

**BOARD OF PUBLIC WORKS & SAFETY & STORMWATER BOARD  
MINUTES OF THE May 2, 2022 REGULAR MEETING**

*Convened at 2 p.m. at Goshen Police & Court Building, 111 East Jefferson Street, Goshen, Indiana*

**Present:** Mayor Jeremy Stutsman, Mary Nichols, DeWayne Riouse and Barb Swartley

**Absent:** Mike Landis

**CALL TO ORDER:** Mayor Stutsman called the meeting to order at 2:00 p.m.

**REVIEW/APPROVE MINUTES:** Minutes of the April 25, 2022 meeting of the Board of Works & Safety & Stormwater Board were presented. Board member Barb Swartley moved to approve the minutes as presented and the motion was seconded by Board member Mary Nichols. Motion passed 4-0.

**REVIEW/APPROVE AGENDA:** Mayor Stutsman presented the day's agenda. Board member Swartley moved to approve the agenda as presented. Board member Nichols seconded the motion. Motion passed 4-0.

**1) Goshen Fire Department: Promotion of Patrick J. Martin to Fire Sergeant**

Goshen Fire Chief Danny Sink asked the Board to approve the promotion of Patrick J. Martin to the rank of Fire Sergeant for the Goshen Fire Department effective today, May 2, 2022. Chief Sink said Sergeant Martin has passed all of the tests and standards required for the promotion.

Swartley/Nichols moved to approve the promotion of Patrick J. Martin to the rank of Fire Sergeant for the Goshen Fire Department effective today, May 2, 2022. Motion passed 4-0. After the promotion was approved, Mayor Stutsman swore Fire Sergeant Patrick J. Martin into office.

**2) Goshen Fire Department: Promotion of Shane D. McKerchie to Fire Lieutenant**

Goshen Fire Chief Danny Sink asked the Board to approve the promotion of Shane D. McKerchie to the rank of Fire Lieutenant for the Goshen Fire Department effective today, May 2, 2022. Chief Sink said Lieutenant McKerchie has passed all of the tests and standards required for the promotion.

Swartley/Nichols moved to approve the promotion of Shane D. McKerchie to the rank of Fire Lieutenant for the Goshen Fire Department effective today, May 2, 2022. Motion passed 4-0. After the promotion was approved, Mayor Stutsman swore Fire Lieutenant Shane D. McKerchie into office.

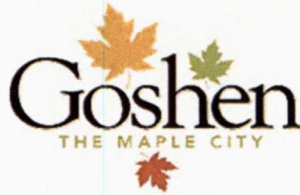
**3) OPENING OF CITY OF GOSHEN BIDS:**

- College Avenue Bridge #410 Utility Relocations (due at 1:45 p.m. on Monday, April 25, 2022)

Mayor Stutsman opened the bids received to relocate existing water, sanitary sewer, and storm sewer lines, as well as the rebuilding of the Starcraft lift station to prepare for the County's Bridge #410 replacement over Horn Ditch.

**These were the results of the bids:** Niblock Excavating of Bristol, Indiana in the amount of \$1,685,277.50 and HRP Construction, Inc. of South Bend, Indiana, in the amount of \$2,097,878.50.

Mayor Stutsman/Nichols moved to refer the bids to the Legal Department for review. Motion passed 4-0.



- **Municipal solid waste collection, recyclable materials collection and related services (bids due at 1:45 p.m. on May 2, 2022)**

**Mayor Stutsman** opened the bids received for municipal solid waste collection, recyclable materials collection, and related services. These were the results of the bids:

**Borden Waste-Away Service of Elkhart, Indiana for the following categories and amounts:**

**Bid Item #1**, Cost per month for eligible residents, \$14.96; Alternate 1A, Included; Alternate 1B, \$10.98; **Bid Item #2** per 20 cubic yard container, \$455; per 30 cubic yard container, \$455; per 40 cubic yard container, \$455; **Bid Item #3**, City-owned roll-off transport to landfill, \$365; **Bid Item #4** (Optional), Electronic wastes collection per 20 cubic yard container, \$455; per 30 cubic yard container, \$455; per 40 cubic yard container, \$455; per ton electronic waste disposal, \$600; **Bid Item #5** (Optional), Expanded polystyrene foam collection per 20 cubic yard container, \$455; per 30 cubic yard container, \$455; per 40 cubic yard container, \$455; per ton, \$0; **Bid Item #6** (Optional), Confidential document collection, destruction and disposal (per size containers per month, various categories), per monthly collection, destruction and disposal, \$0; per bi-weekly collection, destruction and disposal, \$25; per monthly collection, destruction and disposal, \$25; **Bid Item #7** (Optional), Residential Brush collection, per month per eligible residence from April through September, \$2.75; **Bid Item #8**, Extra Service 8A, Extra service to provide one additional waste cart and service, per month, \$8; for 96-gallon cart; \$8 for 65-gallon cart; \$8 for 48-gallon cart; **Extra Service 8B**, Services for the collection and disposal of each additional bag of solid waste, \$2; **Extra Service 8C** for one additional recycle cart and service per month for 96-gallon cart, \$5; per month for 65-gallon cart, \$5; **Extra Service 8D**, Collection and disposal of one additional large item in excess of the monthly maximum, per item, (separate list); **Extra Service 8E**, Collection and disposal of one item of electronic waste, per item, \$50.

**Waste Management of Indiana, LLC., of South Bend, Indiana for the following categories and amounts:**

**Bid Item #1**, Cost per month for eligible residents, \$21.75; Alternate 1A, \$21.75; Alternate 1B, \$15.25; **Bid Item #2** per 20 cubic yard container, \$315; per 30 cubic yard container, \$360; per 40 cubic yard container, \$415; **Bid Item #3**. City-owned roll-off transport to landfill, \$315; **Bid Item #4** (Optional), Electronic wastes collection per 20 cubic yard container, per 30 cubic yard container, per 40 cubic yard container, and per ton electronic waste disposal, no bids in any category; **Bid Item #5** (Optional), Expanded polystyrene foam collection per 20 cubic yard container, per 30 cubic yard container, per 40 cubic yard container, per ton, no bids in any category; **Bid Item #6** (Optional), Confidential document collection, destruction and disposal (per size containers per month, various categories), no bids in any categories; **Bid Item #7** (Optional), Residential Brush collection, per month per eligible residence from April through September, no bid; **Bid Item #8**, Extra Service 8A, Extra service to provide one additional waste cart and service, per month, \$9.25 (no other bids in this category); **Extra Service 8B**, Services for the collection and disposal of each additional bag of solid waste, \$9.25; **Extra Service 8C** for one additional recycle cart and service per month for 96-gallon cart, \$9.25 (only bid); **Extra Service 8D**, Collection and disposal of one additional large item in excess of the monthly maximum, per item, \$25; **Extra Service 8E**, Collection and disposal of one item of electronic waste, per item, \$75.



In addition, **Republic Services of Phoenix, Arizona** submitted a letter stating that it would not be submitting a bid, citing an inability to obtain new trucks.

**Mayor Stutsman/Nichols moved to refer the bids to the Legal Department for review. Motion passed 4-0.**

**4) Fire Department: Memorial Day Parade and request for closure of streets**

On behalf of the VFW and the DAV, **Goshen Fire Chief Danny Sink** asked the Board to approve the annual Memorial Day Parade on Monday, May 30, 2022, beginning between 10 and 10:15 a.m., and for the closures of the 100 and 200 blocks of East Jefferson Street and the 200 and 300 blocks of South 5th Street for the staging of vehicles and apparatus for the parade. Chief Sink indicated the parade route will be the usual; starting on Jefferson Street at the Goshen Police Department to Main Street, Pike Street, North First Street and to the Oakridge Cemetery. **Swartley/Nichols moved to approve the annual Memorial Day Parade on Monday, May 30, 2022, beginning at 10 or 10:15 a.m., and the closures of the 100 and 200 blocks of East Jefferson Street and the 200 and 300 blocks of South 5th Street. Motion passed 4-0.**

**5) Non-profit organization request: City parking lot use by Center for Healing & Hope event, July 9, 2022**

**Daniel Tackett, the Director of Marketing and Development for the Center for Healing & Hope in Goshen,** asked the Board to approve the use of the eastern portion of the City parking lot located just north of Goshen Brewing Company, 315 W. Washington Street, for the Center's Festival of Hope on July 9, 2022.

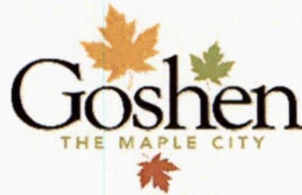
Tackett said the Center wants to utilize the space adjacent to the clinic and incorporate neighboring businesses to create a community block party style event. He provided the Board with a map showing the portion of the lot requested. The event will take place 12 p.m.-7 p.m. on July 9 and the Center would like to lot area reserved for the Center's use on Friday, July 8 after Goshen Brewing Company closes at 10 p.m. until Saturday, July 9 at 8 p.m. The parking lot space will be used to allow neighboring businesses and nonprofit partners to set up 10 foot x10 foot tents to engage with families and display resources and products, to set up kids' activities, including a bounce house, and to set up a corn hole tournament, and to allow people to walk through the area. Tackett said Goshen Brewing Company and Interra are supporting the event. He also has communicated with the Goshen Farmers Market staff. Tackett requested City barricades for the coned-off areas in the lot to be put up and taken down per the closure start/end time frames. He also said the Center would like to plug a bounce house blower into the City-owned electrical outlets at the north of the lot.

**Clerk-Treasurer Aguirre** said Street Department staff did not oppose the request and offered to provide the requested barricades.

**Swartley/Nichols moved to approve the use of the eastern portion of the City parking lot located just north of Goshen Brewing Company, at 315 W. Washington Street, for the Center's Festival of Hope on July 9, 2022, with appropriate barricades, and permission to use the City's electrical power. Motion passed 4-0.**

**6) Resident request: Richard Miller request for brick driveway at 924 E. Plymouth Avenue**

**Richard Miller, who lives in Goshen,** asked the Board to approve the installation of a brick driveway at his home at 924 East Plymouth Avenue, off 13th Street. He said the approximate position of the proposed driveway was indicated on a color map included in the Board's agenda packet. Miller checked with the Planning & Zoning and Engineering departments before submitting this request to the Board.



**City Planning & Zoning Administrator: Rhonda Yoder** said the request for a second driveway would require an application to the Board of Zoning Appeals to allow front yard parking. Yoder said the City also would need to know the type of brick pavers being used, because if designed properly, they do not require approval by the Board of Works. She said the Board of Works approval could be contingent on the Board of Zoning Appeals approving a variance. **City Civil Traffic Engineer Josh Corwin** affirmed the materials would need to meet the City's standards. He also commented on related matters.

In response to questions by **Mayor Stutsman**, **City Attorney Bodie Stegelmann** said the Board of Works approval should be contingent on the appropriate use of materials and Board of Works approval.

**Swartley/Nichols moved to approve the installation of a brick driveway at 924 East Plymouth Avenue contingent on the approval of a City developmental variance and of the materials used. Motion passed 4-0.**

#### **7) Legal Department: Agreement with Traffic Control Specialties for road striping**

**Brandy Henderson, a paralegal with the Legal Department**, asked the Board to enter into, and authorize Mayor Stutsman to execute, an agreement with Traffic Control Specialists, Inc. to provide road striping of certain City streets at an approximate cost of \$45,854.22 with all work to be completed by Aug. 31, 2022.

In a memorandum to the Board, Henderson indicated that the City of Goshen wants Traffic Control Specialists, Inc. to provide road striping, including center, fog and divider line striping on multiple City streets. The City would pay the contractor \$45,854.22. The final amount is subject to the actual material quantities used on the project, although it is believed to be a fairly accurate assessment of costs.

**Swartley/Nichols moved to enter into, and authorize Mayor Stutsman to execute, an agreement with Traffic Control Specialists, Inc. to provide road striping of certain City streets at an approximate cost of \$45,854.22 with all work to be completed by Aug. 31, 2022. Motion passed 4-0.**

#### **8) Building Department: City of Goshen electrical license requests**

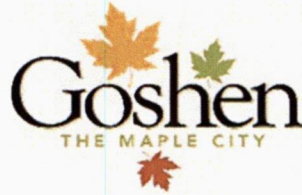
Before consideration of these requests, **Mayor Stutsman** said he was working with **City Attorney Stegelmann** and **Clerk-Treasurer Aguirre** on an ordinance to eventually allow the City Building Commissioner to approve electrical and mechanical license requests. The requests no longer would have to come before the Board of Works and Safety. **Clerk-Treasurer Aguirre** said that for today, the Board could make single motions to approve the multiple requests.

**City Building Commissioner/Commercial Building Inspector Myron Grise** asked the Board to approve City of Goshen electrical licenses for the following:

- **Christopher J. James of James Electric, Inc., Fort Wayne**
- **Fred G. Jones of Special Graphics and Maintenance, Inc., Crestwood, Illinois**
- **Myran D. McKnight of Southside Remodel & Repair, Elkhart**
- **Daniel D. Pohl of Consolidated Electrical Contractors, Lansing, Michigan**

**Grise said James has met the requirements for a City of Goshen electrical license.** James took the required Prometric exam on Jan. 6, 2021, and received a passing score. Grise said James holds a valid electrical license with Allen County, and is requesting a reciprocal license with the City of Goshen.

**Grise said Jones has met the requirements for a City of Goshen electrical license.** Jones holds a valid electrical license with City of Elkhart, and is requesting a reciprocal license with the City of Goshen.



**Grise said McKnight has met the requirements for a City of Goshen electrical license.** McKnight took the required Prometric exam on April 10, 2017, and received a passing score of 86%. McKnight holds a valid electrical license with City of Elkhart, and is requesting a reciprocal license with the City of Goshen.

**Grise said Pohl has met the requirements for a City of Goshen electrical license.** Pohl took the required Prometric exam on Nov. 12, 2016, and received a passing score of 79%. Pohl holds a valid electrical license with St. Joseph County, and is requesting a reciprocal license with the City of Goshen.

**Swartley/Nichols moved to approve City of Goshen electrical licenses for Christopher J. James of James Electric, Inc., Fort Wayne, Fred G. Jones of Special Graphics and Maintenance, Inc., Crestwood, Illinois, Myran D. McKnight of Southside Remodel & Repair, Elkhart and Daniel D. Pohl of Consolidated Electrical Contractors, Lansing, Michigan. Motion passed 4-0.**

#### **9) Building Department: City of Goshen mechanical license requests**

**City Building Commissioner/Commercial Building Inspector Myron Grise** asked the Board to approve City of Goshen mechanical licenses for the following:

- **Frederick P. Nichols of Godby Heating & Air Conditioning LLC, Indianapolis**
- **Andrew J. Reed of Henry Smith Plumbing, Heating & Cooling, Elkhart**
- **Tyler D. Smith of Affordable Heating & Air, Geneva, IN**

**Grise said Nichols has met the requirements for a City of Goshen mechanical license.** Nichols took the required Prometric exam on Oct. 11, 2014, and received a passing score of 79%. Nichols holds a valid mechanical license with Marion County, and is requesting a reciprocal license with the City of Goshen.

**Grise said Reed has met the requirements for a City of Goshen mechanical license.** Reed took the required Prometric exam on July 8, 2019, and received a passing score of 75%. Reed holds a valid mechanical license with the City of Elkhart, and is requesting a reciprocal license with the City of Goshen.

**Grise said Smith has met the requirements for a City of Goshen mechanical license.** Smith took the required Prometric exam on July 20, 2019, and received a passing score of 75%. Smith holds a valid mechanical license, and is requesting a reciprocal license with the City of Goshen.

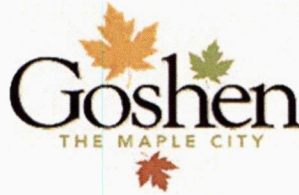
**Swartley/Nichols moved to approve City of Goshen mechanical licenses for Frederick P. Nichols of Godby Heating & Air Conditioning LLC, Indianapolis, Andrew J. Reed of Henry Smith Plumbing, Heating & Cooling, Elkhart, and Tyler D. Smith of Affordable Heating & Air, Geneva, Indiana. Motion passed 4-0.**

#### **Privilege of the Floor (opportunity for public comment for matters not on the agenda):**

**Mayor Stutsman** opened Privilege of the Floor at 2:27 p.m. There were no public comments, so the Mayor closed the public comment period at 2:27 p.m.

#### **10) Board of Public Works and Safety Order: Continued hearing for 214 E. Clinton Street (Ron Davidhizar, property owner)**

**At 2:27 p.m., Mayor Stutsman** convened a continued hearing on Board of Public Works and Safety Order: Continued hearing for 214 E. Clinton Street (Ron Davidhizar, property owner) to determine whether the property owner was in compliance with the Board order of Jan. 28, 2022. Mr. Davidhizar was present along with his attorney, William Davis. Also present was City Code Enforcement Officer Travis Eash.



***(Note: For the full background of this Public Safety Order, see the minutes of the Board of Works & Safety meeting of April 18, 2022, which was when the matter was last before the Board.)***

**In summary, at the April 18, 2022 meeting of the Board of Works & Safety:**

- **City Code Enforcement Officer Travis Eash** gave an update on the condition of the property.
- **William Davis, Davidhizar's attorney, advised the Board that according to Indiana's Building Laws, there is an equivalence of architects and engineers for state building law purposes.** He said certification by an architect was essentially the same as certification by an engineer. Davis said both architects and engineers are able to attest to the structural integrity of buildings in Indiana, so that Davidhizar's report by an architect about 214 E. Clinton Street should be accepted by the Board.
- **Ron Davidhizar discussed steps he has taken to secure the home as requested by the Board.**
- **Davidhizar said that based on his attorney's research, an architect's assessment is as good as that of an engineer, so he would like to get a City permit to complete repairs and remodeling.** He also stated that the back unit was already being remodeled and sustained little damage in the fire.
- **Davidhizar said it would take about 30 days to completely close off the home if the City issued a permit today.** He said it would take about 60 days to improve the exterior appearance, including improving the siding. And Davidhizar said it would take about a year to completely renovate the home,
- **City Attorney Bodie Stegelmann requested two weeks to research legal authorities and to confirm William Davis' assessment that a report from an architect was equivalent to a report from a structural engineer in state building law.**
- **Board members discussed with Davidhizar the condition of the home and what should happen next.**
- **Ultimately Mayor Stutsman made a motion, seconded by Board member Landis, to continue the hearing on the Board of Public Works and Safety Order for 214 E. Clinton Street (Ron Davidhizar, property owner) to May 2, 2022. The motion passed 5-0.**

After convening the continued hearing on May 2, **Mayor Stutsman asked City Attorney Bodie Stegelmann to report on research about William Davis' assessment that a report from an architect was equivalent to a report from a structural engineer in state building law.**

**City Attorney Stegelmann** reviewed and discussed the results of his research – a one-page memorandum to the Board (**EXHIBIT #1**) dated May 2, 2022 and titled, "Whether an Architect is Considered an Engineer."

In his memorandum, **Stegelmann** provided the background of the public safety order for 214 E. Clinton Street and the Board's order for the property owner (Ron Davidhizar) to hire a structural engineer to inspect the premises and determine whether or not the dwelling was structurally sound and to provide a report to the Board from an engineer at a hearing to be held on Jan. 24, 2022. The Board had not received a report by Jan. 24, 2022 and the property owner did not appear before the Board on that date. On Jan. 28, the Board issued an order for the demolition of the premises on or before March 31, 2022.

**Stegelmann** further reported that on Feb. 16, 2022, a local architect (Maust Architectural Services of Goshen) provided a report to City Building Commissioner Myron Grise) that described the condition of the buildings and premises of 214 E. Clinton Street.



**City Attorney Stegelmann** further reported that at a continued Board hearing conducted April 18, 2022, Board members discussed the matter and asked the City Attorney to determine whether the opinion of an architect qualified as an opinion of a structural engineer, and continued the hearing to May 2. Stegelmann reported that he researched the issue and William Davis' contention that the opinion of an architect has the same effect as the opinion of a structural engineer, as stated in Indiana Code Section 25-4-1-11.

**Stegelmann provided the following written conclusion in his memorandum to the Board:**

"While not stating that an architect is treated the same as a professional engineer, this code section states that an architect does not need to register as an engineer or obtain a separate license to practice engineering. Other provisions of Indiana law generally treat architects similar to professional engineers. No Indiana authority I could find allows me to conclude that the opinion of an architect carries the same effect as the opinion of an engineer (architects do not need a separate license to practice engineering). However, I cannot conclude that the opinion of an architect does not carry the same effect as an opinion of an engineer."

In comments to the Board, **Stegelmann** said there is no clear answer to the question. While Indiana law treats architects and engineers the same, he said he cannot conclude the issue either way, adding, "And I don't think that distinction is grounds for excluding the opinion given by an architect." Stegelmann noted that the architect's report arrived after the Jan. 24, 2022 deadline set by the Board.

**Mayor Stutsman** swore in **City Code Enforcement Officer Travis Eash** to provide truthful information. Reading from a Memorandum (**EXHIBIT #2**), Eash reported the following:

"This morning (May 2), I inspected the property at 214 Clinton Street and the photos I took at that inspection are attached to this memo. This property had a fire on May 15, 2021 and the property was determined to be unsafe by this Board on December 6, 2021. At that hearing, the owner was ordered to provide a detailed report from a structural engineer by January 24, 2022. The Building Commissioner received a report from an architect on February 18, which was two weeks late.

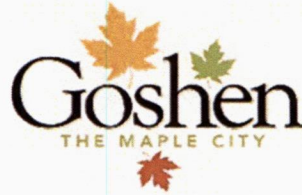
"The Building Department finds that the report provided by the architect is incomplete due to that the architect stated in his report that he wasn't able to do a complete inspection of the basement due to it being full of debris that wasn't fire related. The photos I took today demonstrate the foundation and basement's current condition.

"In the last hearing on this property on April 18, 2022 the dwelling unit in the rear of the property had also been subject to a fire which occurred on January 13, 2018. The owner stated in the last hearing that the unit had been occupied since the fire in 2018.

"Attached in my packet today along with current photos of the rear apartment is an inspection report from the City's rental inspector, which was conducted on January 4, 2019. That inspection states that the unit was still heavily damaged by fire and that the unit is not to be occupied. That is the last rental inspection done on the back apartment, so if it was occupied in the meantime, it was against our do not occupy order.

"I bring this to your attention for the reason that we as the Building Department feel that if he is allowed the opportunity to rehab this property, it will be another four years before this property is even close to being in habitable condition. The owner has shown evidence of that before. The Building Department's recommendation remains demolition due to the extent of fire damage and overall deterioration of the property."

Eash also said that when he visited the property earlier on May 2, 2022, two neighbors spoke to him. One was picking up trash near 214 E. Clinton Street and voiced frustration about the poor condition of the property.



**Travis Eash** said the second neighbor said he was afraid to have his children play outside because of the unsecured condition of the home. The neighbor said people have continued entering the home illegally. The second neighbor also expressed frustration about the situation.

At 2:34 p.m., **Mayor Stutsman** swore in **Ron Davidhizar** to provide truthful information. He asked Davidhizar to respond to the report from Travis Eash.

**Davidhizar** said there was a misunderstanding about the back housing unit. He said substantial work has been done on it, but it has yet to be occupied. He said more work still needs to be done. Davidhizar said the front of the home was occupied at the time of the fire.

Noting the report by his architect, **Davidhizar** said he agreed with the findings. He discussed the work that would need to be done to repair the fire damage and make the home habitable. Davidhizar said he would like the Board to grant him a City permit to make the repairs.

**Board member Swartley** asked Davidhizar the amount of time needed to secure the home and make its exterior presentable to neighbors. **Davidhizar** said that it would be difficult to make repairs without electricity on the site and he has been unable to purchase a necessary exterior electrical panel. In response to a question from **Mayor Stutsman**, **Davidhizar** said he has ordered the part, but doesn't know when it will arrive.

**Swartley** again asked Davidhizar how long it would take to make exterior repairs so that its appearance would make neighbors proud of their neighborhood. **Davidhizar** said it would take about two months, but that would require some replacement windows being available and delivered.

**Board member Riouse** noted that the architect reported that he could not inspect the basement because its entry was blocked by debris. **Riouse** asked why the debris had not been removed. **Davidhizar** said he didn't have a permit to make repairs. **Riouse** asked why a lack of a permit precluded cleaning up the debris. Davidhizar said much debris was removed. And he said it would be nice if there was electricity so one could see inside the basement.

**Riouse** asked why other trash and debris in the home, presumably left by illegal occupants, as well as broken glass had not been removed. **Davidhizar** said he didn't realize removing the broken glass was so urgent. Davidhizar also said the debris was present because he could not get the police to keep out squatters.

**Mayor Stutsman** began a Board discussion by stating that the property could be cleaned without a permit. The Mayor said he spoke to a neighbor who said other neighbors were tired of the home and wanted it gone.

**Mayor Stutsman** said the architect's report was incomplete because it did not assess the condition of the basement and the report also arrived two weeks late.

**The Mayor** said Davidhizar consistently misses deadlines, and he didn't feel good about allowing more time to repair the property. **Swartley** said she agreed. **Riouse** said delays and missed deadlines have been a consistent problem and also agreed with the Mayor. **Riouse** also said Davidhizar should have cleaned up the broken glass.

In response to questions from **Swartley**, **City Code Enforcement Officer Eash** discussed the debris in the home. **Swartley** said she was frustrated by the missed deadlines, and that Davidhizar was blaming police for the home break-ins and that neighbors have had to put up with the poor condition of the home. **Eash** said Davidhizar has consistently missed deadlines.

**Riouse** said the photos of the trash in the home seem to suggest that people have been living in the home illegally fairly recently. **Eash** said neighbors stated that people have continued to break into and stay in the home.

**Mayor Stutsman** asked City Attorney to clarify the options before the Board.





**City Attorney Stegelmann** said that on Jan. 24, 2022, the Board ordered the demolition of the premises at 214 E. Clinton Street and gave Davidhizar time to dispute that finding. He said the required report on the condition of the property was delivered late and according to the Board was incomplete.

**Mayor Stutsman** asked property owner Ron Davidhizar if he had any closing statements.

**Davidhizar** read the architect's findings regarding the condition of the basement and the work needed to repair it. He described the work that would be necessary to make additional repairs. Davidhizar agreed it was urgent to keep people out, but said he has called police for help and nothing has happened. He added that taking squatters to court was not a viable option.

**Davidhizar** said he could make the repairs need to seal the home, could remove the debris in the basement, could make other needed repairs and has cleaned up the exterior of the home considerably since the May 2021 fire. And he again requested the permits to make the needed repairs.

In response to a question from **Mayor Stutsman**, **Stegelmann** said that in its Jan. 24, 2022 order, the Board gave 60 days of notice. That time has passed, so Stegelmann suggested an additional 30 days be given.

**Mayor Stutsman** asked if any Board members wanted to grant Davidhizar a permit to repair 214 E. Clinton Street. No members responded.

**Mayor Stutsman** made a motion that the Board uphold its Jan. 24, 2022 order to demolish the premises at 214 E. Clinton Street in 30 days. Board member Nichols seconded the motion. The motion passed 4-0. At 2:56 p.m., Mayor Stutsman closed the hearing on the public safety order for 214 E, Clinton Street.

As all matters before the Board of Public Works & Safety & Stormwater Board were concluded, Mayor Stutsman/Nichols moved to approve Civil City and Utility claims and adjourn the meeting. Motion passed 4-0.

Mayor Stutsman adjourned the meeting at 2:56 p.m.

**EXHIBIT #1: Memorandum by City Attorney Stegelmann to the Board of Works & Safety dated May 2, 2022 and titled, "Whether an Architect is Considered an Engineer." The memo was a summary of Stegelmann's research of an issue raised by Ron Davidhizar's attorney, William Davis.**

**EXHIBIT #2: Memorandum by City Code Enforcement Officer Travis Eash to the Board of Works & Safety dated May 2, 2022 on the present condition of 214 E. Clinton Street (Ron Davidhizar, property owner). The memorandum included a past Board order, a report on the property by Maust Architectural Services, a Jan. 4, 2019 City of Goshen Rental Inspection report, and new photos showing the present condition of the 214 E. Clinton Street.**

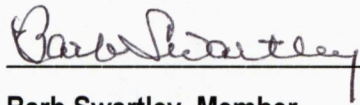


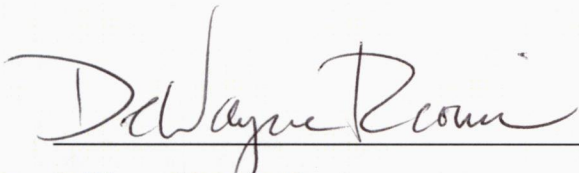
APPROVED

  
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Jeremy Stutsman, Chair

  
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Michael Landis, Member

  
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Mary Nichols, Member

  
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Barb Swartley, Member

  
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DeWayne Riouse, Member

ATTEST

  
\_\_\_\_\_  
Richard R. Aguirre, Clerk-Treasurer



**CITY OF GOSHEN LEGAL DEPARTMENT**  
**Bodie J. Stegelmann, City Attorney**

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Goshen, Indiana 46528-3405

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To: Board of Public Works and Safety  
From: Bodie J. Stegelmann, City Attorney  
Re: Whether an Architect is Considered an Engineer  
Date: May 2, 2022

At a hearing of the Board of Public Works and Safety ("BoW") on December 6, 2021, the BoW found that the buildings and/or premises of 214 E. Clinton Street, Goshen, Indiana were in violation of Title 6, Article 3, Chapter 1 of the Goshen City Code, and the BoW affirmed an Order of the City of Goshen Building Department dated November 16, 2021. The BoW ordered the property owner to hire a structural engineer to inspect the premises to determine whether or not the dwelling was structurally sound and to provide a report from the engineer at a hearing to be held on January 24, 2022. The BoW had not received a report by January 24, 2022 (at which hearing the landowner did not appear), and the BoW ordered the demolition of the improvements on or before March 31, 2022.

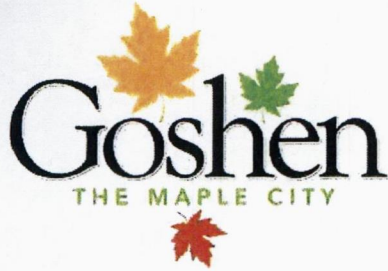
On or about February 16, 2022, a local architect provided a report to Myron Grise, City of Goshen Building Commissioner, that described the condition of the buildings and premises of 214 E. Clinton Street. At a hearing conducted on April 19, 2022, the BoW discussed this matter, asked the Legal Department to determine whether the opinion of an architect qualifies as an opinion of a structural engineer, and continued the hearing to May 2, 2022.

**Issue:** Is the opinion of an architect carry the same effect as the opinion of a structural engineer?

Indiana law generally considers the professional practice of an architect similar to the professional practice of an engineer. Indiana Code Section 25-4-1-11 states that,

Any person licensed to practice architecture, or registered as an architect ... shall be exempt from the provisions of any and all statutes in force in [Indiana] regulating the practice of engineering.

While not stating that an architect is treated the same as a professional engineer, this code section states that an architect does not need to register as an engineer or obtain a separate license to practice engineering. Other provisions of Indiana law generally treat architects similar to professional engineers. No Indiana authority I could find allows me to conclude that the opinion of an architect carries the same effect as the opinion of an engineer (architects do not need a separate license to practice engineering). However, I cannot conclude that the opinion of an architect does not carry the same effect as an opinion of an engineer.



**Building Department  
CITY OF GOSHEN**

204 East Jefferson Street, Suite 5 • Goshen, IN 46528-3405

Phone (574) 534-1811 • Fax (574) 533-8626 • TDD (574) 534-3185  
building@goshencity.com • www.goshenindiana.org

## MEMORANDUM

**TO: BOARD OF PUBLIC WORKS**

**From: GOSHEN BUILDING DEPARTMENT (TRAVIS EASH)**

**Date: MAY 2, 2022**

**Subject: 214 E CLINTON ST**

This morning I inspected the property at 214 Clinton and the photos I took at that inspection are attached. This property had a fire on May 15, 2021 and the property was determined to be unsafe by this Board on December 6, 2021. At that Hearing the owner was ordered to provide a detailed report from a Structural Engineer by January 24, 2022. The Building Commissioner received a report from an Architect on February 18.

The Building Department finds that the report provided by the Architect is incomplete due to that the Architect stated in his report that he wasn't able to do a complete inspection of the basement do to it being full of debris that wasn't fire related. The photos I took today demonstrate the foundation and basements current condition.

In the last Hearing on this property on April 18, 2022 the dwelling unit in the rear of the property had also been subject to a fire which occurred on January 13, 2018. The owner stated in the last hearing that the unit had been occupied since the fire in 2018. Attached in my packet today along with current photos of the rear apartment is an inspection report from the City's rental inspector which was conducted on January 4, 2019. That inspection states that the unit was still heavily damaged by fire and that the unit is not to be occupied. That is the last rental inspection done on the back apartment, so if he occupied the unit it was against our do not occupy order.

I bring this to your attention for the reason that we as the Building Department feel that if he is allowed the opportunity to rehab this property it will be another four years before this property is even close to being in habitable condition. The owner has shown evidence of that before. The Building Departments recommendation remains demolition due to the extent of fire damage and overall deterioration of the property.

Thank You,

## ORDER OF THE CITY OF GOSHEN BOARD OF PUBLIC WORKS AND SAFETY

January 26, 2022

To: Ron Davidhizar  
203 Middlebury Street  
Goshen, IN 46528

RE: Premises at 214 E. Clinton Street, Goshen, Indiana

As a person holding a substantial property interest in the real estate at 214 E. Clinton Street, Goshen, Indiana, you were served with an Order of the City of Goshen Board of Public Works dated December 7, 2021 by Paralegal, Carla Newcomer who mailed the Order by certified mail, return receipt requested and by first-class mail on December 7, 2021.

A hearing was held before the City of Goshen Board of Public Works and Safety on January 24, 2022 to review compliance with the December 7, 2021 Order of the City of Goshen Board of Public Works and Safety. The City of Goshen Building Department appears by Myron Grise, Building Department Director. Ron Davihizar fails to appear at the hearing.

An update was presented and arguments heard regarding the compliance by Mr. Davidhizar to the December 7, 2021 Order.

The Board of Public Works and Safety being duly advised in the condition of the building at 214 E. Clinton Street, Goshen, Indiana, now finds that the present condition of the building and/or premises are unsafe because the building and/or premises are vacant and not maintained in a manner that would allow human habitation, occupancy, or use under the requirements of a statute or ordinance; are in an impaired structural condition that makes it unsafe to a person or property; and are a fire hazard.

In particular, the Board finds that the present condition of the building and/or premises is in violation of the following sections of Title 6, Article 3, Chapter 1 of the Goshen City Code:

1. The structure was damaged in a fire on May 15, 2021 and the structural strength of the exterior walls of the property is insufficient (violation of Section 6.3.1.1 v).
2. The property is vacant and not secured, with multiple areas that are accessible to people and animals to enter the property (violation of Section 6.3.1.1 ff).

You are ordered to seal the unsafe building against intrusion by unauthorized persons, or animals. Further, the Board of Public Works and Safety orders the demolition of the improvements located at 214 E. Clinton Street, Goshen on or before March 31, 2022, unless you deliver to the Building Department a writing contesting the Board's findings, including supporting documents, on or before the 7<sup>th</sup> of February, 2022.

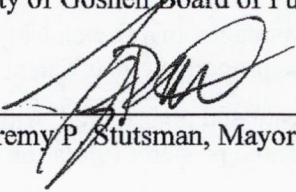
In the event that you fail to comply with this Order, the City of Goshen may take action to make the required corrections and will bill you for the costs of such work, including, the actual cost of the work performed and an amount equal to the average processing expense the City will incur in pursuing this matter. Such amounts can become a lien upon the real estate and can ultimately be enforced in the same manner as any other judgment.

You are entitled to appeal these findings of facts and this Order to the Elkhart Circuit Court or Elkhart Superior Court by filing a verified complaint within ten (10) days of the date of this notice. Should you fail to file a verified complaint within the specified period of time, then your right to appeal this action would be forfeited.

Indiana Code § 36-7-9-27 requires that if you transfer your interest or any portion of your interest in the unsafe building and/or premises affected by this Order to another person, you must supply the other person with full information regarding this Order prior to transferring that interest or agreeing to transfer that interest. Within five (5) days after transferring or agreeing to transfer a substantial property interest in the unsafe building and/or premises, you must also supply City of Goshen Building Director Myron Grise with the full name, address and telephone number of the other person taking a substantial property interest in the unsafe building and/or premises, along with written copies of the agreement to transfer the interest or copies of the document actually transferring the interest. Mr. Grise's office is located at 204 East Jefferson Street, Goshen, Indiana 46528, or you may contact him at (574) 534-2104. Should you fail to comply with these provisions, then you may be liable to the City of Goshen for any damage that the City of Goshen may suffer in the event that judgment is entered against the City by the other person to whom the transfer was made.

This Order of the City of Goshen Board of Public Works and Safety is issued on January 28, 2022.

City of Goshen Board of Public Works and Safety

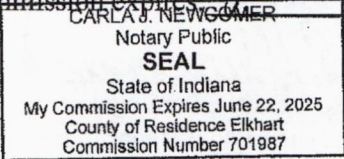
  
\_\_\_\_\_  
Jeremy P. Stutsman, Mayor

STATE OF INDIANA )  
 )  
COUNTY OF ELKHART )

Before me, the undersigned, a Notary Public, appeared the City of Goshen Board of Public Works and Safety by Jeremy P. Stutsman, Mayor and acknowledged the execution of the foregoing Order on January 28, 2022

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

My commission expires June 22, 2025



Carla S. Newcomer  
Printed: Carla S. Newcomer  
Resident of Elkhart County, Indiana

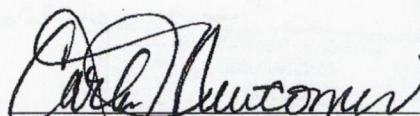
This instrument was prepared by Bodie J. Stegelmann, Goshen City Attorney, Attorney No. 18180-20, City of Goshen Legal Department, 204 East Jefferson Street, Suite 2, Goshen, Indiana 46528, (574) 537-3820.

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each social security number in this document, unless required by law (Bodie J. Stegelmann).

**CERTIFICATE OF SERVICE**

The undersigned certifies that the foregoing Order of the City of Goshen Board of Public Works and Safety for the premises at 214 E. Clinton Street, Goshen, Indiana, was served by sending a copy by regular first-class mail to the last known addresses of the following persons to be notified on January 28, 2020

To: Ron Davidhizar  
203 Middlebury Street  
Goshen, IN 46528



Carla J. Newcomer, Paralegal  
City of Goshen Legal Department  
204 East Jefferson Street, Suite 2  
Goshen, Indiana 46528



**ORDER OF THE CITY OF GOSHEN BOARD OF PUBLIC WORKS AND SAFETY**

**NOTICE OF COMPLIANCE HEARING**

April 19, 2022

To: Ron Davidhizar  
203 Middlebury Street  
Goshen, Indiana 46526

RE: 214 E. Clinton Street, Goshen

Please be advised that a hearing regarding the property located at 214 E. Clinton Street, Goshen Indiana, is scheduled for **May 2, 2022 at 2:00 p.m.** for the purpose of determining whether you are in compliance with the Board of Works Order dated January 26, 2022. The hearing will be held at the Goshen Police & Court Building in the Court Room/Council Chambers at 111 East Jefferson Street, Goshen, Indiana.



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Carla Newcomer, Paralegal  
City of Goshen Legal Department  
204 East Jefferson Street, Suite 2  
Goshen, Indiana 46528

**M** **Maust**  
**Architectural**  
**Services, Inc.**  
A Division of L.E.M.

112 North Main Street  
Goshen, IN 46526  
Phone: (574) 537-8500  
Fax: (574) 537-0808

*Architects Planners Consultants Construction Management Rule 5 & Rule 13 Filing*

February 16, 2022

Re: 214 E Clinton  
Fire Damage

Myron Grise  
Building Commissioner  
City of Goshen Building Department  
302 South 5<sup>th</sup> Street  
Goshen, Indiana 46526

Dear Mr. Grise,

I have inspected the structure located at 214 East Clinton Street, Goshen, Indiana for the structural damage caused by a fire. The fire damage was mainly in the attic and front wall of the structure. The floor was not significantly affected by the fire. There are some interior wall studs that will need to be replaced or have new 2x4 stud placed next to them. The ceiling joists were not significantly affected by the fire. 45% of the roof rafters and collar ties were all affected by the fire and will need to be replaced or have new structure installed beside them. The roof sheathing at the peak in the front 1/3 of the structure will need to be replaced as it was charred badly. The front porch roof should be torn down and replaced as it sustained fire damage from both the top and bottom. The front wall should be reframed with new 2x4 material. In addition to the fire damage, I also inspected the basement area for damage that might have been caused from the water used to extinguish the fire. The basement was full of debris, not fire related, and I was not able to get around everything. I did observe that a section of the Michigan style basement wall appeared to have lost some of its earth support at one section. The area where the earth support appears to be washed out supports an interior floor beam. It was observed that there was a pile of dirt across the basement floor surrounding the water heater.

Repair Action:  
Basement.

- Remove debris from the area.
- Remove washed out dirt
- Repair washed out bank area of Michigan basement wall
  - Layup CMU at front section of washed-out area to contain Concrete flowable fill
  - Use Concrete flowable fill to establish solid base and re-establish bank
  - One bank has been reestablished provide solid support to structure above

Repair Michigan basement banks with concrete coating to stabilize all earth banks

Roof.

Place new 2x6 roof rafters @ 16" O.C. in the front 14' of roof area.

Install new collar ties 3'-0" down from the ridge

Remove and replace the top 2' of the roof sheathing for the front 14' of the roof

Front Wall.

Replace or place beside existing wall framing new 2x4's.

Re-sheath the exterior with ½ OSB

Front Porch

Remove and replace roof structure. Columns and porch beam can be reused.

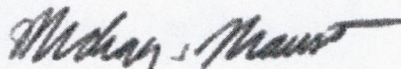
Interior Wall Framing.

Replace or place new 2s beside all wall studs with fire damage.

Please see the attached pictures. There was no lighting in the basement, and I was not able to get a good picture of the washed out area.

If you have any questions please feel free to contact me at (574) 537-8500 or the above address.

Sincerely,



Michael L. Maust, AIA  
Maust Architectural Services, Inc.



**CITY OF GOSHEN**  
**DEPARTMENT OF BUILDING AND NEIGHBORHOOD SERVICES**

204 E. Jefferson St., Suite 5, Goshen, In 46528 • (574) 534-1811 • Fax (574) 533-8626

**RENTAL INSPECTION**

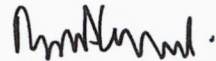
Landlord: DAVIDHIZAR, RONALD E      Email: \_\_\_\_\_      Certified: 6/28/2017  
Manager: \_\_\_\_\_      Address: 214 E CLINTON ST      Yearly Inspections   
Inspected: 1/4/2019      Unit: 214 1/2      MaxOccupancy: 2      Vacant: Yes

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**COMMENTS:** Unit has been heavily damaged by fire and must be re-inspected before unit can be occupied. UNIT MAY NOT BE OCCUPIED UNTIL REPAIRS HAVE BEEN COMPLETED AND PASSED FINAL INSPECTION. Contact building department for final inspections.  
Reinspection: 2/4/2019 12:00 PM

Will need to reinspect - Copy was served on/mailed to the property on 1/4/2019

 Inspector

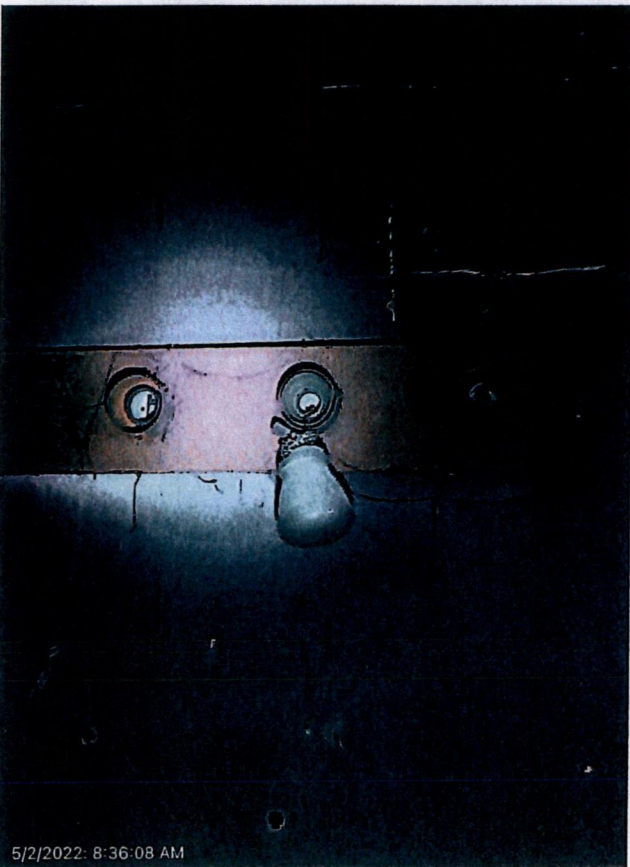
In accordance with City Ordinance #4860 you have been informed of the violations in person and have been advised to bring the home up to code. The above violations must be corrected by the Owner/Occupant within 30 days of the date of this notice. A re-inspection of the rental unit will be scheduled to verify that the above violations have been corrected. If the violations are not corrected within 30 days of the date of this notice, a \$50.00/unit re-inspection fee may be levied.

Fail-No Occupy

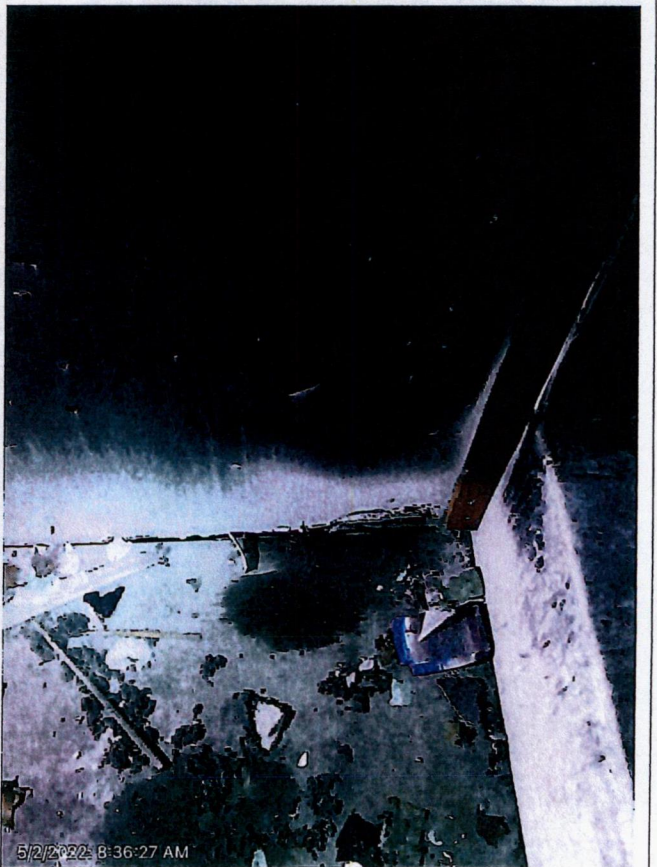
Street view



Attic

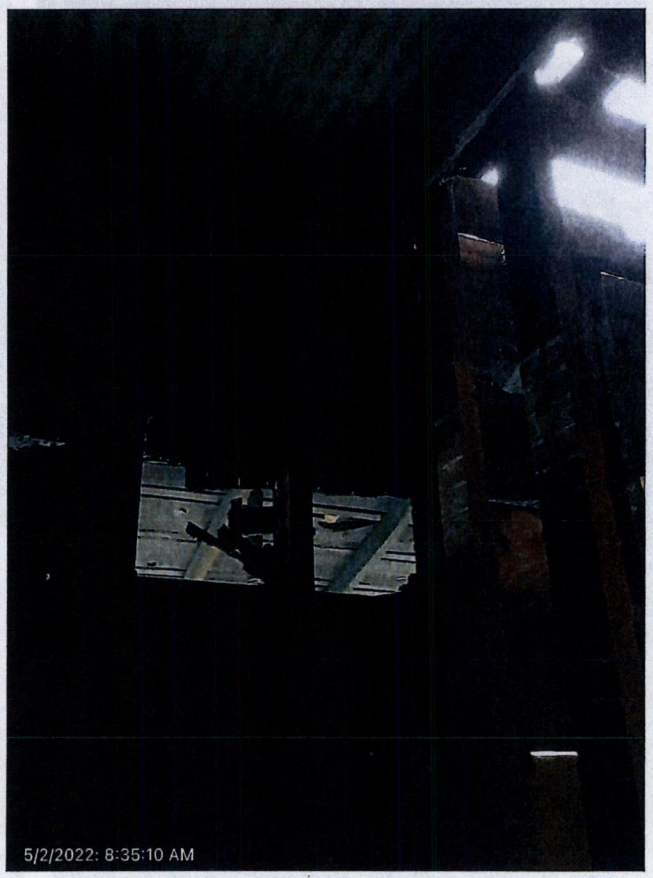


Bathroom light



Bathroom Floor (sinking)

missing bricks corner of foundation



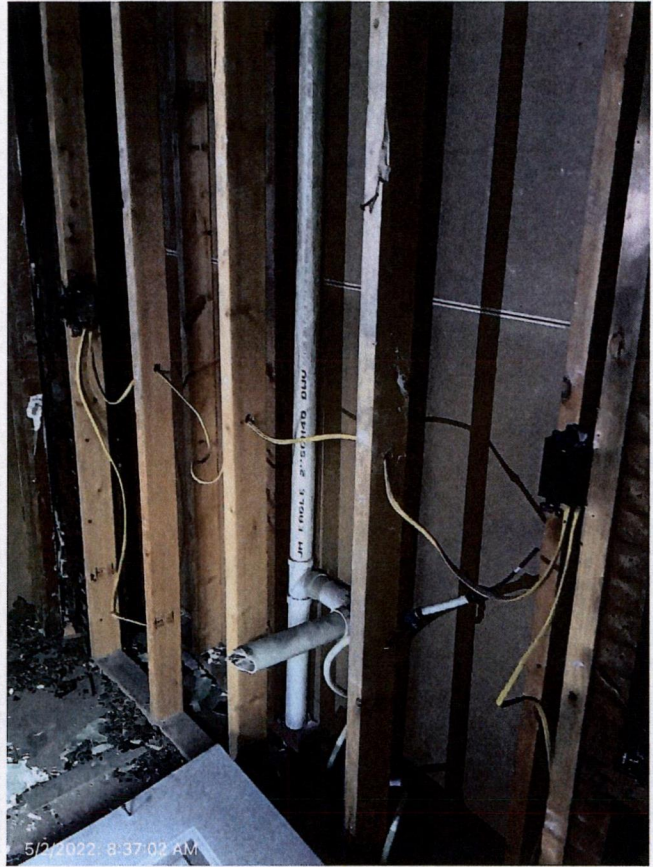
Door Kicked in west side of property

Fire damaged front wall

Bathroom tub



Busted plumbing and exposed wires



Burnt out window frame



Front wall and attic from inside

Charred 2x4 Wall Beams



Looking into attic from front room



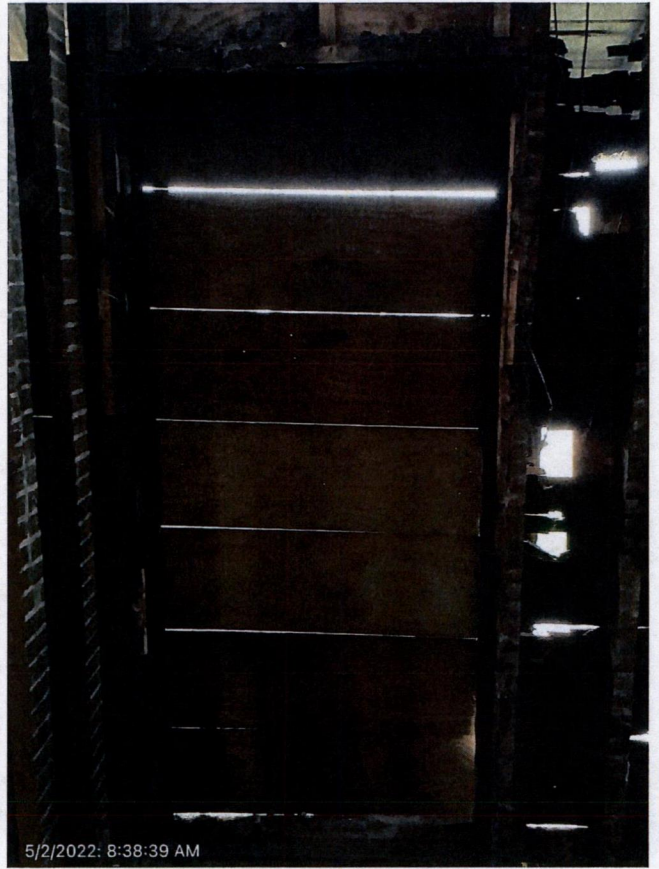
Boarded up windows

Front wall & attic fire damaged



trash & debris throughout property

Another Boarded up window



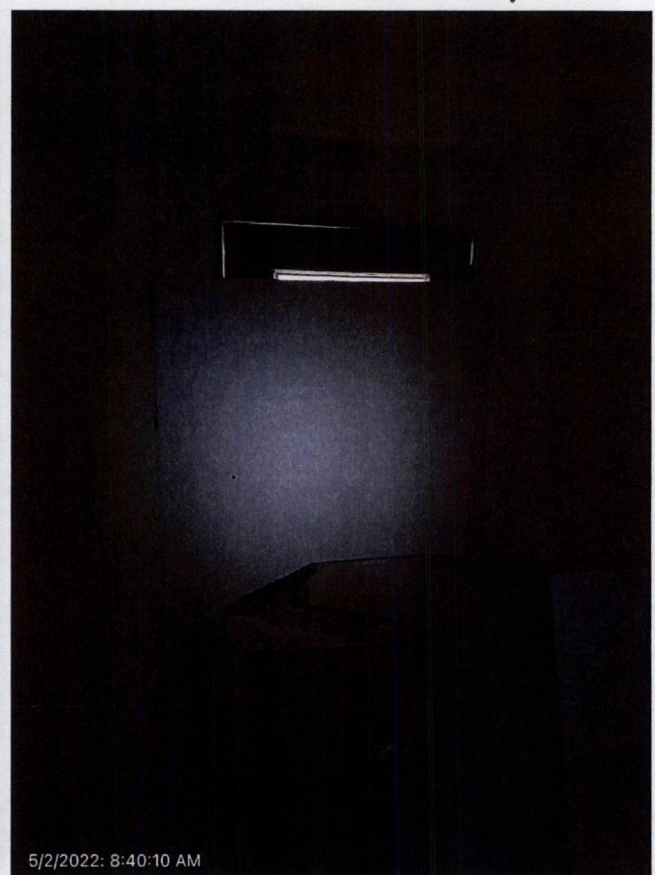
Large hole in wall allows access to rear apt.

Cabinets not installed back apartment

More cabinets in ~~the~~ back apt.



Back door boarded up



dry well



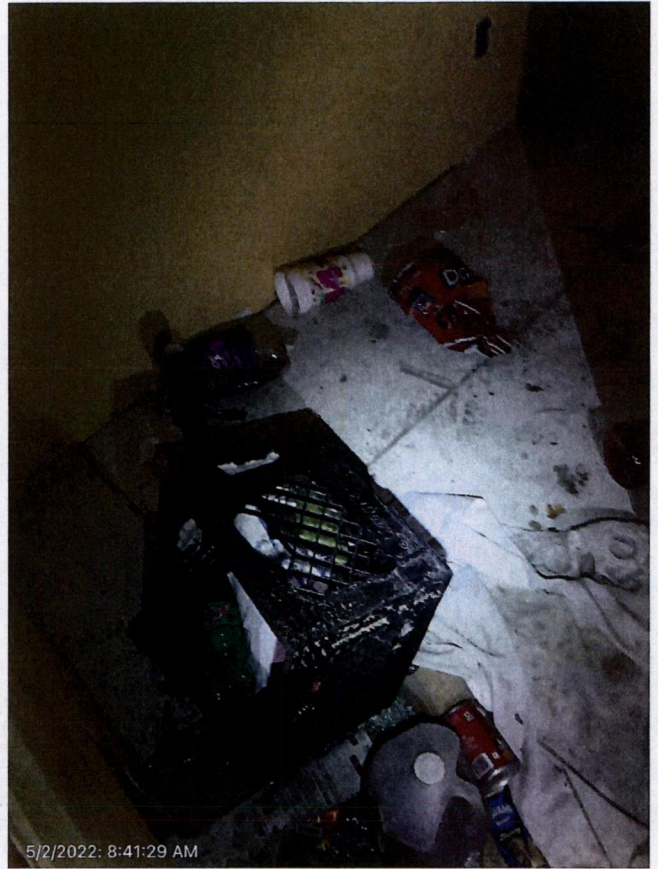
loose exposed wires

Back apartment bedroom



5/2/2022: 8:41:22 AM

Back apartment bedroom



5/2/2022: 8:41:29 AM



5/2/2022: 8:41:54 AM

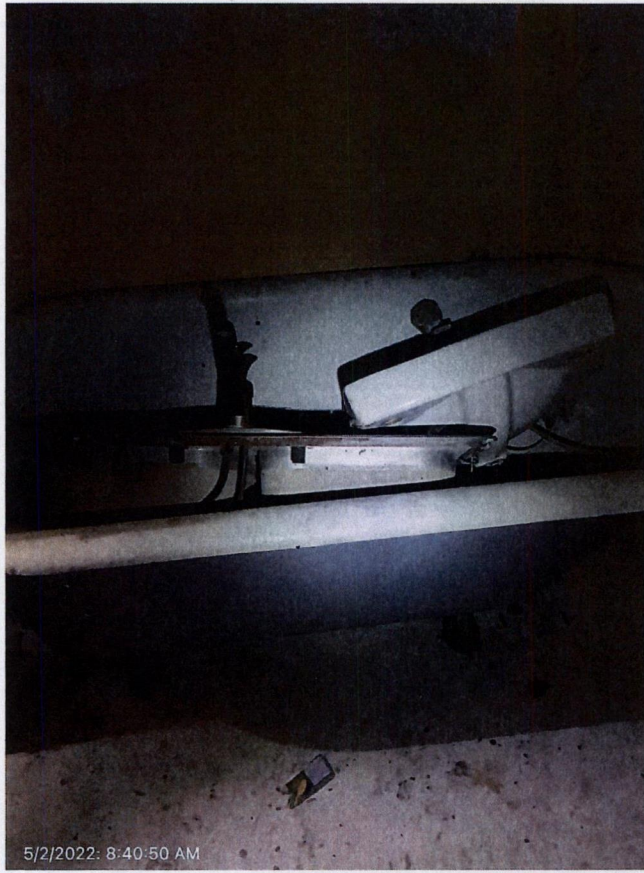


5/2/2022: 8:42:08 AM

Back apartment bedroom

Back apartment bedroom

Back apartment bathroom



Back apartment bathroom



front porch fire damage



Back apartment bathroom

Five damaged drywall and beams

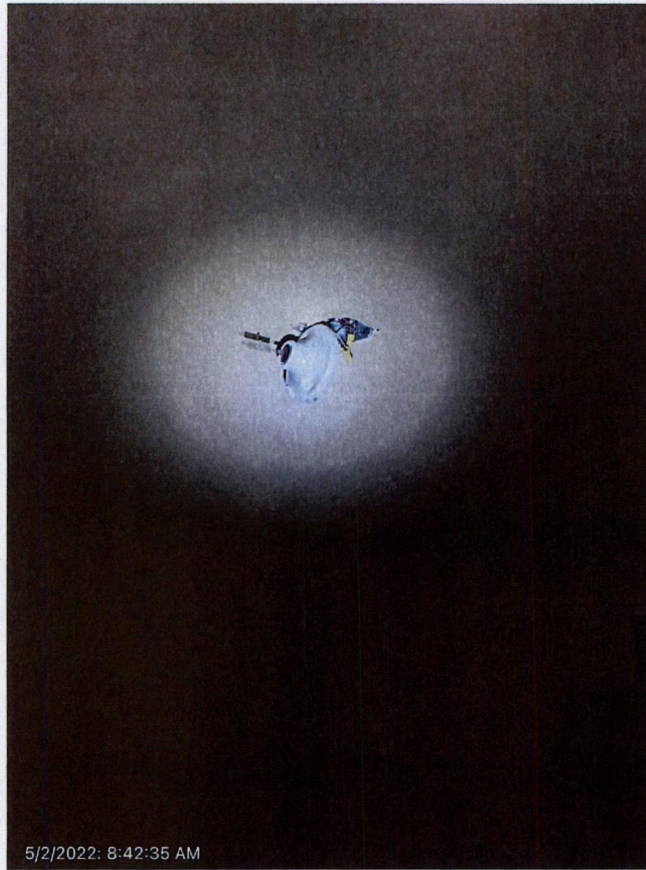
Front porch



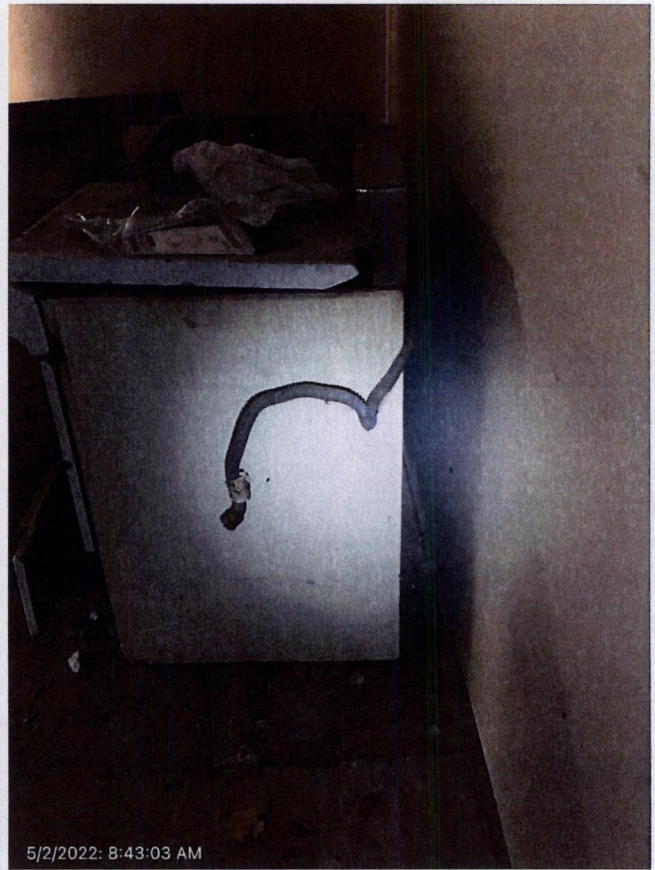
Foundation

Window no glass

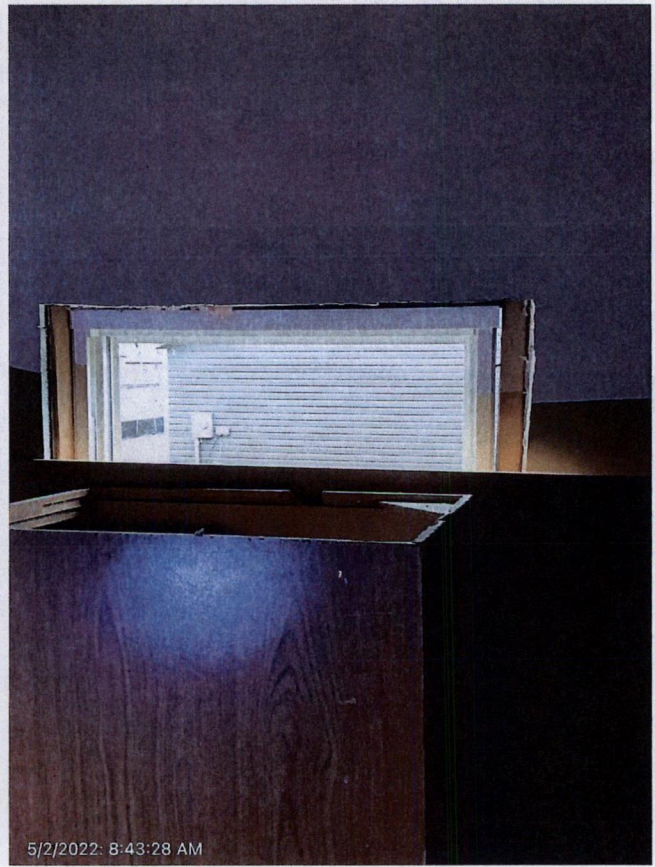
exposed wires



Stove back apartment



Cabinet never installed



Window no glass

Debris in basement



5/2/2022: 8:45:30 AM

Basement wall cracking



5/2/2022: 8:45:50 AM



5/2/2022: 8:46:18 AM



5/2/2022: 8:46:45 AM

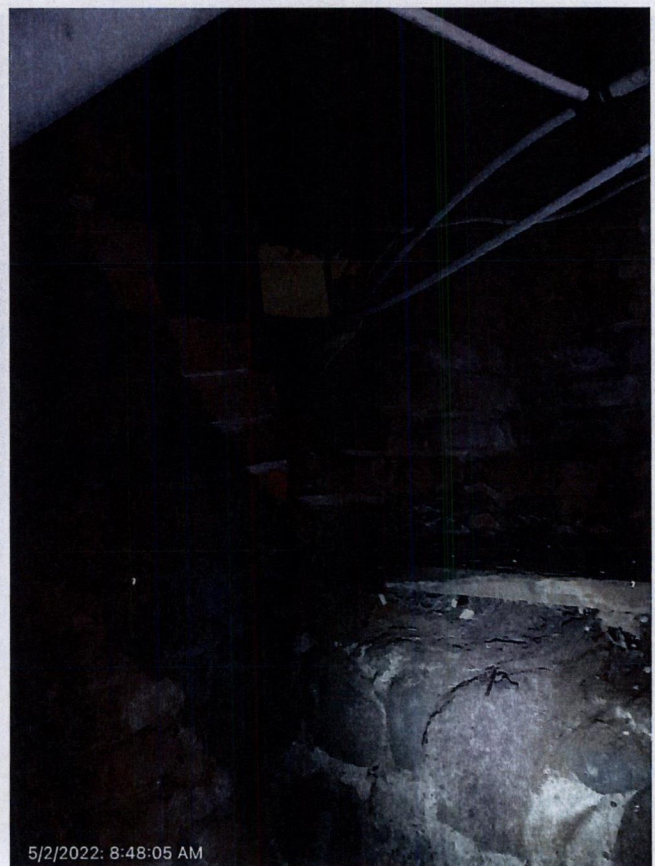
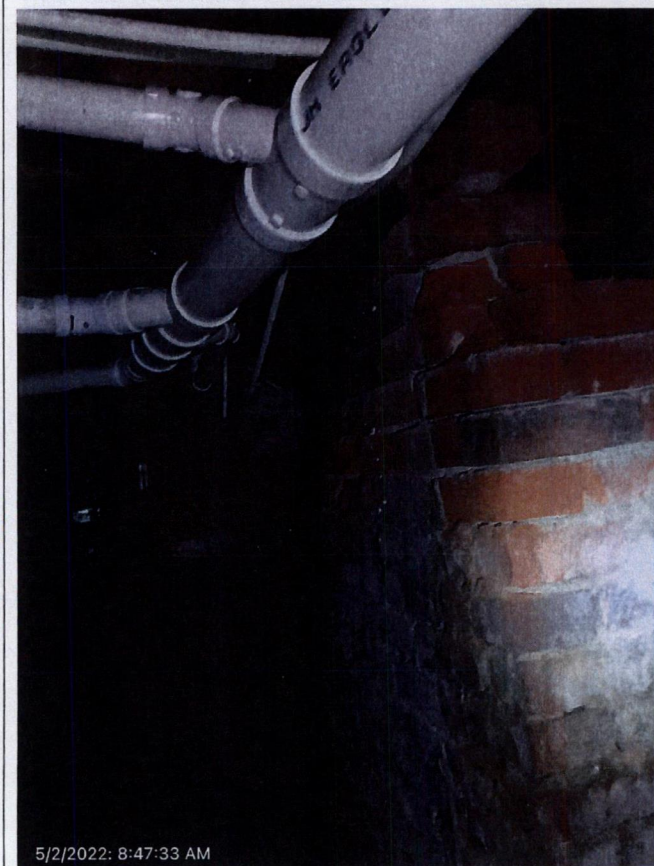
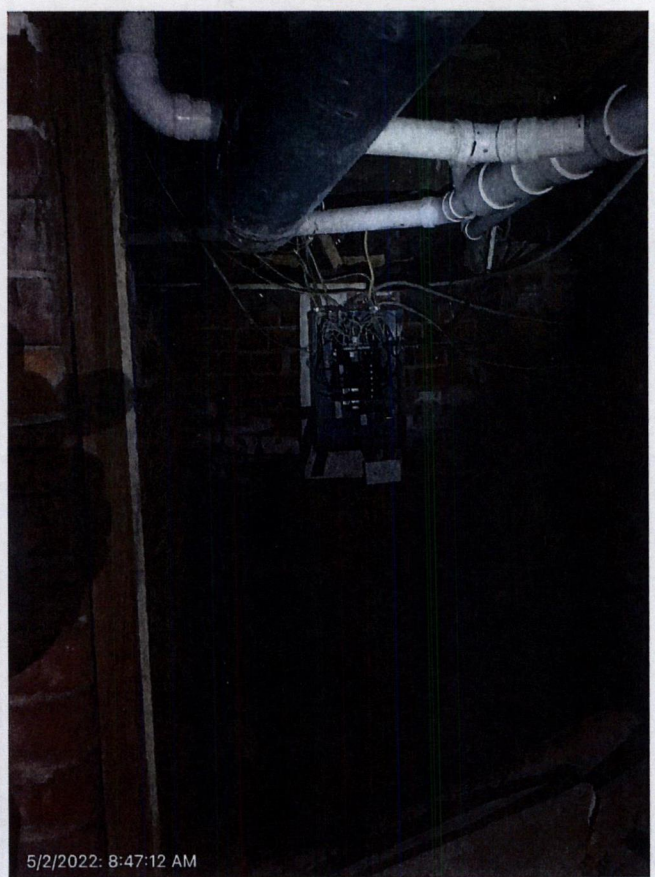
Foundation failing

Dirt & debris from basement wall collapsing

basement wall



electrical panel

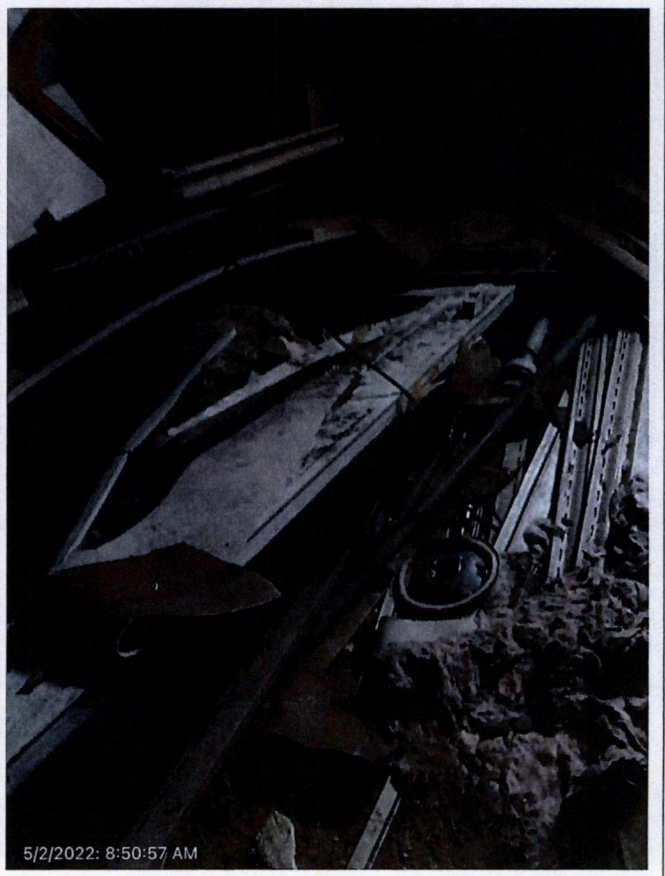
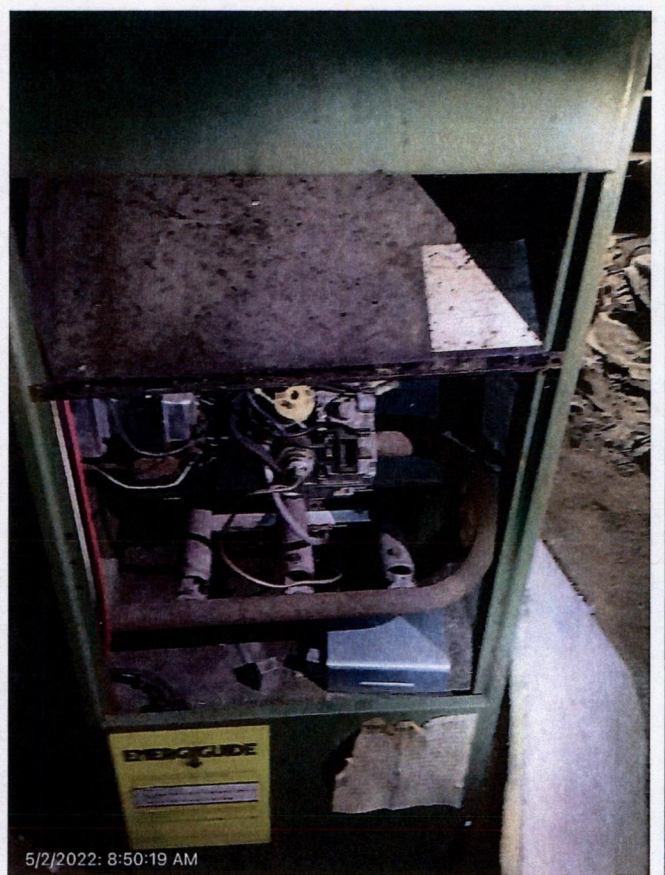
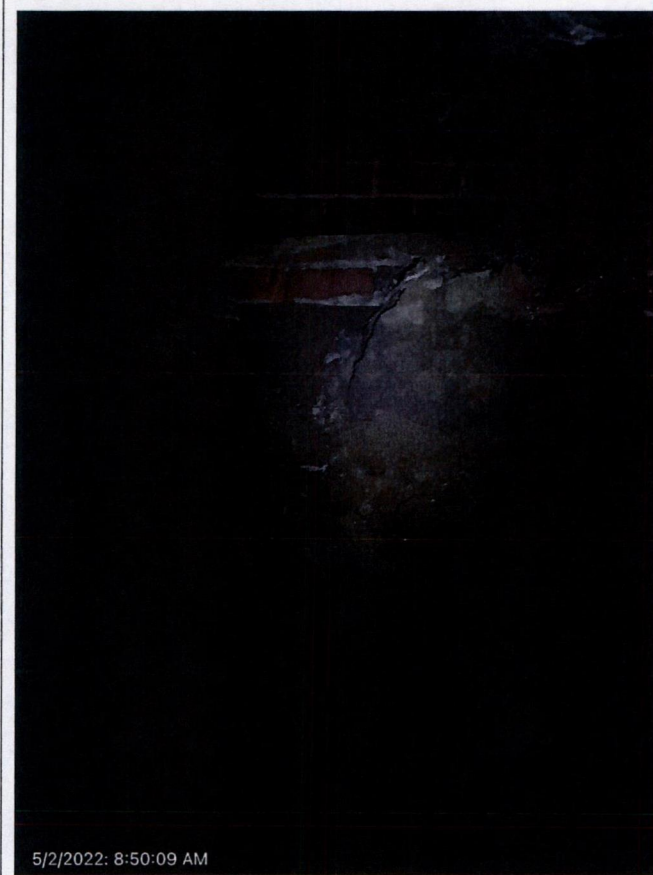


missing brick on load bearing wall

more missing bricks



Furnace

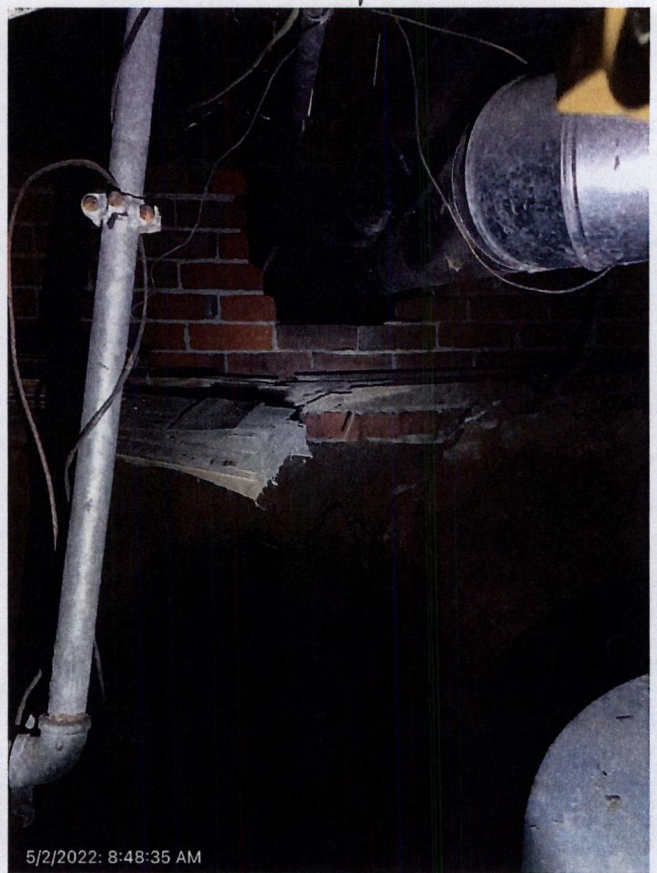


Debris in basement

Front porch



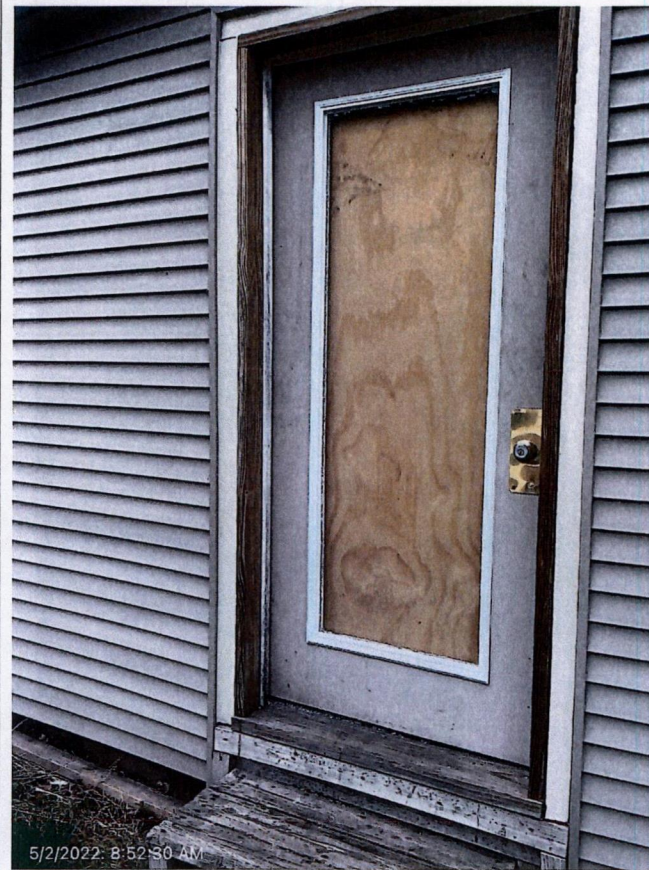
Wall completely washed out



more washout from basement wall collapsing

exposed wires and wash out accumulation from foundation

Back door



broken glass from backdoor



attic from rear of property

Front Porch ceiling

meter removed



Front porch fire damage



Siding damage  
Window damage



Door ~~is~~ Kicked in