

CITY OF PROVIDENCE

INSPECTION & STANDARDS
RECEIVED

BUILDING BOARD OF REVIEW

AUG 27 2020

APPEAL FROM THE DECISION OF THE BUILDING OFFICIAL
DEPARTMENT OF INSPECTION AND STANDARDS

Date: 8/20/2020

To the Building Board of Review:

The undersigned hereby appeals from the decision of the Building Official of the Department of Inspection and Standards dated 8/18/2020, affecting the following described premises as are hereinafter set forth.

Owner(s): Rhode Island Hospital Telephone: 401 453-6400

Address: 593 Eddy Street, Providence, RI Zip Code: 02903

Appellant(s): Rhode Island Hospital Telephone: 401 453-6400

Address: 593 Eddy Street, Providence RI Zip Code: 02903

1. Location of premises: 461 Eddy Street, Providence RI 02903 (145 Globe St.)

2. Assessor's Plat(s): 022 Lot(s): 1044

3. Dimensions:	Lot #:	Frontage:	Depth:	Area:	sq.ft.
	Lot #:	Frontage:	Depth:	Area:	sq.ft.
	Lot #:	Frontage:	Depth:	Area:	sq.ft.

4. Zoning District(s) in which premises are located: Downtown Overlay

5. Are premises located within: (check one) Historical District
 Downtown Overlay District
 Capital Center District

6. How long have you owned the subject premises: Since September 11, 2015

7. Type of Construction: n/a

8. Size of existing building(s): 15,000 sqft

9. Size of proposed building(s): 0sqft

10. Present use of premises: Vacant

11. Proposed use of premises: n/a

12. Give extent of proposed construction or alterations: n/a

Rhode Island Hospital ("Hospital"), the appellant in this matter, is the owner of real property located at 461 Eddy Street, Providence, RI. The building on the premises, commonly known as the Ward Baking building, has been vacant for years and was acquired by the Hospital in 2015 in a serious state of disrepair. Presently, the building is vacant, boarded, surrounded by wire fence, and rapidly deteriorating.

By letter dated August 5, 2020, the Hospital sought authorization for emergency demolition of the building from the Department of Inspection and Standards ("DIS"). A copy of the request is attached as Exhibit 1. The request was supported by a recommendation from a structural engineer that the building be demolished immediately. In fact, the structural engineer made clear that the "building is unsafe to enter" and that "with the roof and 2nd floor collapsing, the exterior walls are no longer braced and could fall into the street at anytime."

Notwithstanding this unequivocal support, DIS chose to deny the Hospital's request. Instead of allowing the Hospital to demolish the building which a structural engineer recommended for demolition "as soon as possible to avoid catastrophic failure and perhaps injury to the public," DIS chose to issue a corrective order demanding that the Hospital bring the building up to code within "seventy-two (24) hours."

On August 18, 2020, DIS issued an Emergency Notice of Violation and Correction Order ("Order"), a copy of which is attached as Exhibit 2. The Order is purportedly based on the following:

The building is determined to be unsafe and must be restored to good condition. 24 Hour notice. Code sections are 23-27.3-124.1 Unsafe conditions (6) Building must be restored per section 23-27.3-124.4 Restoration of unsafe buildings (2) and section 23-27.3-124.4.1 Compliance.

The Hospital appeals the Order on several grounds. First, the Order is an abuse of discretion. DIS cannot demand that the Hospital restore the building to code within 24 hours when it is not even safe for entry. Furthermore, DIS's demand that the building be brought up to code appears to be an impermissible punitive response to the Hospital's request to demolish. The building is "unsafe to enter" and should be demolished "as soon as possible to avoid catastrophic failure and perhaps injury to the public." It is an abuse of discretion to order that the building be brought up to code. Second, the Order improperly attempts to shorten the Hospital's right to appeal to an ambiguous timeframe of "seventy-two (24) hours" from the date of the Order. See Exhibit 2. Not only does this conflict with the 30-day appeal period in R.I. Gen. Laws § 23-27.3-124, but it is internally inconsistent. Third, the Order demands compliance within "seventy-two (24) hours" which is again internally inconsistent and conflicts with the 30-day timeframe under R.I. Gen. Laws § 23-27.3-124.4.1.

For these reasons, and those that may be presented in a supplement or a hearing, the Hospital requests that the Order purportedly requiring the Hospital to remediate the property to be in compliance with the State Building Code and the State Property Maintenance Code be vacated.

The Hospital has a statutory right to appeal pursuant to R.I. Gen. Laws § 23-27.3-124.3 and this appeal automatically operates as a stay pursuant to R.I. Gen. Laws § 23-27.3-127.1.1 and/or § 23-27.3-127.2.2.

EXHIBIT 1

Chace Ruttenberg & Freedman, LLP
Attorneys at Law

Robert B. Berkelhammer*†
Nathan W. Chace
Andre S. Digou*
Douglas J. Emanuel*^o
Robert D. Fine*
Carl I. Freedman
Macrina G. Hjerpe**
Bret W. Jedele
Drew P. Kaplan
Richard J. Land*
Matthew L. Mercer‡
Allan M. Shine*
Don E. Wineberg*

Andrew W. Sbordone*
Zachary H. Valentine*

Bruce R. Ruttenberg, *retired*

* Also admitted in Massachusetts
† Also admitted in Connecticut
o Also admitted in New York
‡ Also admitted in Washington, D.C.

VIA EMAIL (jatchue@providenceri.gov)
AND FEDERAL EXPRESS

August 5, 2020

Joseph M. Atchue
Director
City of Providence Department
of Inspection and Standards
444 Westminster Street
Providence, RI 02903

Re: *Request for Order Approving Emergency Demolition
Former Victory Plating Building (a.k.a. Ward Bakery Building)
461 Eddy Street, Providence*

Dear Director Atchue:

This office represents Rhode Island Hospital ("Owner"), the owner of 461 Eddy Street (the "Building").

Last week, the second floor of the Building collapsed, and pushed out a boarded-up window on the Building's first floor. In response, the Owner commissioned C.A. Pretzer, Associates, Inc. ("Pretzer") to analyze the hazard presented by the partially-collapsed Building. On Thursday, July 30, 2020, Pretzer issued a report to Owner, stating unequivocally that the Building is unsafe to enter, thus precluding rehabilitation. "With the roof and 2nd floor collapsing, the exterior walls are no longer braced and could fall into the street at any time." Pretzer recommends demolition "as soon as possible to avoid catastrophic failure and perhaps injury to the public." A copy of Pretzer's report is enclosed.

Section 1907(E)(2)(e) of the City of Providence Zoning Ordinance governs requests for emergency demolitions. Ordinarily, a request for an emergency demolition necessitates your convening a committee consisting of the Fire Marshal, the Planning Director, a structural engineer hired under the City's auspices, the Chair of the Downtown Design Rehabilitation Committee and you, for the purpose of evaluating the request for emergency demolition. However, if (after consulting with on-site life safety officials) you determine that "the structure is in danger of imminent collapse or is an immediate danger to public

CR & F

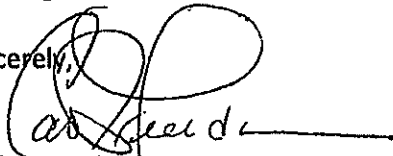
Joseph M. Atchue
Director
August 5, 2020
Page 2

safety, and there is no time to convene" the aforementioned committee, you are authorized to order the structure demolished immediately.

Given Pretzer's opinion that "the exterior walls are no longer braced and could fall into the street at any time," and that the "building is unsafe to enter," the Owner urges you to order demolition, as Pretzer recommends, "as soon as possible to avoid catastrophic failure and perhaps injury to the public."

Based on the foregoing, I respectfully request that you order the immediate demolition of the Building.

Sincerely,

A handwritten signature in black ink, appearing to read "Carl I. Freedman", with a long horizontal line extending to the right.

Carl I. Freedman
Enclosure

Cc: Nicholas P. Dominick, Jr.
Jody Bishop

CR&F



C.A. PRETZER ASSOCIATES, INC. 50 Freeway Drive, Cranston, RI 02920

STRUCTURAL ENGINEERS
DESIGN, CONSULTATION, INVESTIGATION
T. 401-785-2690

MICHAEL J. GRAFE, P.E.
THOMAS P. GRAFE, P.E.
DAVID GRANDPRÉ, P.E.

July 30, 2020

Ms. Jody Bishop
Lifespan Property Management
765 Allens Avenue, Suite 100
Providence, RI 02903

RE: Former Victory Plating Building
461 Eddy Street, Providence, RI
CAPA File 221049.20

Dear Ms. Bishop,

Recently a portion of the second floor collapsed and pushed out a boarded-up window on the Eddy Street side (east side) of the building.

I met you at the site on July 30, 2020, to review the structure. The only access was the window that had been pushed out.

The exterior brick walls are still standing when viewed from the outside, refer to photos 1, 2 & 3. However, the inside wood framing at the roof and second floor levels is rotted out and collapsing, refer to photos 4, 5, & 6. The building is unsafe to enter.

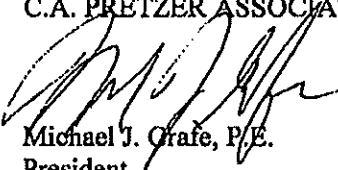
With the roof and 2nd floor collapsing, the exterior walls are no longer braced and could fall into the street at anytime.

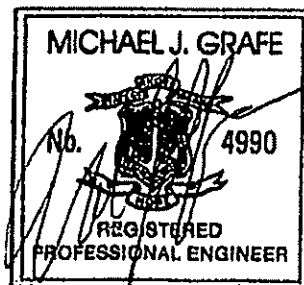
We recommend that the building be demolished as soon as possible to avoid catastrophic failure and perhaps injury to the public.

Please call me if you have any questions.

Sincerely,

C.A. PRETZER ASSOCIATES, INC.


Michael J. Grafe, P.E.
President



Attachment 1

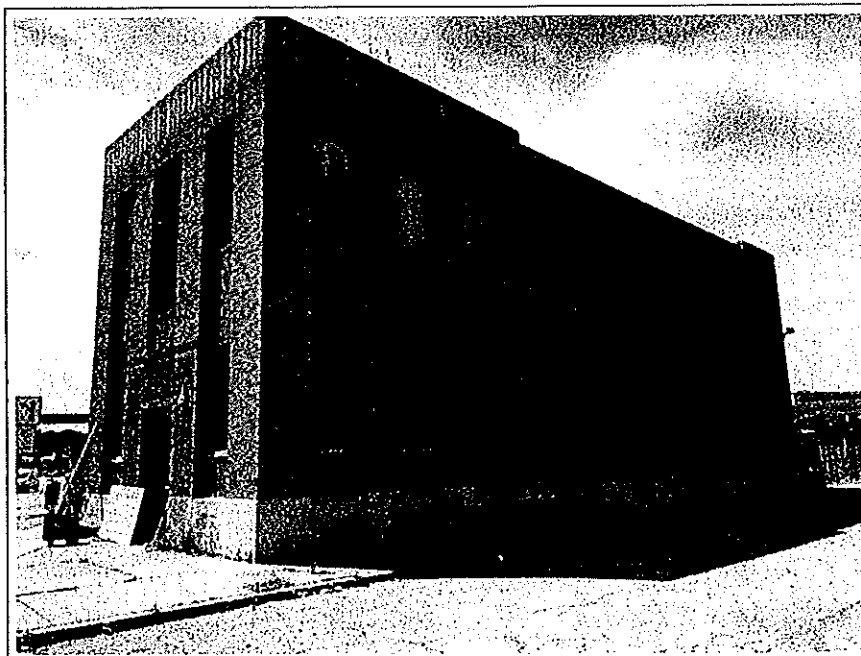


Photo 1
North side.

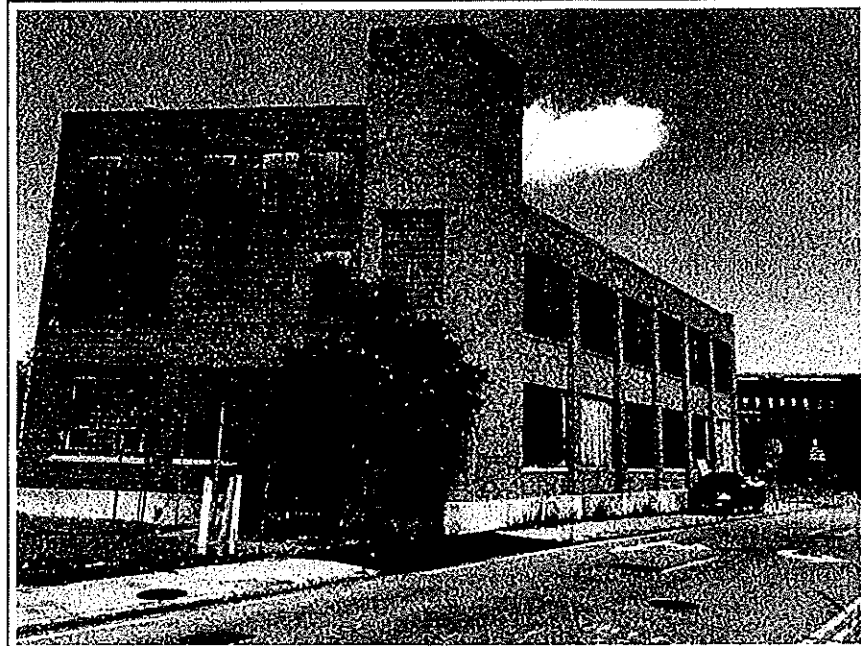


Photo 2
South and east side.

Attachment 1

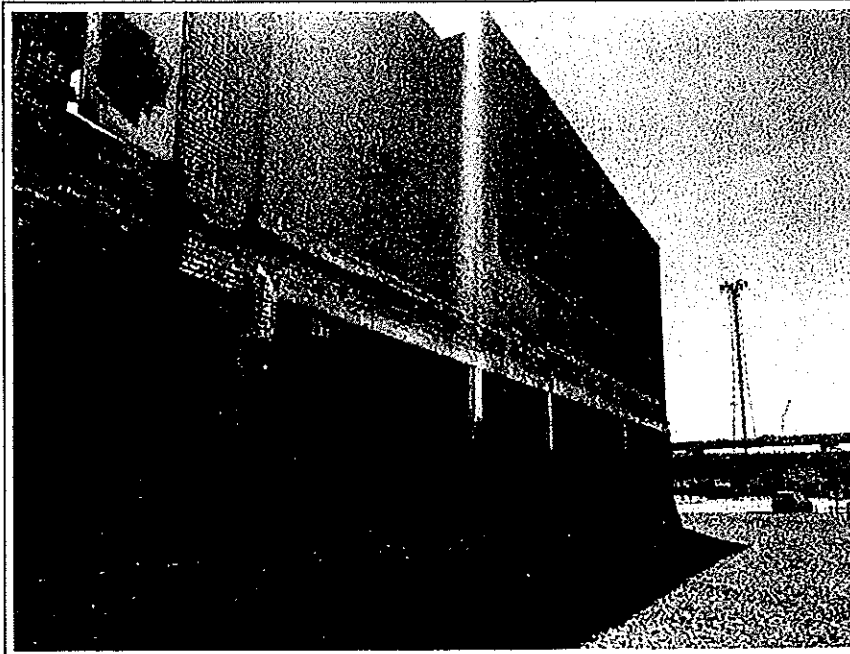


Photo 3

West side.

Attachment 1



Photo 4

Large section of roof and second floor collapsed.

Attachment 1

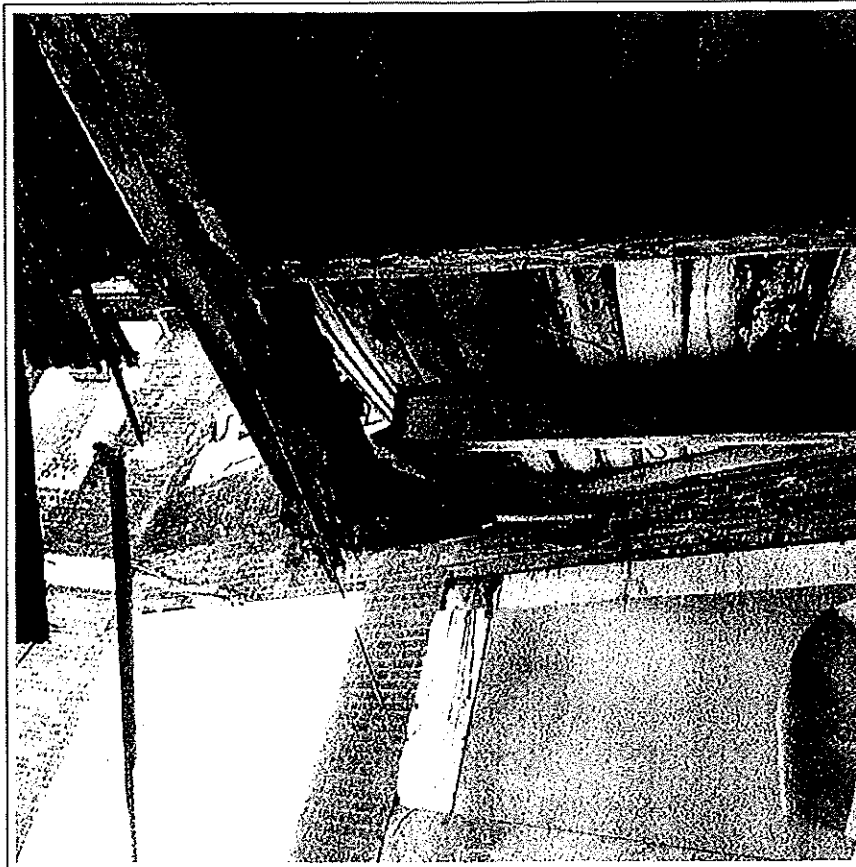


Photo 5

Second floor beam
collapsing.

Attachment 1

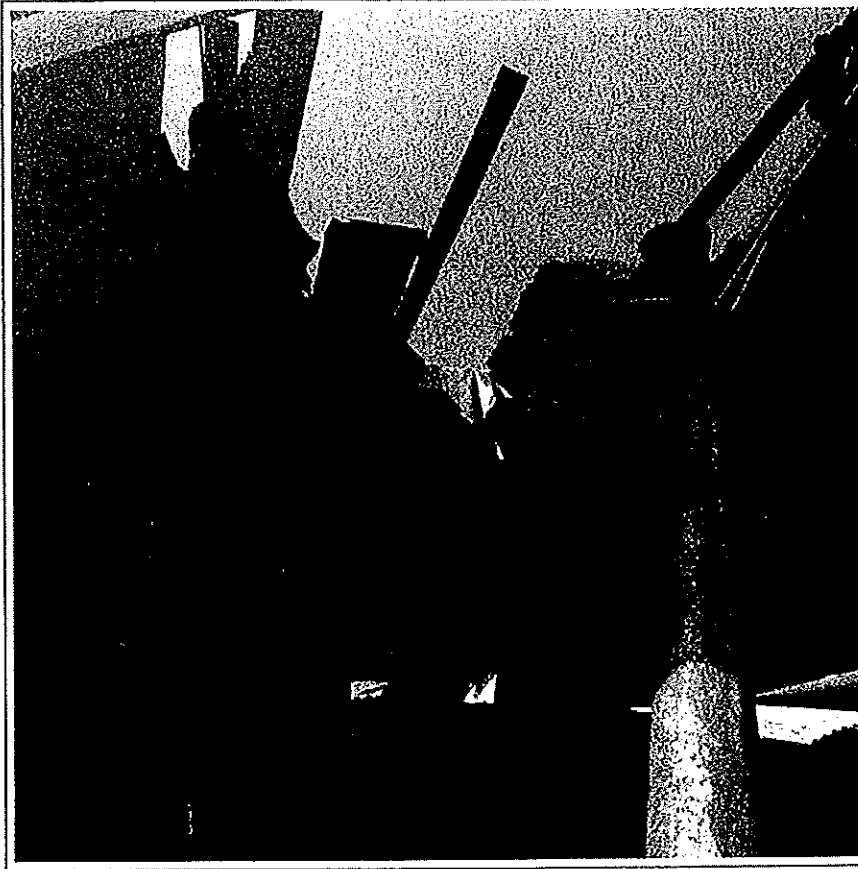


Photo 6

Roof is wide open to the elements.

EXHIBIT 2



B.I.N.

Department of Inspection and Standards

Jorge O. Elorza, Mayor
Joseph M. Atchue, CBO, Director
Kevin W. Mahoney, Deputy Director

EMERGENCY NOTICE OF VIOLATION AND CORRECTION ORDER

To: Rhode Island Hospital
593 Eddy Street
Providence, RI 02903

JAG Investment Realty
1215 West Main Road
Middletown, RI 02842

Re: Property: 461 Eddy Street
Plat: 022 Lot: 0144
Inspector: Joseph Atchue
Inspection Date: 08/18/2020
Issue Date: 08/18/2020

Upon inspection of the above referenced property (hereinafter the "Property", one or more emergency violation(s) of the State Building Code ("SBC") and/or the State Property Maintenance Code ("SBC-6") were found, causing the property to be deemed unfit for human occupancy. These emergency violations are listed on the Schedule of Violations attached hereto and made a part hereof as EXHIBIT A.

NOTICE OF CONDEMNATION: THIS PROPERTY IS DEEMED UNFIT FOR OCCUPANCY. YOU ARE HEREBY ORDERED TO CAUSE THE PROPERTY TO BE IMMEDIATELY VACATED AND SECURED FROM TRESPASS. REOCCUPANCY IS PROHIBITED UNTIL THE PROPERTY IS BROUGHT INTO COMPLIANCE WITH THE STATE BUILDING CODE AND THE STATE PROPERTY MAINTENANCE CODE AS DETERMINED AND APPROVED BY THE DEPARTMENT OF INSPECTIONS AND STANDARDS.

YOU ARE HEREBY ORDERED to, within seventy-two (24) hours of the Issue Date of this Emergency Notice of Violation and Correction Order, (a) bring the Property into compliance with the State Building Code and the State Property Maintenance Code, as applicable, and (b) contact the Department of Inspections and Standards at (401) 680-5355 so that an inspector may verify that the necessary work to abate the emergency

violations has been properly and lawfully completed. Failure to comply with this Correction Order on or before AUGUST 19, 2020, will result in:

ASSESSMENT OF A CUMULATIVE CIVIL PENALTY OF ONE HUNDRED DOLLARS (\$100.00) PER VIOLATION PER DAY FOR EACH DAY EACH VIOLATION REMAINS OUTSTANDING. THIS ASSESSMENT TOGETHER WITH THIS NOTICE OF VIOLATION AND CORRECTIVE ORDER WILL BE RECORDED AS A LIEN ON YOUR PROPERTY. THE LIEN WILL NOT BE RELEASED UNTIL THE VIOLATIONS HAVE BEEN ABATED AND THE ACCUMULATED PENALTY ASSESSMENT HAS BEEN PAID IN FULL.

PROSECUTION IN THE PROVIDENCE HOUSING COURT FOR CORRECTION OR ABATEMENT OF THE VIOLATIONS ON THE PROPERTY AND/OR TO REQUIRE THE REMOVAL OR TERMINATION OF THE UNLAWFUL OCCUPANCY OF THE PROPERTY. ANY ORDERS ISSUED BY THE PROVIDENCE HOUSING COURT WILL RESULT IN ADDITIONAL LIENS ON THE PROPERTY.

Most repair work will require one or more permits to be issued by the Department of Inspections and Standards prior to commencement of the work. Undertaking any work with out first obtaining a necessary permit will result in additional violations and penalties. Please check with the appropriate division within the Department of Inspections and Standards as to the requirements regarding the type of work you are going to undertake.

All interior and exterior paint removal must be done in accordance with the regulations of the State Health Department. Additionally, owners of rental dwellings built before 1978 must comply with the Lead Hazard Mitigation Act (R.I. Gen. Laws §§ 42-128.1-1, et seq.) as well as the Housing Resource Commission Rules and Regulations. The requirements for lead hazard mitigation apply to the first change of ownership or tenancy after November 1, 2005. Owners must provide DIS with a copy of their Certificate of Conformance (Compliance) issued by the Department of Health as well as any Affidavits of Completion of Visual Inspection. To obtain more information concerning the Lead Hazard Mitigation Law visit www.hrc.ri.gov.

RIGHT OF APPEAL OR EXTENSION

You have a right to appeal this Notice of Violation and Corrective Order. This appeal must be in writing and received within seventy-two (24) hours of the Issue Date listed above. If you believe there are extenuating circumstances that prevent you from completing the required corrections to the above referenced property, you must apply for an extension of time in writing. No extension of time to complete the required corrections will be considered unless the property has been vacated and secured.

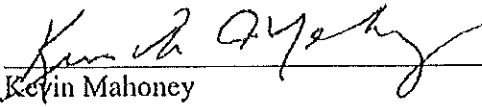

Kevin Mahoney
Deputy Director

EXHIBIT A

SCHEDULE OF VIOLATIONS

INTERIOR

Floor #

Count 1.

The building is determined to be unsafe and must be restored to good condition. 24 Hour notice. Code sections are 23-27.3-124.1 Unsafe conditions (6) Building must be restored per section 23-27.3-124.4 Restoration of unsafe buildings (2) and section 23-27.3-124.4.1 Compliance.

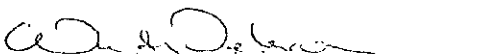
CERTIFICATION OF SERVICE

I hereby certify that, on the 18th day of August, 2020, I caused this notice to be served via first-class and certified mail, return receipt no. 7019 1120 0002 2675 3350, to the following parties:

Rhode Island Hospital
593 Eddy Street
Providence, RI 02903

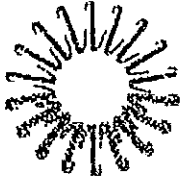
I hereby certify that, on the 18th day of August, 2020, I caused this notice to be served via first-class and certified mail, return receipt no. 7019 1120 0002 2675 3312, to the following parties:

JAG Investment Realty
1215 West Main Road
Middletown, RI 02842



CERTIFICATION OF POSTING

I hereby certify that, on the ____ day of _____, 2020, I caused this notice to be posted in a conspicuous place in or about the structure affected hereby.



Lifespan Risk Services, Inc.

245 Chapman Street, Suite 200
Providence, RI 02905-4539
Tel: 401-444-8273
Fax: 401-444-8963

LIFESPAN INSURANCE PLAN (LMP) COMPREHENSIVE GENERAL LIABILITY VERIFICATION OF COVERAGE Comprehensive General Liability (CGL)

This is to verify that Lifespan Corporation, including its subsidiaries and affiliates listed below as insureds, is insured for general liability incidents, in accordance with the insurance policy, referenced below, issued by R.I. Sound Enterprises Insurance Co. Ltd. ("RISE").

All inquiries concerning this Verification of Coverage should be directed to Lifespan Risk Services, Inc. at the address noted above.

2019-2020 RISE LCI POLICY

Insurer: R.I. Sound Enterprises Insurance Co. Ltd. ("RISE")
RISE Policy Number: LC1-2019/20
Type of Coverage: Comprehensive General Liability (occurrence)
RISE Policy Period: 10/1/19 - 10/1/20
Limits of Coverage: \$2,000,000 per Incident
\$4,000,000 Aggregate

Insureds included under this RISE policy for the indicated type of coverage	Policy Inception
Rhode Island Hospital	10/1/19

Any other entity (corporation), not otherwise excluded under this RISE policy, acquired or controlled by Lifespan Corporation or by one of its subsidiaries or controlled entities.

Victory Place
145 Globe Street
Providence, RI 02903

As a covered location of Rhode Island Hospital

CAVEAT

This Verification of Coverage is issued as a matter of information only and confers no rights whatsoever upon the recipient or the listed insureds. All questions as to the specific coverage afforded under the referenced policy should be determined by reviewing such policy. This Verification of Coverage does not alter, amend, waive or vary any of the terms or conditions of such policy. Lifespan Risk Services, Inc. assumes no responsibility for any mistake or failure to give notice of any changed circumstances affecting coverage. Other coverage is neither expressed nor implied.

Linda J. Smith, RP, BSN, MBA, CPHQ, CPHRM
Vice President, Risk Management
Lifespan Corporation

Date signed

CHACE RUTTENBERG & FREEDMAN LLP

CLIENT EXPENSES
1 PARK ROW STE 300
PROVIDENCE, RI 02903-1261

1012

DATE 8/20/20



PAY TO THE ORDER OF

CITIZENS BANK - CITY EXPENSES
Five Hundred Forty 00/100

**** Citizens Bank ****

\$ 440.00

DOLLARS

FOR *R/R agreed*

Chace Ruttenberg

Details on back