre Carpiaux
1264 Ocean Avenue
Emeryville, CA 94608

Re: **NOTICE OF HEARING OF ADMINISTRATIVE APPEAL:
1264 OCEAN AVENUE, Emeryville, CA. 94608; APN- 049-1469-008**

Dear Mr. Carpiaux:

You are hereby notified that a hearing will be held before a hearing examination body of the Board of Appeals on **Tuesday, January 12, 2016, at 6:30 p.m. at the Emeryville City Council Chambers, located at 1333 Park Avenue, Emeryville, CA**, upon the Notice and Order served upon you on October 19, 2015. You may be present at the hearing. You may be, but need not be, represented by counsel. You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You may request the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents, or other things by filing an affidavit therefor with the hearing examination body of the Board of Appeals.

Please have all witnesses whom you intend to introduce present at the hearing. For all documents you intend to introduce into evidence, please have one original and five copies available.

In compliance with the Americans with Disabilities Act (ADA), a person requiring an accommodation, auxiliary aid, or service to participate in this hearing should contact the ADA Coordinator at lleong@emeryville.org or 510-596-4383, as far in advance as possible. The best effort to fulfill the request will be made. Assistive listening devices are available for anyone with hearing difficulty.

Andre Carpiaux
December 23, 2015
Page 2 of 2

For your reference a copy of the Uniform Code for the Abatement of Dangerous Buildings (1994) is included. If you have any questions, please contact me.

Sincerely,



Michael A. Guina
City Attorney

Encl.

N:\City_Attorney\Private\Code Enforcement\1264 Ocean Avenue\Abatement 2015\Appeal Hearing\Notice Of Appeal Hearing.122315.Docx

From: Andre Carpiaux [mailto:cxengineers@yahoo.com]

Sent: Monday, January 04, 2016 4:31 PM

To: Michael Guina

Subject: Postponement !

Dear Micheal ;

I am having office problems, but i want to let you know that I am asking for a postponement of the set date for the hearing because I have not been able to get the necessary materials for my defense from the City of Oakland. I have asked the Oakland City Manager Mrs Sabrina Landreth our former City Manager to help me identifying the flooding problem and its remediation progress if any.

The Oakland City Councilmen district one Dan Kalk has taken an evasive attitude no wanting to deal with the responsibility of the flooding from the water pouring from his Oakland territory

The post office confirmation that the certified mail has been received and signed for weeks ago.

The Oakland City Manager Office has IGNORED all my request to deal with this (their) flooding problem in which I have several E-mail communication with their Building City Inspector who advised me to get used to it, just put sand bags, something I have done for years,

Its a problem not only affecting my property but also all the adjacent East of my lot, the whole neighborhood.

I will provide you tomorrow with a copy of all the correspondences relative to the flooding problem in which I believe the commissioners should have also t be aware so they be informed of the true nature of my property's problem

Thank you,

Andre'



CITY OF EMERYVILLE

INCORPORATED 1896

1333 PARK AVENUE
EMERYVILLE, CALIFORNIA 94608-3517

TEL: (510) 596-4300 FAX: (510) 596-4389

January 7, 2016

Via US Mail and Email: cxengineers@yahoo.com

Andre Carpiaux
1264 Ocean Avenue
Emeryville, CA 94608

**Re: NOTICE OF NEW HEARING DATE FOR ADMINISTRATIVE APPEAL
1264 OCEAN AVENUE, EMERYVILLE, CA. 94608; APN-049-1469-008**

Dear Mr. Carpiaux:

This is in response to the January 4, 2016 email you sent to City Attorney Michael Guina requesting a postponement of the Administrative Appeals Hearing scheduled for January 12, 2016 at 6:30 p.m. Your request indicated that you needed more time in which to obtain documentation for your case. The Board of Examiners that has been selected to hear your appeal has granted your request for a postponement.

The new date for the hearing is Wednesday, February 17, 2016 at 6:30 at the Emeryville City Council Chambers, located at 1333 Park Avenue, Emeryville, CA.

Please note that this extension is being granted with the following understanding:

- Since you have requested the extension, you are waiving your right to have a hearing held within 60 days from November 18, 2015, which was date of filing of the appeal.
- You will be ready to proceed to hearing on February 17, 2016.

Both parties are required to deliver to the Emeryville City Attorney's Office five (5) complete sets of all documents they wish to put into evidence by 3:00 p.m., Friday, February 12, 2016. This is to ensure that the hearing can proceed smoothly without unnecessary delays, but will not preclude either party from submitting additional documentation on the day of the hearing if needed. Please make sure you comply with this requirement.

Sincerely,



John Bauters
Chairperson for Board of Examiners

cc: Lance Bayer (Via mail and email)
Board of Appeals Member Cardoza (by email)
Board of Appeals Member Gunkel (by email)



CITY OF EMERYVILLE

INCORPORATED 1896

1333 PARK AVENUE
EMERYVILLE, CALIFORNIA 94608-3517

TEL: (510) 596-4300 FAX: (510) 596-4389

February 25, 2016

Via US Mail and Email: cxengineers@yahoo.com

Andre Carpiaux
1264 Ocean Avenue
Emeryville, CA 94608

**Re: REQUEST FOR POSTPONEMENT DENIED
SITE VISIT ON WEDNESDAY, MARCH 2, 2016 @ 11:00 a.m.
CONTINUATION OF APPEAL HEARING, MARCH 2, 2016 @ 5:00 p.m.
1264 OCEAN AVENUE, EMERYVILLE, CA. 94608; APN-049-1469-008**

Dear Mr. Carpiaux:

This is in response to the letter that you left for me in the City Attorney's Office on Tuesday, February 23, 2016, requesting several things, including a postponement of the site visit and continuation of the hearing, both set for March 2, 2016. I have conferred with the other Hearing Examiners, and your request for a postponement has been denied.

The Board of Examiners and both parties will conduct the site visit of the outside of your property located at 1264 Ocean Avenue, Emeryville, on Wednesday, March 2, 2016 at 11:00 p.m., as planned.

The hearing will be reconvened on the same evening, Wednesday, March 2, 2016 at 5:00 p.m. in the Emeryville City Council Chambers, located at 1333 Park Avenue, Emeryville, CA, as previously determined.

However, please know that your letter will be considered part of the hearing record. You will have the opportunity to speak on any of the items in your letter during the reconvened hearing at 5:00 p.m. on March 2nd, and the Board of Examiners will consider any requests that you wish to make at that time.

Sincerely,

John Batters
Chairperson for Board of Examiners

cc: Lance Bayer
Via mail and email



City of Emeryville

INCORPORATED 1896
1333 Park Avenue
Emeryville, California 94608-3517
Tel: (510) 596-4300 | Fax: (510) 596-4389

August 5, 2016

NOTICE OF SUPPLEMENT TO RECOMMENDED DECISION OF MAY 26, 2016 BY BOARD OF EXAMINERS

Notice is hereby given that the following documents are added as administrative record exhibits to the Recommended Decision of the Board of Examiners dated May 26, 2016:

- #7 6/2/16 Email from Andre Carpiaux to Chair Bauters requesting a reasonable accommodation.
- #8 6/3/16 Email from Chair Bauters to Andre Carpiaux and others granting a reasonable accommodation of additional time to review testimony of Giyan Senaratne.
- #9 6/6/16 Email from Andre Carpiaux to Chair Bauters requesting extension of the reasonable accommodation period granted in the 6/3/16 email from Chair Bauters.
- #10 6/7/16 Email from City Attorney to Andre Carpiaux and Lance Bayer with links to audio files of the prior hearing proceedings.
- #11 7/8/16 Email from City Attorney to Andre Carpiaux and Lance Bayer with transcript of February 17, 2016 testimony of Giyan Senaratne.
- #12 Partial Transcript of February 17, 2016 proceedings from Emeryville Case No. ADBC 15-001 covering testimony of Giyan Senaratne.
- #13 7/13/16 Email from City Attorney to Andre Carpiaux and Lance Bayer containing a copy of Notice and Partial Transcript sent via mail on July 11, 2016 (Admin. Exhibit 12) as well as 7/11/16 Notice from City Attorney to Andre Carpiaux offering the opportunity to request additional cross-examination of Giyan Senaratne upon receipt of written request seeking the same on or before July 21, 2016.
- #14 7/27/16 Email from City Attorney to Chair Bauters confirming that Andre Carpiaux made no request seeking additional cross-examination of Giyan Senaratne.

The above exhibits are appended to and supplement the Recommended Decision of the Board of Examiners of May 26, 2016.

DATED: August 5, 2016



John J. Bauters, Chief Examiner
For the Board of Examiners

//
//

Attachment C

From: **Andre Carpiaux** <cxengineers@yahoo.com>

Date: Thu, Jun 2, 2016 at 1:47 PM

Subject: demolition !

To: "John Bauters (Planning Commission)" <commissionerbauters@gmail.com>

Dear Commissioner John Bauters

I want to apologize for having misspelled you name a few time

I received an E- mail from Attorney Micheall Guina about your decision to go along with the wish of some of the City Council members of the city of Emeryville to demolish my house.

I received from Charles Bryant a notice offering date available to meet the full Board of Commissioners to make recommendation(s) along with the demolition.

I informed Mr Bryant that a decision to meet cannot be made until i receive an official response to the claim I lodged against the City Of Oakland's responsible parties one of which

I name Oakland City Council member Daniel Kalb from District one were the flooding water come from HIS Oakland territory that soaks the Ocean Av. block which has been the source of my grievances in dealing with the flooding of my basement..

I deposited a copy of my claim for you to read in your mail slot in the front desk counter at the city of Emeryville's City Hall.

I was informed that you did not take the content of the mail deposited in your mail slot for quite a while. I was not aware of this, but i am not sure if that is part of your duty as commissioner.

I did listen carefully to the best of my abilities as an A.D.A. with hearing impairment and fitted with the offered technology I.R.

I did however ask you if i could review the whole process that was video recorded because I still had problem understanding with what one of the witness was saying.

Even my witnesses told me that witnesses was not adequately speaking in a fashion to be well understood by all of them. Therefore I would need to see and hear the contends of those appeal meetings

From this I abstained to effectively question his claim of description of his fears and declarations of his contentious claims of " imminent collapse ".

The raining season is over and I have not recorded any lateral surge of water coming from the East.

All things considered in order not to contradict the belligerent voices from some city council members and keep peace with different opinions, your decision to demolish is appropriate at this point in time.

You are good people. The City council of Emeryville needs people such as you.

R.S.V.P.

Thank you, Peace !

Andre'

From: **John J. Bauters** <commissionerbauters@gmail.com>
Date: Fri, Jun 3, 2016 at 1:32 PM
Subject: Your Reasonable Accommodation Request
To: Andre Carpiaux <cxengineers@yahoo.com>
Cc: Brad Gunkel <brad@gunkelarchitecture.com>, Buzz Cardoza <buzzcardoza@sbcglobal.net>, Kat Wellman <kat@lwmuni.law>, Michael Guina <mguina@emeryville.org>, Lance Bayer <bayer.lance@gmail.com>

Mr Carpiaux,

I am writing in response to your email to me yesterday. Please read this email carefully as it contains important instructions for you regarding your case at the City of Emeryville.

First, the city has confirmed that you have dropped off several items for me. I will be collecting them today if my schedule permits.

Second, with regard to your request to review the testimony of the witness you stated you had a difficult time understanding during the hearing, we are granting you an accommodation by providing you an opportunity to review an audio recording of the proceedings. The City will be sending you an electronic audio file in two parts that contain the hearing recordings. One is from our February 17th hearing date and the other is from the second half of the hearing on March 2nd. The testimony from the witness you state you had a hard time understanding is found on the February 17th portion of the audio recordings but we are providing you with all of the testimony taken during the hearings.

The city has confirmed that it will also make a room available for you at city hall to listen to the proceeding on tape if you feel that would be better for you. You are free to share the audio recording with others for the purpose of reviewing the tape or you may bring someone with you to city hall to listen to the tape with you if that will be of assistance to you.

YOU MUST INFORM ME BY EMAIL, NO LATER THAN NEXT WEDNESDAY, June 8th, if you wish to ask the witness any additional questions or respond to anything he said based on your review of the tape recordings. The scope of any questions you want to ask him must be limited to what he testified to on the recordings. I would appreciate knowing what questions you would like ask the witness, if possible.

If we need to bring the witness back to answer questions, we will provide further instructions at that time.

Please note that you are permitted to respond in writing anytime up until 2 days before the Board of Appeals hears the recommended decision with your thoughts on witness testimony, the proposed decision or other aspects of the hearing. It would be best if you put all those thoughts into a single document that you may file with the city and copy to me advising us of your feedback or comments. You are also permitted to come and comment on the proposed decision at the Board of Appeals hearing. We have not yet set a date for the full Board of Appeals hearing.

Please let me know if you have any questions via direct message. Please do not "reply all" to this email.

Sincerely,

John J. Bauters
Chief Examiner

From: **Andre Carpiaux** <cxengineers@yahoo.com>
Date: Tue, Jun 7, 2016 at 1:44 PM
Subject: Re: Your Reasonable Accommodation Request
To: "John J. Bauters" <commissionerbauters@gmail.com>

Dear Mr John Bauters ;

I read your E-mail last week and I want of apologize for not confirming the reading of it.

I have a long letter written and addressed to you. As you are aware I have logistic office problem. When the electricity was cut off on my home, it paralyzed my use of the computer, I have to rely on the compassion of others to use their office equipment, I am not the city barging on others property and private living space imposing by force (forceful entrance with the assistance of armed police with assault weapons) my presence and dictating to them my opinion on their living condition, their way of life and telling how trashy their living life style is horrendous from the city's witnesses eye of the beholders) One of them is a Chinese heavy in his national culture. the other one is Jewish businessman the main helper the other one is a Muslin women with all her living style garb and her relatives. So I have to wait my turn to have things done like having the printer ready to uses. They all have hrs that I have to respect and I realize its a burden to them.

Please bear in mind that I am not as fast, as strong, and lucid as I was once, I have pain in my left eye (being blind) and have difficulty hearing. I could not in all practical purpose answer your E - mail without the assistance of my friend

linda Walker. Mrs Walker and her husband took care of their daughter Laura's wedding, a love drama event of last week. From L.A. she is flying back tomorrow Wednesday at about 9 P.m. Since she has been assisting in my decisions, this one is no different I would be able to schedule hearings to review the parts of the hearing I did not understand. Mrs Walker was raised with a deaf older sister and has the ability to deal with hearing impaired person like myself and is in all likelihood accompanying me to review the tape recording. Her ability to help me is a blessing to me, so I am lucky so far. I may not be able to do all or most part of the hearing it all at once.

It depends on many factors and her availabilities having her own life to deal with as an homeless person and like my other women friend also homeless Elaine Teune (a Jewish survivor) both having been shocked up by the terror action of the city.

It was specially cruel for Elaine suffering of feet deformations as a consequence of the staying in the concentration camp and when the electrical power was cut at the pole it created a condition that is in violation with the health and welfare laws !

So the " Elder Abuse " is self evident. If the city is deemed cold blooded ruthless soul is something that should be on Court Record as I explained to Judge Bonni Mac Laren in the " Interest of justice " Be aware of cruel nut cases elected officials. But it has been noted to me the Warrant Orders did not include or mention the cutting of the power without checking into the medical condition of older occupants relying on electrical supply for the assistance of their medical conditions

I have filled a complaint against the City of Oakland for their negligent care of their flooding into my property from the whole block of Ocean Av. I believe I left a copy of the complaint in the mail box for you to peruse.

Both women are thankful of your intervention and that the Board of Commissioners in this matter I am sensitive to your attention, thank you so much.

Best, Andre'

On Friday, June 3, 2016 1:32 PM, John J. Bauters <commissionerbauters@gmail.com> wrote:

Mr Carpiaux,

I am writing in response to your email to me yesterday. Please read this email carefully as it contains important instructions for you regarding your case at the City of Emeryville.

First, the city has confirmed that you have dropped off several items for me. I will be

Notice of Supplement to Recommended
Decision of May 26, 2016 by Board of Examiners

Exhibit #9

collecting them today if my schedule permits.

Second, with regard to your request to review the testimony of the witness you stated you had a difficult time understanding during the hearing, we are granting you an accommodation by providing you an opportunity to review an audio recording of the proceedings. The City will be sending you an electronic audio file in two parts that contain the hearing recordings. One is from our February 17th hearing date and the other is from the second half of the hearing on March 2nd. The testimony from the witness you state you had a hard time understanding is found on the February 17th portion of the audio recordings but we are providing you with all of the testimony taken during the hearings.

The city has confirmed that it will also make a room available for you at city hall to listen to the proceeding on tape if you feel that would be better for you. You are free to share the audio recording with others for the purpose of reviewing the tape or you may bring someone with you to city hall to listen to the tape with you if that will be of assistance to you.

YOU MUST INFORM ME BY EMAIL, NO LATER THAN NEXT WEDNESDAY, June 8th, if you wish to ask the witness any additional questions or respond to anything he said based on your review of the tape recordings. The scope of any questions you want to ask him must be limited to what he testified to on the recordings. I would appreciate knowing what questions you would like ask the witness, if possible.

If we need to bring the witness back to answer questions, we will provide further instructions at that time.

Please note that you are permitted to respond in writing anytime up until 2 days before the Board of Appeals hears the recommended decision with your thoughts on witness testimony, the proposed decision or other aspects of the hearing. It would be best if you put all those thoughts into a single document that you may file with the city and copy to me advising us of your feedback or comments. You are also permitted to come and comment on the proposed decision at the Board of Appeals hearing. We have not yet set a date for the full Board of Appeals hearing.

Please let me know if you have any questions via direct message. Please do not "reply all" to this email.

Sincerely,

John J. Bauters
Chief Examiner

From: **Michael Guina** <mguina@emeryville.org>
Date: Tue, Jun 7, 2016 at 2:58 PM
Subject: 1264 Ocean Avenue Appeal Hearing (ADBC 15-001); Audio Files
To: Lance Bayer <bayer.lance@gmail.com>, "Andre Carpiaux (cxengineers@yahoo.com)" <cxengineers@yahoo.com>
Cc: "Kat Wellman (kat@lwmuni.law)" <kat@lwmuni.law>, "John Bauters (Planning Commission)" <CommissionerBauters@gmail.com>, Rochelle Conner <rconner@emeryville.org>

Mr. Carpiaux and Mr. Bayer,

Attached is a link to the audio recordings of the hearings (February 17 and March 2, 2016) in this matter. Due to their size, the files are stored on the Dropbox application. The link to the files is here:

<https://www.dropbox.com/sh/w0czz4mvh7iuiiu/AAAX5xrjxKJRN922nqAwNxR2a?dl=0>

If you wish to listen to the recordings at City Hall, please contact my assistant Rochelle Conner (cc'd to this email) to make arrangements. Please contact me if you have trouble accessing the files or if you have any questions.

Sincerely,

Michael A. Guina
City Attorney
City of Emeryville
1333 Park Avenue
Emeryville, CA 94608
Tel. [510-596-4380](tel:510-596-4380)
Fax [510-596-3724](tel:510-596-3724)
mguina@emeryville.org

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From: **Michael Guina** <mguina@emeryville.org>
Date: Fri, Jul 8, 2016 at 3:33 PM
Subject: 1264 Ocean Avenue Appeal Hearing (ADBC 15-001); Transcript of Giyan Senarate Testimony
To: Lance Bayer <bayer.lance@gmail.com>, "Andre Carpiaux (cxengineers@yahoo.com)" <cxengineers@yahoo.com>
Cc: "Kat Wellman (kat@lwmuni.law)" <kat@lwmuni.law>, "John Bauters (Planning Commission)" <CommissionerBauters@gmail.com>, "Lawrence Cardoza (Planning Commission)" <buzzcardoza@sbcglobal.net>

Mr. Bayer and Mr. Carpiaux:

Attached please find a transcript of the testimony of witness Giyan Senaratne from the February 17, 2016 hearing in this matter.

I had provided a link to the audio files of the entire proceedings in my email of June 7, 2016, which is attached to this email as well. Note that the recordings may be reviewed at City Hall during normal business hours. If you wish to do so, please contact my assistant Rochelle Conner, cc'd on this email.

Sincerely,

Michael A. Guina
City Attorney
City of Emeryville
1333 Park Avenue
Emeryville, CA 94608
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----- Forwarded message -----

From: Michael Guina <mguina@emeryville.org>
To: "Lance Bayer" <bayer.lance@gmail.com>, "Andre Carpiaux (cxengineers@yahoo.com)" <cxengineers@yahoo.com>

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Decision of May 26, 2016 by Board of Examiners

Exhibit #11

Cc: "Kat Wellman (kat@lwmuni.law)" <kat@lwmuni.law>, "John Bauters (Planning Commission)" <CommissionerBauters@gmail.com>, Rochelle Conner <rconner@emeryville.org>

Date: Tue, 7 Jun 2016 21:58:00 +0000

Subject: 1264 Ocean Avenue Appeal Hearing (ADBC 15-001); Audio Files

Mr. Carpiaux and Mr. Bayer,

Attached is a link to the audio recordings of the hearings (February 17 and March 2, 2016) in this matter. Due to their size, the files are stored on the Dropbox application. The link to the files is here:

<https://www.dropbox.com/sh/w0czz4mvh7iuiou/AAAX5xrjxKJRN922nqAwNxR2a?dl=0>

If you wish to listen to the recordings at City Hall, please contact my assistant Rochelle Conner (cc'd to this email) to make arrangements. Please contact me if you have trouble accessing the files or if you have any questions.

Sincerely,

Michael A. Guina
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Tel. [510-596-4380](tel:510-596-4380)
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**In the Matter of the Appeal From Notice and Order of Intention to
Demolish Property Owned by Andre Carpiaux**

Case No. ADBC 15-001

**1264 Ocean Avenue
Emeryville, CA 94608
APN -049-1469-008**

**Partial Transcript of Proceedings
February 17, 2016** •

Examiner
Bauters:

Thank you.

Our next witness is Giyan Senaratne

Mr. Senaratne, could you just please raise the right hand? Do you solemnly state under penalty of perjury that the testimony you may give in this hearing shall be the truth, the whole truth, and nothing but the truth?

Witness:

I do.

Examiner
Bauters:

Thank you. You may be seated. Counsel you may begin.

Bayer:

Thank you. What is your occupation?

Witness:

I am a structural engineer, civil engineer licensed in the State of California. Also I own my own company, providing services throughout many states working with Cities and Counties as well as working with State and Federal helping building departments and public works departments.

Bayer:

In order to hold the certificates as professional engineer and structure engineer, could you please describe briefly your training and experience?

Witness:

Certainly. I went to school and got my bachelor's degree in civil engineering. After that I had to work 4 years under 3 separate licensed professional engineers. PE's. Then they testified about my experience and my knowledge, etc. Actually, when I was in school had taken an exam called the EIT exam, engineering training, in my third or fourth year college. Then I took the exam and passed that exam. Then I had to wait for another 3 or 4 years be working under a structural engineer SE. So I did that, and I took that exam. That was a California registered protective title exam. So I am a California registered structural engineer.

So at a minimum, I also got a masters in structural engineering in the meantime. Essentially, from the time that you started going to school as an undergrad, the fastest that you can become a structural engineer is about 12 years. In California there is a difference between structural and civil engineering. Especially in California. In California, buildings such as schools, high rises, essential facilities, hospitals, those types of buildings, must be designed and plan checked by structural engineers. I hope I answered the question.

Bayer: As part of your duties and responsibilities, do you provide services to the City of Emeryville regarding engineering of the structures?

Witness: Yes sir. I joined Emeryville as a consultant in 1989. Shortly after the Loma Prieta earthquake I have been a plan check engineer, structural engineer, most of the buildings that you see, including City Hall, including this one, it's all the high rises, all the buildings that will, that have been built in the City since 1989, that's quite a lot, have been plan checked by me. The City actually followed me around 5 different consultants, and finally my own company the City has been my client. This is my home. I'm here once or twice a week and pretty much every single project has been plan reviewed by myself or by my staff, under my direction.

Bayer: Do you also work on evaluating the structural elements of residential structures?

Witness: Absolutely yes. From residential structures to commercial, the company that I own, we have about 80 people working in multiple states. There isn't a building that we have not plan checked including the Apple campus 2 building in Cupertino. It was done by myself and my staff. And we reviewed NVidia, Facebook, Google, you name it, Pixar in this City pretty much everything we do. We actually, this is a city that is different, we have a very small stock of single-family houses and those are very, very special to us. All the buildings that have I have done many, many plan checks on buildings, yes.

Bayer: As part of your duties and responsibilities, were you requested to participate in an inspection of the residential structure located at 1264 Ocean in Emeryville on July 29th of last year?

Witness: Yes I was.

Bayer: Did you accompany Victor Gonzales, the Chief Building official inside the structure?

Witness: Yes I did.

Bayer: Specifically what type of training and experience do you have in evaluating dangerousness in residential construction?

Witness: As part of my training, I was also building official and City of San Mateo. We had to deal with a lot of dangerous situations. Essentially what a dangerous situation is where an occupant can injure themselves or their neighbors. In a

plain person's language that's what it is. Dangerous things like live wires, electrical wires, that exposed wiring, unvented appliances, where you have unvented appliances such as stoves, water heaters not exhausting where people can kill themselves, or raw sewage going around. Where there are imminent dangers.

Then there are types of cases when you need to get things into order. I've used the Dangerous Building Code and the International Property Maintenance Code many times. I hope I'm answering the question.

Bayer: When you entered the property on July 29th of last year, did you observe multiple conditions that you consider to be imminent danger?

Witness: Yes, absolutely. The moment I went into the property, I was looking at porch and there is no steps, nowhere anybody getting out of this place, if there is any case of an emergency or emergency personal or fire personal would not be able to do anything. The door, eventually it opened and if I turned the light on and there were live wires by the fridge. I'm thinking, "My goodness." Then I start looking around and I'm thinking, "It's a miracle that somebody has not got themselves hurt in this building."

I started walking around. The floor felt very spongy and as an engineer, we are trained like clockwork to see what's going on, what are the dangers. Because there was so much stuff there, you could not even see where the wall ended and the roof started actually. And then I go up the steps to his attic, it was extremely wobbly. There was no hand rails. I cannot - One of the Commissioners asked whether it (steps) could have been legal. Interesting question. I cannot imagine any code allowing those steps which were not sized properly, crooked to be legal ever. There was no headroom clearance and when you looked around, you could see that some wood members have been cut, because they didn't match. There were wood with aging difference.

I went up there and the thought kept crossing my mind, I hope it is ok to share, I'm like, "My goodness. How is this building standing?" We are engineers, we do numbers, we are experienced, we see things that have collapsed, we see earthquake damage, we see other stuff. What's holding this thing up? I would never, pick, no no. I would never gone on down there - no offense. I would never let my staff or myself go down there. That would not have happened. Anyways, you did that and came up so it's okay. Then we went to the back yard and things were very unstable. Steps are loose. You could not even see the back yard. There were cars, vehicles and I'm thinking, "My goodness, what a fire danger this is." If there's anything

that goes on how in the world will anybody come and do anything in this place?

It's just full of stuff. Vehicles to refrigerators, all kinds of stuff. Then, I'm the one who found it, so I was going around trying to figure out what the bottom was and I felt something very spongy. I started looking and I asked Charles, "Charles, what is this?" There was a piece of plywood about this big and nothing below it. Then we realized that there's something going on underneath there, with this ladder we started putting some flashlights and I started, came down there. Because about 9 and a half to 10 feet from the floor, to that point, and then it went on deeper from there, I'm like, "My goodness."

The one thought I kept on repeating to myself, "Why isn't somebody hurt in this building already?" That's the only thought I had in my mind. In answer to your question, yes. We have been there, done a lot of these types of buildings, not that bad but done a lot of buildings that we've involved with. Then we went outside and then we saw how the floor beams, underneath the sidewalk. My staff wanted to go ahead and just be curious. I said no you guys have other work, let's move on. I pretty much pulled my staff away. There's another thing. He has a wall on the property line. I don't know whether it was mentioned or not. Where the guardrail comes up to the sidewalk and there are potentially concrete block, cinder block beams, about so high.

He started to cut them. Okay and I thought to myself "That's interesting." Now we have another problem. The house fence in the front can fall on somebody who's on the sidewalk. Also while the electrical wires, electrical meters, all kinds of stuff floating around that just, it's just an accident waiting to happen. Then we looked at the dimensions from the property line, it's about 2 feet to the wall, and it's about 2 feet to the nearest property. I know Mr. Carpiaux talked about mining and stuff. In engineering, the way I have been trained and all engineers in California have been trained, is if you have a footing and you draw a 45 degree angle from the bottom of the footing, that's called the protective zone. You aren't allowed to put a pipe, you aren't allowed to dig a trench, you aren't allowed to do anything in the 45 degree angle from the bottom of the footing.

This is pure fundamental engineering. We learned these things in the second year of school, and we practice it. And in Mr. Carpiaux's property, the foundation is way beyond the 45 degree angle. There's no 45 degree angles at all on the posts that are supporting the beams. I told my client Mr. Gonzales "Forget about this house. You're going to have a major problem on

your hands with the neighboring property because the neighboring property footing is also in the rupture zone in that zone". My recommendation to my client was, "You got to be really careful because you're going to have problems with the neighboring property."

I think they are taking steps to address that issue.

Bayer: Can you go through specifically the structural elements that you observed inside the residence that caused you to believe that the structure was dangerous?

Witness: Actually counselor I was talking about the outside. The number one problem is the big hole, the cavity that's underneath this house. It's undermined and taken away any support of the foundation. The house foundation and the neighboring property is in my opinion, I think, I'm speculating now. Why is it not down already? That's the number one problem. Number two problem is we live in earthquake country type A fault with the 2-kilometer rupture zone on San Pablo avenue. If there are even a small tremblor this house is so unstable it is going to.. It's going to pretty much, I don't know what'll happen. Some parts of the house will fall inside the hole itself.

The foundation of the property is the problem and there are many areas where you can see the concrete standing from here to there. The foundation, let's talk about foundation. What is a foundation? A foundation is where all the vertical and the lateral load comes down to the concrete and then the concrete goes to the soil. Soil supports it. If you don't have the soil, it's like taking the legs out of a chair nothing holding the chair. Like I said, as an engineer, I'm like, "My goodness, what, how in the world is this building held up?"

Foundation's a problem because of the big hole that has been excavated out. The next problem is the footings where they're holding up the columns as some of the photographs show there is no support. As an engineer, I'm thinking, "You know what? There's no way this could have even stood up for this long. " I'm curious, "How did this happen?" Probably one of the saving graces of this house is that it was built a long time ago where they had what is called old growth lumber. If this was built in accordance with today's standards, it would not have lasted till now. It's so unstable. I think some of the old growth and how they probably built houses much better than they do now, probably has been a reason as to why it has not fallen down.

The foundations and the footings are problems. Next thing is the roof, there's no roof tile diaphragm and no floor diaphragm. It's hard to see what's out there, so I cannot make a judgement on that. Next thing is this. Any building, including this one, has a load. Has a live load, has a dead load, that engineer's designing for these loads. The design so that it wouldn't collapse. The amount of stuff material that Mr. Carpiaux has in his house way exceed these loads. Live loads. Dead load's normally about 12 to 15 pounds. It is way more than this on his property right now. He's also cut some floor joists. He has cut only one or two, so even though locally goes down like that. It'll probably will not collapse the whole thing. Cutting the floor joists is not good but It's not the end of the world.

The attic is failing. The loading is too much. Look at the joists. It looks more like ceiling joists than floor joists. There's no guard rail, there's no hand rail, there's no proper stair. Then lots of problems electrical. Lots of wires, romex, knob-and-tube wiring hanging out, extension cords all over the place, photographs show an extension cord, etc. The code also requires you to have sanitary facilities which were not there. This question was asked earlier about bathrooms. When we opened the bathroom door – we were repugnant because when you open the bathroom, there is paint can water cans and all kinds of stuff. What is this all about?

Then you realize that there's something going on underneath the house because there were hoses and stuff like that to get some water up there. Also there's no heating facilities There was a big, that looked like a pot belly stove in the middle of the middle of the room – whatever he called it and I looked at the venting which ended in the middle of the building, middle of the room, it just ended.

- Examiner: May I ask you to slow down in your answers? [inaudible 00:16:46]
- Bauters:
- Witness: Sorry. Sorry about that. There was a pot belly stove that came and then the flue stopped in the middle of the room. I look at it, I'm going, I told Charles It looked like a heating stove, a pot belly stove, but there was so many things around it, looks like he has not used it in a while not used it so thank goodness for that. Getting out of the house was a problem, trying to find the back door, it was, I don't know what else to say about it.
- Bayer: Based on your observations, interior and exterior, you concluded that the structure you concluded that the structure was dangerous, you already stated that, correct?
- Witness: Yes. Correct.

Bayer: Did you also determine, based on your training as a structural and a civil engineer, that based on what you observed, that the only reasonable and viable form of abatement based on the dangers building code was demolition?

Witness: For me, trying to say that you will demolish something is I don't think it's a question that I'm comfortable answering. I own a house in Danville that was built 1800s. I've had it there for many years but I know from a personal point of view, that trying to rehab a 1880s, 1890s property is not financially feasible for me. Does not make any sense at all. There is asbestos and all kinds of headaches there with septic tanks and what not. If you pour enough money into anything, you can make it work. Whether you can fix it or you can demolish it, is the question that is connected with money. If you pour in money, you can rehab this building, but my stance, without having studied this or without having gone deep into all the issues, is that it would be far more cheaper to actually build a brand new building.

We use the building the evaluation table when somebody comes into the house, or an apartment or whatever it is, we go to that and we say, "You know what? It'll cost X number of dollars to build it". I think unless I'm not mistaken, a house of this type is about 110 dollars a square foot of building. Don't quote me on this because I'm doing this off memory. It's probably a thousand per hundred square feet, so something like that maybe a hundred, maybe two hundred thousand dollars, you can build the original structure. Now I think Mr. Gonzalez has got a bid or quote or something like that to fill that hole, to take the debris out and I think demolish the house is close to 200,000 or something like that, right? I don't know what the numbers are.

It makes no sense to try to rehab this, you have to pay for taking out all the materials out, fill the hole up, stabilize the structure and then retrofit it. To me as an engineer, all these things don't connect. I hope I'm answering your question counsellor.

Bayer: In other words, based on your experience as a structural engineer, and as a civil engineer, and based on your understanding of the economic reality that it appears obvious to you that the cost of replacement vastly outweighs the cost of rehabilitation of this structure?

Witness: Yes, definitely. That's my opinion. It's absolutely.

Bayer: You heard Chief Building Official Gonzalez testify regarding how this building

would have to be brought up to current code, is that correct?

Witness: Yes. Anything that is built, done, whatever, State law states that you're doing anything that requires a building permit you must meet the current code. There are few portions in the code for archaic materials chapter 34 etc. For that means that there you have this building This is an interesting historical building. Look at the stairs, some of these things were kept because it has a historical value and what not. Nothing that comes with structural engineering are you allowed to the 1920 code. You have to comply with the current code.

Same thing with life safety issues. They have to comply with the current code. So let's take these foundations that are hanging out. Probably they have minimum steel in them. If you try to rebuild it and push back in, that foundation that is already there is not allowed. So when Mr. Carpiaux submits his plans I will have to ask " what is the reinforcing steel" in your foundations. You need to cut the foundation, remove it, and then rebuild it to come up with the part of the code.

Bayer: You need to slow down.

Witness: Sorry. You need to cut the foundation, remove it, and then rebuild it to come up with the part of the code.

Bayer: Does that mean jacking up the house in order to do that?

Witness: You would have to jack it up because a lot of houses in this area that have been jack up. To jack it up, you have to have a place to support the jack. If we have a hole in it, I can't get my mind around how this house is going to get jacked up. If it actually was possible. I suppose somebody can come up with some system of doing this but I doubt it very much.

Bayer: In other words, it could very easily be technically unfeasible to restore and rehabilitate and bring the property up to code. Is that correct?

Witness: I would say so, but it is the granite truth that nothing can be done is an inaccurate statement. I don't think that's the right statement. After a while, it doesn't make sense because pouring in money into a structure that can be far better, easier to rebuild anyhow.

Bayer: In addition to jacking up the structure, which is speculative and filling in the excavation and connecting with water, connecting back the electrical and gas and putting the house back on a solid foundation, what else needs to be

done in order to bring the property up to compliance? Including the roof and the structural members in the attic as well.

Witness: You are also required to connect the building to the sewer because you're not allowed to have septic in this area. My goodness. If this was my property, what would I do? I would put in a clean, get all the stuff out there so you can do a proper evaluation as to what is there. We don't know what's on the floor. We don't know what's that plywood. We can see here and there where the walls are exposed. If it was my property then first we need to figure out, get rid of the debris and then to get that hole filled up. That's down underneath the property because that is undermining all of Mr. Carpiaux's property but also the neighbor's property also.

We don't know exactly how far that thing goes in the back and on the other side. Really don't know what's down there. That hole will have to be filled up. That they have a thing called the grout mix thing where they propagate and they fill up, fill up, fill up, fill up, fill up, and then it comes to the right level. That's the first thing that should be done.

Then I would get an engineer and an architect to look at it and give me an estimate whether it can be done or not. Then if it can be done then what's the cost? Then what of the existing building can be used? If any at all. These are the steps that I would take one by one by one because each one will cost a certain amount of money. And then there is a point of no return where the value of the property and the value of the house.

If we have to spend a million and a half dollars on removing the structure and it is worth I don't know, 5 or 600 to 700,000 then what's the point? It becomes an economic issue more than can you do this? I've seen properties which were broken down, falling down, barns that were rehabbed out because they had value to the structures or something like that.

Bayer: Based on your training and experience, other than Mr. Carpiaux, can you conceive of any other property owner of this property rehabbing it as opposed to tearing it down?

Witness: No I cannot. Absolutely cannot do that. That would be fantasy.

Bayer: I have nothing further.

Examiner: Mr. Carpiaux, would you like to ask this witness any questions?

Bauters:

Carpiaux: I would rather not

Examiner Not right now?

Bauters:

Carpiaux: Not now.

Examiner Examiner Gunkel do you have any questions for this witness?

Bauters:

Examiner Just one actually. In the exhibits, JH23, the [inaudible 00:27:02] I believe this
Gunkel: was a diagram provided by the geotechnical engineer who did the site with you. Can you point out where the excavation on Mr. Carpiaux' s property would enter the zone of influence of the footings for the neighboring property?

Witness: Certainly. When I saw this picture, I thought, "You know what? This doesn't look right." We have been around this because they are showing about – let's say about ½ an inch in scale they are showing about 5 feet to quote-unquote exterior wall on there. Then they're showing about maybe 2 feet, 3 feet of the property line, the dotted line. I told Vic "You know what? I have a pretty good eye. This doesn't look right because when I stuck my face down there and I was looking down there, I think this lining's far closer to the exterior wall than they're showing."

Then we were looking at the photos today. If you roll this page, okay. Here's the color. Something I'm trying to find the one where we are taking it from the outside with the panels and then the electrical supporting. Let's see. There it is!

That goes to page 16 objective things. Everybody there?

Examiner Mm-hmm (affirmative).

Bauters:

Witness: I've had the same asbestos shingles in my house in Danville These are 18 inches wide. That gives us a setting, 18 – 24 inches wide.

Examiner Can you orient the page so that the right side of the page is the bottom,
Bauters: that's the proper orientation, correct?

Witness: Like that.

Examiner For the record, the right side is the bottom of the image. The shingles you're
Bauters: referring to are at the top left corner of the orientation is correct?

Witness: Yes. Then we also have a toilet there. You can get the idea of where the

scale of the thing is. Look at the plastic transponder that you see underneath there. Left hand side of the electrical panel. Then from there, you can see the fence and a little bit Beyond the fence is where the property line is. The footing is somewhere in that range, where you see this free step that's sticking up like that. The footing is down there somewhere for the exterior wall. This gives you a sense of the distances of what has been excavated and what has not been excavated.

Then let's go to page J26. On J26 you see that light panel on the left hand side? You see that light panel on the left hand side. There are four of them there and the left hand side one is the same one we see on the inside. Right next to that on the left hand side you see the little boxes looking thing, that is the footing right there. The excavation comes in and it starts to balloon out. It's getting to a smaller area and then it slanted like that. So from my eyes and from my memory, I think I have some other photograph that can actually substantiate this. I've seen some photographs from the top down.

I would say that the footing to the excavation is about 18 to 24 inches.

Examiner: To be clear, you're referring to the actual width of the footing itself?

Bauters:

Witness: Right. If the footing is like that from there to the open mouth of the excavation is probably 18 to 24 inches.

Examiner: Reflect the record that witness has his hand up at a distance of about 18 inches.

Bauters:

Witness: Yes. Then, I know I put my measuring tape from the top down and I was getting at the medium area – not the deep areas 9 and a half feet deep. We had a hole that is 9 and a half feet deep. Cripple walls on this is around 3 feet deep. You've got about 6 feet, 5 feet, maybe 6 – 6.5 feet. So to go back to that sheet, that the engineer gave us on page 22 and 23. That depth of 6 and a half feet is probably right. Around right. That's excavation, not to the floor. I think that right hand corner of the boundary should be much closer to the footing.

Then what I did was I remember going, because I was worried about the neighboring building property more than this property. I remember going to the middle of the street and across the street, trying to eye ball where is the footing on this neighboring property? Which I approximated to be higher than this one. I was trying to eye ball where is that 45 degree angle. My professional judgement my engineering judgement without taking any measurements just eye balling it, it was clearly in that zone. That was one of

the reasons that I raised that worry, because whatever happens to this property happens but if something were to happen to the neighboring property and the City knew about it and they didn't do anything about it, now the City becomes part of the problem.

That was my recommendation to my client saying, "You know what? Time out – you need to deal with the neighboring property before you do anything else." In my opinion, it is in that zone of failure. This property, absolutely yes. There's no doubt it's a no brainer. Anybody looking at it will know this is a problem. The neighboring property, my judgement, professional judgment is that using that 45 degree zone. I hope I answered your questions, sir.

Examiner
Bauters: Do you have other questions? Examiner Cardoza do you have any questions? No?

Examiner
Cardoza: No.

Examiner
Bauters: I have no questions for this witness. Do you have anything that you wish to redirect the question that was asked by Examiner Gunkel?

Bayer: No thank you.

Examiner
Bauters: Mr. Carpiaux, I'll give you another chance. Do you have any other questions you'd like to ask this witness before we move to your case?

Carpiaux: Yes sir I have a question.

Examiner
Bauters: Okay.

Carpiaux: I would rather not at this time.

Examiner
Bauters: With that, thank you witness. You are excused.

Counsel, do you have other witnesses?

Bayer: No and I believe all of the exhibits have been received. Is that correct?

From: **Michael Guina** <mguina@emeryville.org>
Date: Wed, Jul 13, 2016 at 6:23 PM
Subject: 1264 Ocean Avenue Appeal Hearing (ADBC 15-001): Supplemental Examination of Giyan Senaratne
To: "Andre Carpiaux (cxengineers@yahoo.com)" <cxengineers@yahoo.com>
Cc: Lance Bayer <bayer.lance@gmail.com>, "Kat Wellman (kat@lwmuni.law)" <kat@lwmuni.law>, "John Bauters (Planning Commission)" <CommissionerBauters@gmail.com>, "Lawrence Cardoza (Planning Commission)" <buzzcardoza@sbcglobal.net>

Mr. Carpiaux,

Attached please find the attached correspondence.

Sincerely,

Michael A. Guina

City Attorney
City of Emeryville
1333 Park Avenue
Emeryville, CA 94608
Tel. [510-596-4380](tel:510-596-4380)
Fax [510-596-3724](tel:510-596-3724)
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Confidentiality Note: This e-mail, and any attachment to it, contains privileged and confidential information intended only for the use of the individual(s) or entity named on the e-mail. If the reader of this e-mail is not the intended recipient, or the employee or agent responsible for delivering it to the intended recipient, you are hereby notified that reading it is strictly prohibited. If you have received this e-mail in error, please immediately return it to the sender and delete it from your system. Thank you.



CITY OF EMERYVILLE

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TEL: (510) 596-4370 FAX: (510) 596-3724

July 11, 2016

By US Mail and email: cxengineers@yahoo.com

Andre Carpiaux
1264 Ocean Avenue
Emeryville, CA 94608

Re: **In the Matter of the Appeal from Notice and Order of Intention to Demolish Property Owned by Andre Carpiaux (Case No. ADBC 15-001)**

Dear Mr. Carpiaux:

On July 8, 2016, I emailed you a transcript of the testimony of witness Giyan Senaratne in this matter. A hardcopy of that transcript is also included in this correspondence.

This is to inform you the Board of Examiners is providing you an opportunity to direct additional questions to Mr. Senarate (only) now that you have a written transcript of Mr. Senaratne's testimony. If you wish to further question the witness, you must provide written notice to the City, which must be received no later than **5 p.m., on Thursday, July 21, 2016**. Notice may be provided by email, fax, or regular mail to:

Michael Guina
City Attorney's Office
1333 Park Avenue
Emeryville, CA 94608
mguina@emeryville.org
510-596-3724 (fax)

If written notice is timely received, the Board of Examiners will schedule a hearing for you to question the witness. Notice of that hearing will be provided in separate correspondence. Note that if the City does not receive written notice by the date indicated above, the Board of Examiners will forward its Recommended Decision to the Board of Appeals for consideration on August 23, 2016.

Andre Carpiaux
July 11, 2016
Page 2 of 2

Please contact me if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Michael A. Guina". The signature is written in a cursive style with a large, sweeping initial "M".

Michael A. Guina
City Attorney

Encl.

cc (w/ enclosures):

- John Bauters
- Lawrence Cardoza
- Kat Wellman
- Lance Bayer

Document1

**In the Matter of the Appeal From Notice and Order of Intention to
Demolish Property Owned by Andre Carpiaux**

Case No. ADBC 15-001

**1264 Ocean Avenue
Emeryville, CA 94608
APN -049-1469-008**

**Partial Transcript of Proceedings
February 17, 2016**

Examiner Thank you.

Bauters:

Our next witness is Giyan Senaratne

Mr. Senaratne, could you just please raise the right hand? Do you solemnly state under penalty of perjury that the testimony you may give in this hearing shall be the truth, the whole truth, and nothing but the truth?

Witness: I do.

Examiner Thank you. You may be seated. Counsel you may begin.

Bauters:

Bayer: Thank you. What is your occupation?

Witness: I am a structural engineer, civil engineer licensed in the State of California. Also I own my own company, providing services throughout many states working with Cities and Counties as well as working with State and Federal helping building departments and public works departments.

Bayer: In order to hold the certificates as professional engineer and structure engineer, could you please describe briefly your training and experience?

Witness: Certainly. I went to school and got my bachelor's degree in civil engineering. After that I had to work 4 years under 3 separate licensed professional engineers. PE's. Then they testified about my experience and my knowledge, etc. Actually, when I was in school had taken an exam called the EIT exam, engineering training, in my third or fourth year college. Then I took the exam and passed that exam. Then I had to wait for another 3 or 4 years be working under a structural engineer SE. So I did that, and I took that exam. That was a California registered protective title exam. So I am a California registered structural engineer.

So at a minimum, I also got a masters in structural engineering in the meantime. Essentially, from the time that you started going to school as an undergrad, the fastest that you can become a structural engineer is about 12 years. In California there is a difference between structural and civil engineering. Especially in California. In California, buildings such as schools, high rises, essential facilities, hospitals, those types of buildings, must be designed and plan checked by structural engineers. I hope I answered the question.

Bayer: As part of your duties and responsibilities, do you provide services to the City of Emeryville regarding engineering of the structures?

Witness: Yes sir. I joined Emeryville as a consultant in 1989. Shortly after the Loma Prieta earthquake I have been a plan check engineer, structural engineer, most of the buildings that you see, including City Hall, including this one, it's all the high rises, all the buildings that will, that have been built in the City since 1989, that's quite a lot, have been plan checked by me. The City actually followed me around 5 different consultants, and finally my own company the City has been my client. This is my home. I'm here once or twice a week and pretty much every single project has been plan reviewed by myself or by my staff, under my direction.

Bayer: Do you also work on evaluating the structural elements of residential structures?

Witness: Absolutely yes. From residential structures to commercial, the company that I own, we have about 80 people working in multiple states. There isn't a building that we have not plan checked including the Apple campus 2 building in Cupertino. It was done by myself and my staff. And we reviewed NVidia, Facebook, Google, you name it, Pixar in this City pretty much everything we do. We actually, this is a city that is different, we have a very small stock of single-family houses and those are very, very special to us. All the buildings that have I have done many, many plan checks on buildings, yes.

Bayer: As part of your duties and responsibilities, were you requested to participate in an inspection of the residential structure located at 1264 Ocean in Emeryville on July 29th of last year?

Witness: Yes I was.

Bayer: Did you accompany Victor Gonzales, the Chief Building official inside the structure?

Witness: Yes I did.

Bayer: Specifically what type of training and experience do you have in evaluating dangerousness in residential construction?

Witness: As part of my training, I was also building official and City of San Mateo. We had to deal with a lot of dangerous situations. Essentially what a dangerous situation is where an occupant can injure themselves or their neighbors. In a

plain person's language that's what it is. Dangerous things like live wires, electrical wires, that exposed wiring, unvented appliances, where you have unvented appliances such as stoves, water heaters not exhausting where people can kill themselves, or raw sewage going around. Where there are imminent dangers.

Then there are types of cases when you need to get things into order. I've used the Dangerous Building Code and the International Property Maintenance Code many times. I hope I'm answering the question.

Bayer: When you entered the property on July 29th of last year, did you observe multiple conditions that you consider to be imminent danger?

Witness: Yes, absolutely. The moment I went into the property, I was looking at porch and there is no steps, nowhere anybody getting out of this place, if there is any case of an emergency or emergency personal or fire personal would not be able to do anything. The door, eventually it opened and if I turned the light on and there were live wires by the fridge. I'm thinking, "My goodness." Then I start looking around and I'm thinking, "It's a miracle that somebody has not got themselves hurt in this building."

I started walking around. The floor felt very spongy and as an engineer, we are trained like clockwork to see what's going on, what are the dangers. Because there was so much stuff there, you could not even see where the wall ended and the roof started actually. And then I go up the steps to his attic, it was extremely wobbly. There was no hand rails. I cannot - One of the Commissioners asked whether it (steps) could have been legal. Interesting question. I cannot imagine any code allowing those steps which were not sized properly, crooked to be legal ever. There was no headroom clearance and when you looked around, you could see that some wood members have been cut, because they didn't match. There were wood with aging difference.

I went up there and the thought kept crossing my mind, I hope it is ok to share, I'm like, "My goodness. How is this building standing?" We are engineers, we do numbers, we are experienced, we see things that have collapsed, we see earthquake damage, we see other stuff. What's holding this thing up? I would never, pick, no no. I would never gone on down there - no offense. I would never let my staff or myself go down there. That would not have happened. Anyways, you did that and came up so it's okay. Then we went to the back yard and things were very unstable. Steps are loose. You could not even see the back yard. There were cars, vehicles and I'm thinking, "My goodness, what a fire danger this is." If there's anything

that goes on how in the world will anybody come and do anything in this place?

It's just full of stuff. Vehicles to refrigerators, all kinds of stuff. Then, I'm the one who found it, so I was going around trying to figure out what the bottom was and I felt something very spongy. I started looking and I asked Charles, "Charles, what is this?" There was a piece of plywood about this big and nothing below it. Then we realized that there's something going on underneath there, with this ladder we started putting some flashlights and I started, came down there. Because about 9 and a half to 10 feet from the floor, to that point, and then it went on deeper from there, I'm like, "My goodness."

The one thought I kept on repeating to myself, "Why isn't somebody hurt in this building already?" That's the only thought I had in my mind. In answer to your question, yes. We have been there, done a lot of these types of buildings, not that bad but done a lot of buildings that we've involved with. Then we went outside and then we saw how the floor beams, underneath the sidewalk. My staff wanted to go ahead and just be curious. I said no you guys have other work, let's move on. I pretty much pulled my staff away. There's another thing. He has a wall on the property line. I don't know whether it was mentioned or not. Where the guardrail comes up to the sidewalk and there are potentially concrete block, cinder block beams, about so high.

He started to cut them. Okay and I thought to myself "That's interesting." Now we have another problem. The house fence in the front can fall on somebody who's on the sidewalk. Also while the electrical wires, electrical meters, all kinds of stuff floating around that just, it's just an accident waiting to happen. Then we looked at the dimensions from the property line, it's about 2 feet to the wall, and it's about 2 feet to the nearest property. I know Mr. Carpiaux talked about mining and stuff. In engineering, the way I have been trained and all engineers in California have been trained, is if you have a footing and you draw a 45 degree angle from the bottom of the footing, that's called the protective zone. You aren't allowed to put a pipe, you aren't allowed to dig a trench, you aren't allowed to do anything in the 45 degree angle from the bottom of the footing.

This is pure fundamental engineering. We learned these things in the second year of school, and we practice it. And in Mr. Carpiaux's property, the foundation is way beyond the 45 degree angle. There's no 45 degree angles at all on the posts that are supporting the beams. I told my client Mr. Gonzales "Forget about this house. You're going to have a major problem on

your hands with the neighboring property because the neighboring property footing is also in the rupture zone in that zone". My recommendation to my client was, "You got to be really careful because you're going to have problems with the neighboring property."

I think they are taking steps to address that issue.

Bayer: Can you go through specifically the structural elements that you observed inside the residence that caused you to believe that the structure was dangerous?

Witness: Actually counselor I was talking about the outside. The number one problem is the big hole, the cavity that's underneath this house. It's undermined and taken away any support of the foundation. The house foundation and the neighboring property is in my opinion, I think, I'm speculating now. Why is it not down already? That's the number one problem. Number two problem is we live in earthquake country type A fault with the 2-kilometer rapture zone on San Pablo avenue. If there are even a small tremblor this house is so unstable it is going to.. It's going to pretty much, I don't know what'll happen. Some parts of the house will fall inside the hole itself.

The foundation of the property is the problem and there are many areas where you can see the concrete standing from here to there. The foundation, let's talk about foundation. What is a foundation? A foundation is where all the vertical and the lateral load comes down to the concrete and then the concrete goes to the soil. Soil supports it. If you don't have the soil, it's like taking the legs out of a chair nothing holding the chair. Like I said, as an engineer, I'm like, "My goodness, what, how in the world is this building held up?"

Foundation's a problem because of the big hole that has been excavated out. The next problem is the footings where they're holding up the columns as some of the photographs show there is no support. As an engineer, I'm thinking, "You know what? There's no way this could have even stood up for this long. " I'm curious, "How did this happen?" Probably one of the saving graces of this house is that it was built a long time ago where they had what is called old growth lumber. If this was built in accordance with today's standards, it would not have lasted till now. It's so unstable. I think some of the old growth and how they probably built houses much better than they do now, probably has been a reason as to why it has not fallen down.

The foundations and the footings are problems. Next thing is the roof, there's no roof tile diaphragm and no floor diaphragm. It's hard to see what's out there, so I cannot make a judgement on that. Next thing is this. Any building, including this one, has a load. Has a live load, has a dead load, that engineer's designing for these loads. The design so that it wouldn't collapse. The amount of stuff material that Mr. Carpiaux has in his house way exceed these loads. Live loads. Dead load's normally about 12 to 15 pounds. It is way more than this on his property right now. He's also cut some floor joists. He has cut only one or two, so even though locally goes down like that. It'll probably will not collapse the whole thing. Cutting the floor joists is not good but It's not the end of the world.

The attic is failing. The loading is too much. Look at the joists. It looks more like ceiling joists than floor joists. There's no guard rail, there's no hand rail, there's no proper stair. Then lots of problems electrical. Lots of wires, romex, knob-and-tube wiring hanging out, extension cords all over the place, photographs show an extension cord, etc. The code also requires you to have sanitary facilities which were not there. This question was asked earlier about bathrooms. When we opened the bathroom door – we were repugnant because when you open the bathroom, there is paint can water cans and all kinds of stuff. What is this all about?

Then you realize that there's something going on underneath the house because there were hoses and stuff like that to get some water up there. Also there's no heating facilities There was a big, that looked like a pot belly stove in the middle of the middle of the room – whatever he called it and I looked at the venting which ended in the middle of the building, middle of the room, it just ended.

Examiner
Bauters:
Witness:

May I ask you to slow down in your answers? [inaudible 00:16:46]

Sorry. Sorry about that. There was a pot belly stove that came and then the flue stopped in the middle of the room. I look at it, I'm going, I told Charles It looked like a heating stove, a pot belly stove, but there was so many things around it, looks like he has not used it in a while not used it so thank goodness for that. Getting out of the house was a problem, trying to find the back door, it was, I don't know what else to say about it.

Bayer:

Based on your observations, interior and exterior, you concluded that the structure you concluded that the structure was dangerous, you already stated that, correct?

Witness:

Yes. Correct.

Bayer: Did you also determine, based on your training as a structural and a civil engineer, that based on what you observed, that the only reasonable and viable form of abatement based on the dangers building code was demolition?

Witness: For me, trying to say that you will demolish something is I don't think it's a question that I'm comfortable answering. I own a house in Danville that was built 1800s. I've had it there for many years but I know from a personal point of view, that trying to rehab a 1880s, 1890s property is not financially feasible for me. Does not make any sense at all. There is asbestos and all kinds of headaches there with septic tanks and what not. If you pour enough money into anything, you can make it work. Whether you can fix it or you can demolish it, is the question that is connected with money. If you pour in money, you can rehab this building, but my stance, without having studied this or without having gone deep into all the issues, is that it would be far more cheaper to actually build a brand new building.

We use the building the evaluation table when somebody comes into the house, or an apartment or whatever it is, we go to that and we say, "You know what? It'll cost X number of dollars to build it". I think unless I'm not mistaken, a house of this type is about 110 dollars a square foot of building. Don't quote me on this because I'm doing this off memory. It's probably a thousand per hundred square feet, so something like that maybe a hundred, maybe two hundred thousand dollars, you can build the original structure. Now I think Mr. Gonzalez has got a bid or quote or something like that to fill that hole, to take the debris out and I think demolish the house is close to 200,000 or something like that, right? I don't know what the numbers are.

It makes no sense to try to rehab this, you have to pay for taking out all the materials out, fill the hole up, stabilize the structure and then retrofit it. To me as an engineer, all these things don't connect. I hope I'm answering your question counsellor.

Bayer: In other words, based on your experience as a structural engineer, and as a civil engineer, and based on your understanding of the economic reality that it appears obvious to you that the cost of replacement vastly outweighs the cost of rehabilitation of this structure?

Witness: Yes, definitely. That's my opinion. It's absolutely.

Bayer: You heard Chief Building Official Gonzalez testify regarding how this building

would have to be brought up to current code, is that correct?

Witness: Yes. Anything that is built, done, whatever, State law states that you're doing anything that requires a building permit you must meet the current code. There are few portions in the code for archaic materials chapter 34 etc. For that means that there you have this building This is an interesting historical building. Look at the stairs, some of these things were kept because it has a historical value and what not. Nothing that comes with structural engineering are you allowed to the 1920 code. You have to comply with the current code.

Same thing with life safety issues. They have to comply with the current code. So let's take these foundations that are hanging out. Probably they have minimum steel in them. If you try to rebuild it and push back in, that foundation that is already there is not allowed. So when Mr. Carpiaux submits his plans I will have to ask " what is the reinforcing steel" in your foundations. You need to cut the foundation, remove it, and then rebuild it to come up with the part of the code.

Bayer: You need to slow down.

Witness: Sorry. You need to cut the foundation, remove it, and then rebuild it to come up with the part of the code.

Bayer: Does that mean jacking up the house in order to do that?

Witness: You would have to jack it up because a lot of houses in this area that have been jack up. To jack it up, you have to have a place to support the jack. If we have a hole in it, I can't get my mind around how this house is going to get jacked up. If it actually was possible. I suppose somebody can come up with some system of doing this but I doubt it very much.

Bayer: In other words, it could very easily be technically unfeasible to restore and rehabilitate and bring the property up to code. Is that correct?

Witness: I would say so, but it is the granite truth that nothing can be done is an inaccurate statement. I don't think that's the right statement. After a while, it doesn't make sense because pouring in money into a structure that can be far better, easier to rebuild anyhow.

Bayer: In addition to jacking up the structure, which is speculative and filling in the excavation and connecting with water, connecting back the electrical and gas and putting the house back on a solid foundation, what else needs to be

done in order to bring the property up to compliance? Including the roof and the structural members in the attic as well.

Witness: You are also required to connect the building to the sewer because you're not allowed to have septic in this area. My goodness. If this was my property, what would I do? I would put in a clean, get all the stuff out there so you can do a proper evaluation as to what is there. We don't know what's on the floor. We don't know what's that plywood. We can see here and there where the walls are exposed. If it was my property then first we need to figure out, get rid of the debris and then to get that hole filled up. That's down underneath the property because that is undermining all of Mr. Carpiaux's property but also the neighbor's property also.

We don't know exactly how far that thing goes in the back and on the other side. Really don't know what's down there. That hole will have to be filled up. That they have a thing called the grout mix thing where they propagate and they fill up, fill up, fill up, fill up, fill up, and then it comes to the right level. That's the first thing that should be done.

Then I would get an engineer and an architect to look at it and give me an estimate whether it can be done or not. Then if it can be done then what's the cost? Then what of the existing building can be used? If any at all. These are the steps that I would take one by one by one because each one will cost a certain amount of money. And then there is a point of no return where the value of the property and the value of the house.

If we have to spend a million and a half dollars on removing the structure and it is worth I don't know, 5 or 600 to 700,000 then what's the point? It becomes an economic issue more than can you do this? I've seen properties which were broken down, falling down, barns that were rehabbed out because they had value to the structures or something like that.

Bayer: Based on your training and experience, other than Mr. Carpiaux, can you conceive of any other property owner of this property rehabbing it as opposed to tearing it down?

Witness: No I cannot. Absolutely cannot do that. That would be fantasy.

Bayer: I have nothing further.

Examiner: Mr. Carpiaux, would you like to ask this witness any questions?

Bauters:

Carpiaux: I would rather not

Examiner Not right now?

Bauters:

Carpiaux: Not now.

Examiner Examiner Gunkel do you have any questions for this witness?

Bauters:

Examiner

Gunkel:

Just one actually. In the exhibits, JH23, the [inaudible 00:27:02] I believe this was a diagram provided by the geotechnical engineer who did the site with you. Can you point out where the excavation on Mr. Carpiaux' s property would enter the zone of influence of the footings for the neighboring property?

Witness:

Certainly. When I saw this picture, I thought, "You know what? This doesn't look right." We have been around this because they are showing about – let's say about ½ an inch in scale they are showing about 5 feet to quote-unquote exterior wall on there. Then they're showing about maybe 2 feet, 3 feet of the property line, the dotted line. I told Vic "You know what? I have a pretty good eye. This doesn't look right because when I stuck my face down there and I was looking down there, I think this lining's far closer to the exterior wall than they're showing."

Then we were looking at the photos today. If you roll this page, okay. Here's the color. Something I'm trying to find the one where we are taking it from the outside with the panels and then the electrical supporting. Let's see. There it is!

That goes to page 16 objective things. Everybody there?

Examiner

Mm-hmm (affirmative).

Bauters:

Witness:

I've had the same asbestos shingles in my house in Danville These are 18 inches wide. That gives us a setting, 18 – 24 inches wide.

Examiner

Can you orient the page so that the right side of the page is the bottom, that's the proper orientation, correct?

Bauters:

Witness:

Like that.

Examiner

For the record, the right side is the bottom of the image. The shingles you're referring to are at the top left corner of the orientation is correct?

Bauters:

Witness:

Yes. Then we also have a toilet there. You can get the idea of where the

scale of the thing is. Look at the plastic transponder that you see underneath there. Left hand side of the electrical panel. Then from there, you can see the fence and a little bit Beyond the fence is where the property line is. The footing is somewhere in that range, where you see this free step that's sticking up like that. The footing is down there somewhere for the exterior wall. This gives you a sense of the distances of what has been excavated and what has not been excavated.

Then let's go to page J26. On J26 you see that light panel on the left hand side? You see that light panel on the left hand side. There are four of them there and the left hand side one is the same one we see on the inside. Right next to that on the left hand side you see the little boxes looking thing, that is the footing right there. The excavation comes in and it starts to balloon out. It's getting to a smaller area and then it slanted like that. So from my eyes and from my memory, I think I have some other photograph that can actually substantiate this. I've seen some photographs from the top down.

I would say that the footing to the excavation is about 18 to 24 inches.

Examiner: To be clear, you're referring to the actual width of the footing itself?

Bauters:

Witness: Right. If the footing is like that from there to the open mouth of the excavation is probably 18 to 24 inches.

Examiner: Reflect the record that witness has his hand up at a distance of about 18 inches.

Bauters:

Witness: Yes. Then, I know I put my measuring tape from the top down and I was getting at the medium area – not the deep areas 9 and a half feet deep. We had a hole that is 9 and a half feet deep. Cripple walls on this is around 3 feet deep. You've got about 6 feet, 5 feet, maybe 6 – 6.5 feet. So to go back to that sheet, that the engineer gave us on page 22 and 23. That depth of 6 and a half feet is probably right. Around right. That's excavation, not to the floor. I think that right hand corner of the boundary should be much closer to the footing.

Then what I did was I remember going, because I was worried about the neighboring building property more than this property. I remember going to the middle of the street and across the street, trying to eye ball where is the footing on this neighboring property? Which I approximated to be higher than this one. I was trying to eye ball where is that 45 degree angle. My professional judgement my engineering judgement without taking any measurements just eye balling it, it was clearly in that zone. That was one of

the reasons that I raised that worry, because whatever happens to this property happens but if something were to happen to the neighboring property and the City knew about it and they didn't do anything about it, now the City becomes part of the problem.

That was my recommendation to my client saying, "You know what? Time out – you need to deal with the neighboring property before you do anything else." In my opinion, it is in that zone of failure. This property, absolutely yes. There's no doubt it's a no brainer. Anybody looking at it will know this is a problem. The neighboring property, my judgement, professional judgment is that using that 45 degree zone. I hope I answered your questions, sir.

Examiner
Bauters: Do you have other questions? Examiner Cardoza do you have any questions? No?

Examiner
Cardoza: No.

Examiner
Bauters: I have no questions for this witness. Do you have anything that you wish to redirect the question that was asked by Examiner Gunkel?

Bayer: No thank you.

Examiner
Bauters: Mr. Carpiaux, I'll give you another chance. Do you have any other questions you'd like to ask this witness before we move to your case?

Carpiaux: Yes sir I have a question.

Examiner
Bauters: Okay.

Carpiaux: I would rather not at this time.

Examiner
Bauters: With that, thank you witness. You are excused.

Counsel, do you have other witnesses?

Bayer: No and I believe all of the exhibits have been received. Is that correct?

From: **Michael Guina** <mguina@emeryville.org>
Date: Wed, Jul 27, 2016 at 9:32 AM
Subject: FW: 1264 Ocean Avenue Appeal Hearing (ADBC 15-001): Dates for Supplemental Examination of Giyan Senaratne
To: "John Bauters (Planning Commission)" <CommissionerBauters@gmail.com>

John,

I'm following up the supplemental hearing matter. I'm confirming the City did not receive any request from Mr. Carpiaux requesting an additional hearing. Please give me a call to discuss the approach going forward.

Thanks

Michael

Michael A. Guina
City Attorney
City of Emeryville
1333 Park Avenue
Emeryville, CA 94608
Tel. [510-596-4380](tel:510-596-4380)
Fax [510-596-3724](tel:510-596-3724)
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From: Michael Guina
Sent: Monday, July 18, 2016 4:32 PM
To: John Bauters (Planning Commission); Lawrence Cardoza (Planning Commission)
Cc: Kat Wellman (kat@lwmmuni.law)
Subject: 1264 Ocean Avenue Appeal Hearing (ADBC 15-001): Dates for Supplemental Examination of Giyan Senaratne

All,

Thank you for participating in the Doodle poll. The three dates that worked for everyone's schedule were 8/1 (Mon), 8/2 (Tues), and 8/4 (Thurs), all at 6:30 p.m.

I'm proposing we schedule the hearing, if it occurs, on **Tuesday, 8/2/16 @ 6:30 p.m.** at City Hall. Please mark your calendars accordingly. I'll advise by separate email at the end of the week if the City has received a timely response from Mr. Carpiaux requesting the supplemental hearing. If you have any questions, please contact me.

Sincerely,

Michael A. Guina
City Attorney
City of Emeryville
1333 Park Avenue
Emeryville, CA 94608
Tel. 510-596-4380
Fax 510-596-3724
mguina@emeryville.org

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CITY OF EMERYVILLE

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TEL: (510) 596-4300 FAX: (510) 658-8095

August 10, 2016

Andre Carpiaux
1264 Ocean Avenue
Emeryville, CA 94608
**(By US Mail and email:
cxengineers@yahoo.com)**

Lance Bayer
(By email: lbayer@comcast.net)

Re: **In the Matter of the Appeal From Notice and Order of Intention to Demolish Property Owned by Andre Carpiaux, 1264 Ocean Avenue, Emeryville CA (APN 049-1469-008); Case No. ADBC 15-001**

**NOTICE OF APPEALS BOARD MEETING: CONSIDERATION OF
RECOMMENDED DECISION BY BOARD OF EXAMINERS**

Dear Parties:

You are hereby notified that the Board of Appeals will meet on **Tuesday, August 23, 2016, at 6:30 pm. At the Emeryville City Council Chambers, located at 1333 Park Avenue, Emeryville, CA**, to consider the Recommended Decision by the Board of Examiners regarding your appeal of the City's Notice and Order to Demolish your property located at 1264 Ocean Avenue, Emeryville, CA. You may be present at this meeting. You may be, but need not be, represented by counsel.

YOU MAY PROVIDE WRITTEN EXCEPTIONS TO ANY PART OF ALL OF THE EXAMINER'S RECOMMENDED DECISION AND MAY ATTACH A ALTERNATIVE PROPOSED DECISION WITH WRITTEN ARGUMENT IN SUPPORT OF THE PROPOSED ALTERNATIVE DECISION. Pursuant to Section 605.4 of the Uniform Code or the Abatement of Dangerous Buildings (1994), written exceptions must be provided within two days prior to the meeting. Since the Appeals Board meeting is set for a Tuesday, **you must provide the City Attorney with any written exceptions, alternative proposed decision and any arguments no later than 5:00 p.m., Monday, August 22, 2016.**

The Appeals Board may adopt, reject or modify the Recommended Decision of the Examiners. If the Recommended Decision is rejected, the Appeals Board may decide the case upon the entire record before it, with or without taking additional evidence, or may refer the case to the same or to another hearing examiner(s) to take additional evidence. If

Attachment D

the case is reassigned to take additional evidence, a new report and proposed decision shall be issued and considered by the Appeal's Board. Pursuant to Emeryville Municipal Code section 8-12A.02, the Appeal Board's decision shall be the final decision on behalf of the City.

In compliance with the Americans with Disabilities Act (ADA), a person requiring an accommodation, auxiliary aid, or service to participate in a meeting should contact the ADA coordinator at lleong@emeryville.org or 510-596-4383, as far in advance as possible. The best effort to fulfil the request will be made. Assistive listening devices are available for anyone with hearing difficulty.

The Recommended Decision, Appendix of Hearing Exhibits, a Supplemental Appendix of Exhibits and a Copy of the Uniform Code for the Abatement of Dangerous Buildings (1994) are included. If you wish to pick up hard copies of these documents from City Hall, please contact my assistant, Rochelle Conner at (510) 450-7801. If you have any questions, please contact me.

Sincerely,



Michael A. Guina
City Attorney

Encl.