

AUG 25 2020

CITY OF PROVIDENCE

BUILDING BOARD OF REVIEW

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

Date: 8/21/2020

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 8/20/2020, 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 (a/k/a 145 Globe Street), Providence RI 02903

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

**Attached hereto is a copy of the decision rendered by the Building Official of the Department of Inspection and Standards.**

13. Grounds for appeal: See attached

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14. Proof of active insurance of property is required for an appeal of demolition or unsafe order.

Respectfully submitted,

Signature(s) of Property Owner(s):

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**John B. Murphy, M.D.**  

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Address: 593 Eddy Street, Providence, RI 02903

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Signature(s) of Appellant(s)

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**John B. Murphy, M.D.**  

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Address: 593 Eddy Street, Providence, RI 02903

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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 2<sup>nd</sup> 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 20, 2020, DIS issued a Notice for Emergency Repairs (“Notice”), a copy of which is attached as Exhibit 2. The Notice purports to give the Hospital 24 hours to submit a building permit to repair the building. See Exhibit 2.

The Hospital appeals the Notice on several grounds. First, the Notice is a violation of the Hospital’s right to appeal under R.I. Gen. Laws § 23-27.3-124.3. DIS issued the Notice before the expiration of the Hospital’s statutory right to appeal, and furthermore, before the expiration of the deadline set out in DIS’s August 18, 2020 Notice. DIS cannot truncate the Hospital’s due process/appeal rights. Second, enforcement against the Hospital is stayed pursuant to R.I. Gen. Laws § 23-27.3-127.1.1 and/or § 23-27.3-127.2.2 because the Hospital filed its appeal on August 20, 2020 (which was within the statutory period and within the period set out on DIS’s August 18, 2020 Notice) and the statutory stay operates automatically. Third, the Notice violates R.I. Gen. Laws § 23-27.3-124.2, which requires that any order or notice of unsafe condition give an owner a “reasonable” period of time to comply. The Notice’s demand for compliance within 24 hours is not reasonable. Lastly, the Notice is an abuse of discretion. DIS cannot demand that the Hospital submit a building permit within 24 hours. There is no way that the Hospital could gather all the information necessary, when the building is not even safe for entry, to submit a building permit in 24 hours. Again, and like the August 18, 2020 demand from DIS, this Notice appears to be retaliation for the Hospital’s request to demolish (which should have been granted).

For these reasons, and those that may be presented in a supplement or a hearing, the Hospital requests that the Notice 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 Rутtenberg & Freedman, LLP  
Attorneys at Law

Robert B. Berkelhammer\*<sup>1</sup>  
Nathan W. Chace  
Andre S. Digou\*  
Douglas J. Emanuel\*\*  
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. Rутtenberg, *retiree*

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

VIA EMAIL ([jatchue@providenceri.gov](mailto: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 2<sup>nd</sup> 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.

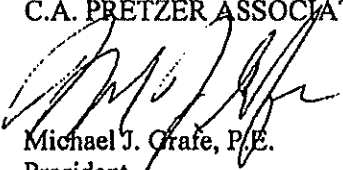
With the roof and 2<sup>nd</sup> floor collapsing, the exterior walls are no longer braced and could fall into the street at anytime.

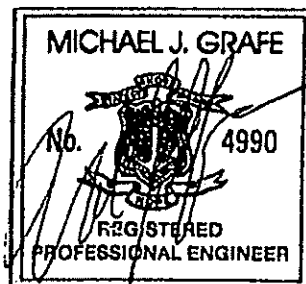
We recommend that the building be demolished as soon as possible to avoid catastrophic failure and perhaps injury to the public.

Please call me if you have any questions.

Sincerely,

C.A. PRETZER ASSOCIATES, INC.

  
Michael J. Grafe, P.E.  
President



Attachment 1

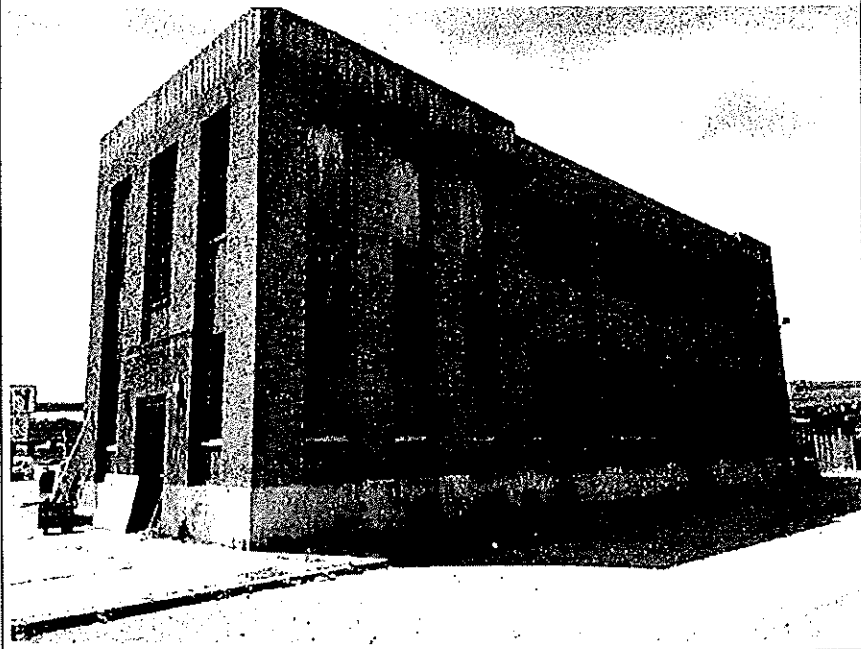


Photo 1  
North side.

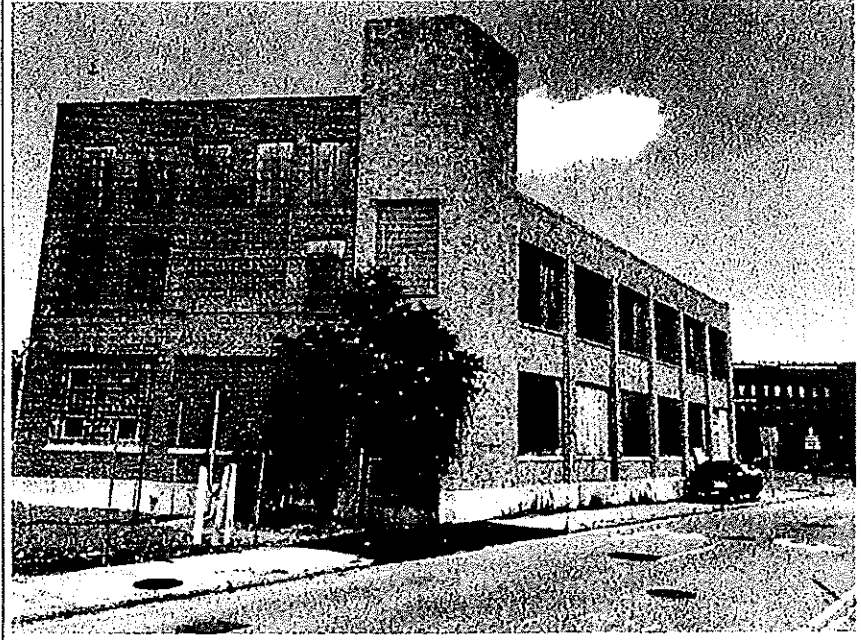


Photo 2  
South and east side.



Attachment 1

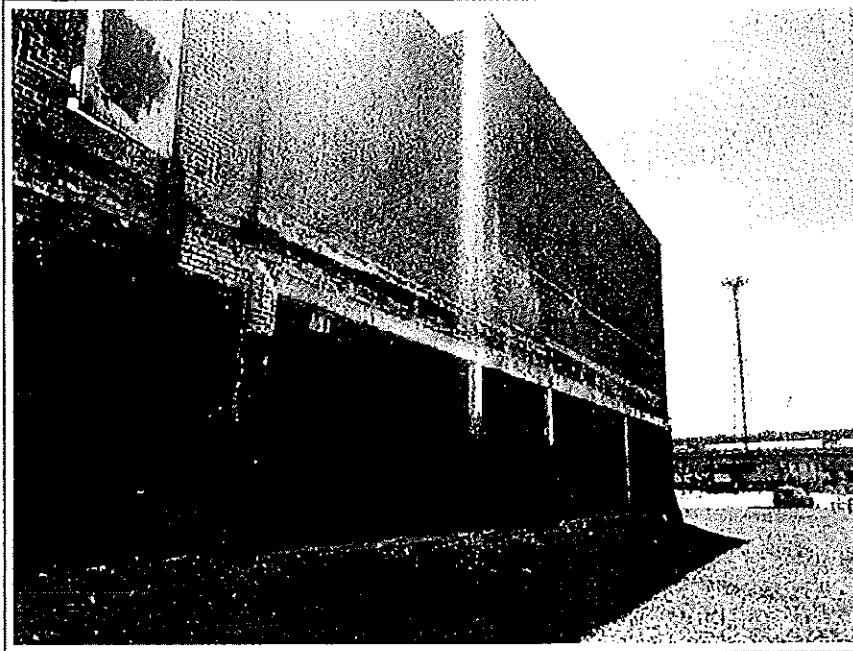


Photo 3

West side.

Attachment 1



Photo 4

Large section of roof and second floor collapsed.

Attachment 1

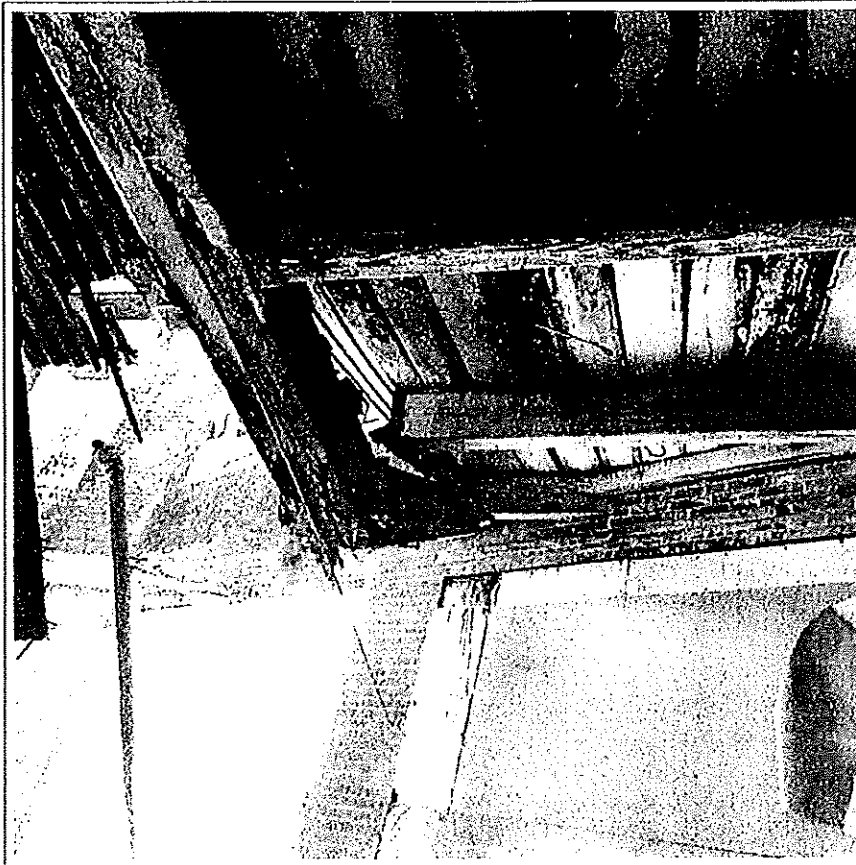


Photo 5

Second floor beam  
collapsing.

Attachment 1

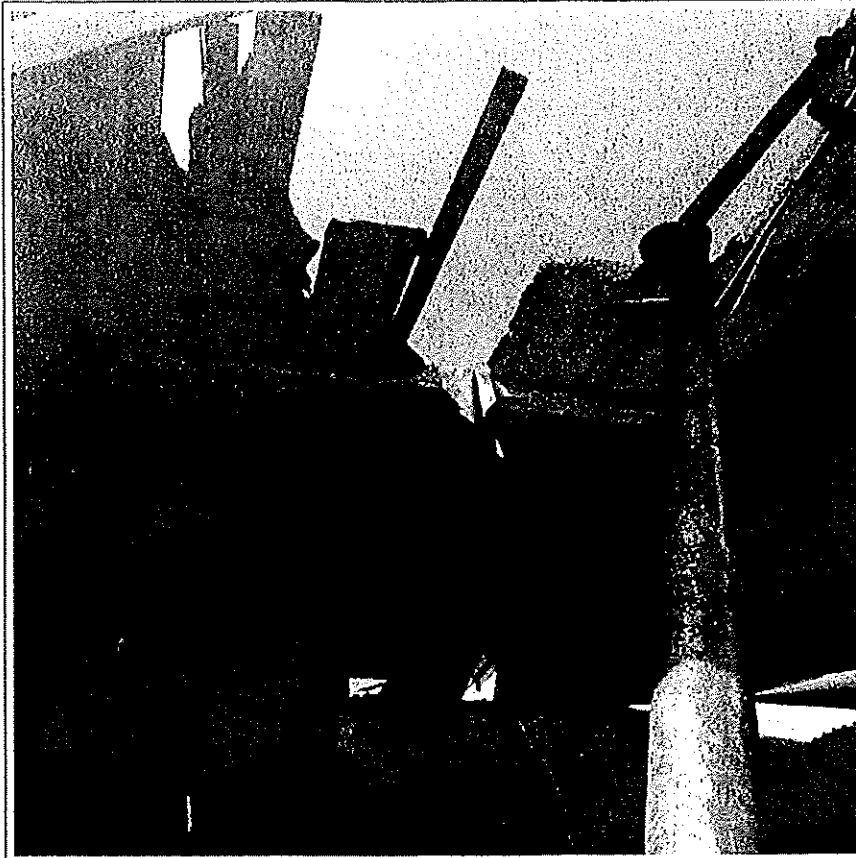


Photo 6

Roof is wide open to the elements.

**Exhibit 2**



## Department of Inspection and Standards

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

### NOTICE FOR EMERGENCY REPAIRS

### 24 HOUR NOTICE

August 20, 2020

Plat: 22 Lot: 144 Address: 461 Eddy Street a/k/a 145 Globe St

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

JAG Investment Realty, LLC  
1215 West Main Rd  
Middletown, RI 02842

Persuant to RIGL 23-27.3-124.1 et seq., the Director of the Providence Department of Inspection and Standards has found the structure(s) situated on the Property to be unsafe by reason of inside wood framing at the roof and second floor level being rotted out and collapsing.

**This notice is to inform all parties involved that they have 24 hours to submit a building permit to repair building.**

Your failure to comply within 24 hours to this Order will result in the City hiring a private contractor to correct the violation, so as to make the Property safe at your expense.

A lien for the cost of the repairs, , will be recorded against the Property, with interest to accrue thereon at twelve per cent (12%) per annum from the date of lien recordation until date of payment. Pursuant to law, the lien amount, together with any interest, will be collected as if attributable to real estate taxes, including a tax sale of the property.

Respectfully submitted

Joseph M. Atchue  
CBO, Director

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