



City of Las Cruces

City Council Action and Executive Summary

23-056

Type of Action:
 Resolution
 Ordinance
 TIDD Resolution

District:	<input type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input checked="" type="checkbox"/> 4 <input type="checkbox"/> 5 <input type="checkbox"/> 6 <input type="checkbox"/> N/A	Adopted:	November 7, 2022
1st Reading:		Department:	Legal
Drafter:	Vanessa King	Line of Business:	Office of the Director
Program:	Administration		

Title: A RESOLUTION APPROVING A NUISANCE, SUBSTANDARD DWELLING OR STRUCTURE IN NEED OF ABATEMENT AT 1245 W. VAN PATTEN STREET, WITHIN THE CITY LIMITS OF LAS CRUCES, NEW MEXICO, THAT IS RUINED, DAMAGED, AND DILAPIDATED AS TO BE A MENACE TO THE PUBLIC COMFORT, HEALTH, PEACE, OR SAFETY AND THAT IS REQUIRED TO BE REMOVED.

TYPE OF ACTION: Administrative Legislative Quasi-Judicial

PURPOSE(S) OF ACTION:

A Resolution to abate and remove a building in accordance with NMSA 1978, §3-18-5 after staff exhausted all attempts to compel the owner to bring the site into compliance. The statute allows the governing body of a municipality to remove a structure that is a menace to the public comfort, health, peace, or safety.

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

Since January 2021, the City of Las Cruces Community Development Department and Code Enforcement Division received several complaints of Municipal Code Violations at 1245 Van Patten Street, Las Cruces, NM 88005. On August 5, 2022, the City, inspected and entered the property with permission from the owner, Jon Hernandez. During this inspection, the current conditions were observed, and a stop work order and a condemnation notice were posted on the structure. The city exhausted all attempts to compel the owners to bring the premise into compliance through voluntary and municipal summon attempts. The Building Codes Officer recommended and requested to the Building Official, that an emergency abatement and demolition of the structure be completed. See Attachment "A", Memorandum with Supporting Documentation.

The City’s Chief Building Official submitted a Property Report with the inspection findings, which included plumbing and electrical hazards, unsanitary conditions, and an unsafe structure with safety hazards that deemed the property uninhabitable and substandard. See Attachment "B" Property Report. The proposed resolution complies with state law and is a remedial measure taken to protect the health and safety of the community.

In the event that the owners fail to demolish the condemned structure, the City will contract for demolition and place a lien on the property.

SUPPORT INFORMATION:

[Attachment "A" Memorandum with Supporting Documentation.](#)
[Attachment "B". Property Report.](#)

PLAN(S):

None

COMMITTEE/BOARD REVIEW:

None

DOES THIS AMEND THE BUDGET?:

Yes

No

Does this action amend the Capital Improvement Plan (CIP)?

Yes

No

Does this action align with Elevate Las Cruces?

Yes

No

OPTIONS / ALTERNATIVES:

1. Vote "Yes"; this will approve the abatement and removal of the building located at 1245 W. Van Patten Street.
2. Vote "No"; this will not approve the abatement and removal of the building located at 1245 W. Van Patten Street.
3. Vote to "Amend"; this will require additional direction to staff.
4. Vote to "Table"; this will not approve the abatement and removal of the building and will require additional direction to staff.

RESOLUTION 23-056

A RESOLUTION APPROVING A NUISANCE, SUBSTANDARD DWELLING OR STRUCTURE IN NEED OF ABATEMENT AT 1245 W. VAN PATTEN STREET, WITHIN THE CITY LIMITS OF LAS CRUCES, NEW MEXICO, THAT IS RUINED, DAMAGED, AND DILAPIDATED AS TO BE A MENACE TO THE PUBLIC COMFORT, HEALTH, PEACE, OR SAFETY AND THAT IS REQUIRED TO BE REMOVED.

The City Council is informed that:

WHEREAS, the building, structure, or premises is located at 1245 Van Patten Ave, Las Cruces, New Mexico 88005; and

WHEREAS, the Community Development Department and the Code Enforcement Division of the Las Cruces Police Department has investigated the condition of said Building, structure of premises and has found same to be so ruined, damaged, dilapidated and hazardous that it constitutes a menace to the public comfort, health, peace, or safety and warrants abatement and removal; and

WHEREAS, the Las Cruces Police Department has responded to this property thirty-one (31) times for violations such as vagrancies, trespass, found property, stolen property, and codes nuisance. There are open violations of concerns for vagrants residing at the property.

NOW, THEREFORE, Be it Resolved by the Governing Body of the City of Las Cruces:

(I)

THAT the findings of said Code Enforcement and the Community Development, regarding the building, structure, or premises, be and are hereby approved and adopted and that said building, structure, or premises is found to be ruined, damaged, dilapidated and hazardous, as to be a menace to the public comfort, health, peace, or safety pursuant to NMSA 1978 Section 3-18-5.

(II)

THAT owners, Jon L. Hernandez and Lorraine G. Hernandez, record owners of said building, structure, or premises shall commence removal of same within ten (10) days after service of a copy of this Resolution or within said ten (10) day period, file written objection to findings herein with the City Clerk of the City of Las Cruces, asking for a hearing before the City Council.

(III)

THAT if there is a failure of compliance with the provision of Section II herein, the City of Las Cruces shall proceed to remove said building, structure, or premises and abate said unsafe condition and the cost thereof shall constitute a lien against such property so removed and against said lot or parcel of land from which such removal be made, all as required and allowed by law.

(IV)

SEVERABILITY CLAUSE. If any section, paragraph, sentence, clause, word, or phrase of this resolution is for any reason held to be invalid or unenforceable by any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this resolution. The Council hereby declares that it would have passed this resolution and each section, paragraph, sentence, clause, word or phrase thereof irrespective of an provisions being declared unconstitutional or otherwise invalid.

(V)

THAT City staff is hereby authorized to do all deeds as necessary in the accomplishment of the herein above.

DONE AND APPROVED this 07 day of November 2022

APPROVED

Mayor

ATTEST:

City Clerk

Moved by: Tessa Abeyta

Seconded by: Becky Corran

AYES Kasandra Gandara, Ken Miyagishima, Yvonne Flores, Johana Bencomo, Becky Corran,
Tessa Abeyta

NAYS



MEMORANDUM

To: Larry F. Nichols, Building Official

From: Office Rebkah Ellis C482 **Initials:** RE

Date: 08/11/2022

Subject: **1245 Van Pattern Avenue**

On April 29, 2022 and again on August 5, 2022 I conducted an investigation at 1245 Van Patten Avenue regarding a complaint of several Municipal Code Violations. With permission of the owner, Jon Hernandez, I entered the property and I obtained photos, LCPD2022-00042449, LCPD2022-00042457, and LCPD2022-00078726, of the current conditions on the premises. A stop work order was posted on the structure August 5, 2022 by myself on behalf of the City of Las Cruces Building Official and Community Development Director Larry F. Nichols and a condemnation notice was placed by Building Inspector Cesar Grado.

The structure was declared unsafe, fire hazard, deficient electrical and plumbing, as well as unsecured per section 116.1 of the Building Code. The property has a substantial accumulation trash and the structure is in extremely unsafe conditions. The registered owners Jon Hernandez and Lorraine Hernandez, each have open cases pending in municipal court.

The structure is continuing to deteriorate and has suffered substantial fire damage. Since January 2021 to current we have had 31 calls for service at this address for violations such as, vagrancies, trespass, found property, recovered property, and codes nuisance. There are still several violations and concerns that there are vagrants residing at the property and as of August 5, 2022 Mr. Hernandez was still actively residing in the unsafe structure and was found to have an injury to his leg, he was transported to the hospital by Las Cruces Fire Department Station 3.

At this time I recommend and request the NAT team complete an emergency abatement on this property which includes the demolition of the structure. I have and can show that we have exhausted all attempts to compel the owners to bring this premises into compliance via voluntary compliance or through municipal summons. I have also attached a property report to include photos showing the current conditions and violations present on the property.

cc: Larry Nichols
cc: Michael Roach
cc: LT Joy Wiitala

Initials: 
Initials: 
Initials: unavailable

CASE NO. 202100054387

CITY OF LAS CRUCES

Plaintiff

Date Filed 05/28/21

Vs.

JON L HERNANDEZ
1245 W VAN PATTEN AVE
LAS CRUCES, NM 88005
Defendant

CRIMINAL COMPLAINT

CRIME: Unsanitary Conditions, Nuisance (trash), Nuisance (harborage for vermin), Nuisance (dilapidated structure), Nuisance (dilapidated fence), Inoperable Vehicle, House Numbering (Address), Dangerous Container.

1. On May 28th, 2021 I, Officer Arruda, was on Uniform Patrol with the Office of Codes Enforcement, City of Las Cruces, and State of New Mexico.
 2. I observed the property at 1245 W Van Patten with the west facing wall of the structure bowing outward and falling down. There was no curb address, nor numbering on the mailbox or house. There was an accumulation of various items, trash, debris, in large piles on the property. A gold pickup truck was partially dismantled in the back yard. The back fence was broken in a couple places, making it easy for a child to access the yard where the large piles of trash and debris were located, as well as a full sized refrigerator, which appeared to be unused and unsecured in the back yard, with the doors still attached.
 3. The property is owned by the defendant, per a Dona Ana County assessors check
- Defendant is in violation of the Las Cruces Municipal Code Sections listed below:

18-2 (2) Accumulations of rubbish, trash, refuse, litter, junk and other abandoned materials, metals, lumber or other things.

18-2 (3) Any condition which provides harborage for rats, mice, snakes and other vermin.

18-2 (4) Any building or other structure which is in such a dilapidated condition that it is unfit for human habitation, or kept in such an unsanitary condition that it is a menace to the health of people residing in the vicinity thereof, or presents a more than ordinarily dangerous fire hazard in the vicinity where it is located.

18-2 (5) Any condition that is attractive and dangerous to children, such as a vacant accessible building, excavation, dilapidated wall and fences and barbed wire fences along public ways, wood piles and debris on vacant lots which may constitute a hazard to health and welfare to children who may not be able to recognize these dangers.

18-37 No person shall park, store, leave or permit the parking, storing, or leaving of any motor vehicle of any kind which is in an abandoned or wrecked or dismantled or inoperative or partially dismantled condition, whether attended or not, upon any private or public property within the city for a period of time in excess of 72 hours. The presence of an abandoned or wrecked or dismantled or inoperative or partially dismantled vehicle or parts thereof (except such parts that have been reconstructed or converted for practical use) on public property or private property is declared a public nuisance which may be abated in accordance with this article

25-5 It shall be unlawful for any person to permit or cause to remain in or about his premises any solid waste, weeds, automobiles not in operating condition, wastewater or any conglomeration or residue thereof, which emits odors or serves as a feeding or breeding place for flies, insects or rodents and which in the opinion of the city manager is unsanitary or injurious to public health. The accumulation of building materials, pipes, lumber or boxes may be maintained on the premises, if the accumulation is evenly piled and stacked, for a reasonable length of time to be determined by the city manager.

30-1(b) Every owner, lessee, occupant or tenant of any house, townhouse, building, mobile home, group of buildings, apartment, or mobile home park within the city limits shall provide numbering using a contrasting or reflective paint on the curb at the driveway entrance facing the street. Each residence, structure or complex shall further provide suitable numbering services (non-reflective unless otherwise required) on each respective structure in a conspicuous place over or at the front entrance of the structure or complex. Such numbering shall be visible day and night from the street or right-of-way.

19-339 (1) Abandoning, discarding or keeping in any place accessible to children any refrigerator, icebox, freezer, airtight container, cabinet or similar container, of a capacity of 1½ cubic feet or more, which is no longer in use, without having the attached doors, hinges, lids or latches removed or without sealing the doors or other entrances so as to make it impossible for anyone to be imprisoned therein; or

(2) Who, being the owner, lessee or manager of any premises, knowingly permits any abandoned or discarded refrigerator, icebox, freezer, airtight container, cabinet or similar container of a capacity of 1½ cubic feet or more, and which remains upon such premises in a condition whereby a child may be imprisoned therein.

Contrary to Section(s) 18-2(2), 18-2(3), 18-2(4), 18-2(5), 18-37, 25-5, 30-1, and 19-339, Las Cruces Municipal Code.

I SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT THE FACTS SET FORTH ABOVE ARE TRUE TO THE BEST OF MY INFORMATION AND BELIEF. I UNDERSTAND THAT IT IS A CRIMINAL OFFENSE SUBJECT TO THE PENALTY OF IMPRISONMENT TO MAKE A FALSE STATEMENT IN A CRIMINAL COMPLAINT.

Jeffery Arruda PSN 468

Codes Enforcement Officer
Title

Approved: _____

CASE NO. 202100054387

CITY OF LAS CRUCES

Plaintiff

Date Filed 05/28/21

Vs.

LORRAINE HERNANDEZ
1245 W VAN PATTEN AVE
LAS CRUCES, NM 88005
Defendant

CRIMINAL COMPLAINT

CRIME: Unsanitary Conditions, Nuisance (trash), Nuisance (harborage for vermin), Nuisance (dilapidated structure), Nuisance (dilapidated fence), Inoperable Vehicle, House Numbering (Address), Dangerous Container.

1. On May 28th, 2021 I, Officer Arruda, was on Uniform Patrol with the Office of Codes Enforcement, City of Las Cruces, and State of New Mexico.
2. I observed the property at 1245 W Van Patten with the west facing wall of the structure bowing outward and falling down. There was no curb address, nor numbering on the mailbox or house. There was an accumulation of various items, trash, debris, in large piles on the property. A gold pickup truck was partially dismantled in the back yard. The back fence was broken in a couple places, making it easy for a child to access the yard where the large piles of trash and debris were located, as well as a full sized refrigerator, which appeared to be unused and unsecured in the back yard, with the doors still attached.
3. The property is owned by the defendant, per a Dona Ana County assessors check

Defendant is in violation of the Las Cruces Municipal Code Sections listed below:

18-2 (2) Accumulations of rubbish, trash, refuse, litter, junk and other abandoned materials, metals, lumber or other things.

18-2 (3) Any condition which provides harborage for rats, mice, snakes and other vermin.

18-2 (4) Any building or other structure which is in such a dilapidated condition that it is unfit for human habitation, or kept in such an unsanitary condition that it is a menace to the health of people residing in the vicinity thereof, or presents a more than ordinarily dangerous fire hazard in the vicinity where it is located.

18-2 (5) Any condition that is attractive and dangerous to children, such as a vacant accessible building, excavation, dilapidated wall and fences and barbed wire fences along public ways, wood piles and debris on vacant lots which may constitute a hazard to health and welfare to children who may not be able to recognize these dangers.

18-37 No person shall park, store, leave or permit the parking, storing, or leaving of any motor vehicle of any kind which is in an abandoned or wrecked or dismantled or inoperative or partially dismantled condition, whether attended or not, upon any private or public property within the city for a period of time in excess of 72 hours. The presence of an abandoned or wrecked or dismantled or inoperative or partially dismantled vehicle or parts thereof (except such parts that have been reconstructed or converted for practical use) on public property or private property is declared a public nuisance which may be abated in accordance with this article

25-5 It shall be unlawful for any person to permit or cause to remain in or about his premises any solid waste, weeds, automobiles not in operating condition, wastewater or any conglomeration or residue thereof, which emits odors or serves as a feeding or breeding place for flies, insects or rodents and which in the opinion of the city manager is unsanitary or injurious to public health. The accumulation of building materials, pipes, lumber or boxes may be maintained on the premises, if the accumulation is evenly piled and stacked, for a reasonable length of time to be determined by the city manager.

30-1(b) Every owner, lessee, occupant or tenant of any house, townhouse, building, mobile home, group of buildings, apartment, or mobile home park within the city limits shall provide numbering using a contrasting or reflective paint on the curb at the driveway entrance facing the street. Each residence, structure or complex shall further provide suitable numbering services (non-reflective unless otherwise required) on each respective structure in a conspicuous place over or at the front entrance of the structure or complex. Such numbering shall be visible day and night from the street or right-of-way.

19-339 (1) Abandoning, discarding or keeping in any place accessible to children any refrigerator, icebox, freezer, airtight container, cabinet or similar container, of a capacity of 1½ cubic feet or more, which is no longer in use, without having the attached doors, hinges, lids or latches removed or without sealing the doors or other entrances so as to make it impossible for anyone to be imprisoned therein; or

(2) Who, being the owner, lessee or manager of any premises, knowingly permits any abandoned or discarded refrigerator, icebox, freezer, airtight container, cabinet or similar container of a capacity of 1½ cubic feet or more, and which remains upon such premises in a condition whereby a child may be imprisoned therein.

Contrary to Section(s) 18-2(2), 18-2(3), 18-2(4), 18-2(5), 18-37, 25-5, 30-1, and 19-339, Las Cruces Municipal Code.

I SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT THE FACTS SET FORTH ABOVE ARE TRUE TO THE BEST OF MY INFORMATION AND BELIEF. I UNDERSTAND THAT IT IS A CRIMINAL OFFENSE SUBJECT TO THE PENALTY OF IMPRISONMENT TO MAKE A FALSE STATEMENT IN A CRIMINAL COMPLAINT.

Jeffery Arruda PSN 468

Codes Enforcement Officer
Title

Approved: _____

CASE NO. LCPD2021-00060957

CITY OF LAS CRUCES

Plaintiff

Date Filed 06/16/2021

Vs

Hernandez, Jon L.
1245 Van Patten Avenue
Las Cruces, NM 88005

Defendant

CRIMINAL COMPLAINT

CRIME Dilapidated Structure, Building Dangerous to Children, Nuisance (Prohibited Weeds), Nuisance (Prohibited Trash), Abandoned Dangerous Container, Unsanitary Conditions, Unlisted Address

The undersigned, under penalty of perjury, complains that on the 16th day, of June 2021, in the City of Las Cruces, County of Dona Ana, State of New Mexico, the above-named defendant(s) did:

The above referenced individual has allowed a dilapidated structure as well as an abandoned dangerous container and accumulation of weeds and trash to remain on his property 1245 Van Patten Avenue in the City of Las Cruces, County of Dona Ana, and State of New Mexico.

The structure is in such a dilapidated condition that it is unfit for human habitation, or kept in such an unsanitary condition that it is a menace to the health of people residing in the vicinity thereof, or presents a more than ordinarily dangerous fire hazard in the vicinity where it is located. It is attractive and dangerous to children as it is a vacant accessible building along a public right of way with piles of debris and may constitute a hazard to health and welfare to children who may not be able to recognize these dangers.

The defendant has permitted or caused to remain in or about his premises any solid waste, weeds, automobiles not in operating condition which emits odors or serves as a feeding or breeding place for flies, insects or rodents and which in the opinion of the city manager is unsanitary or injurious to public health. In addition, the defendant has failed to post the numbers of his address at the curb in front of his property or post them on the residence.

The violations were reported on June 16, 2021 at which time I, Officer G. Anaya C465 responded to the property. Mr. Jon L. Hernandez is in violation of the City of Las Cruces Municipal Code for allowing a dilapidated structure that is dangerous to children as well as an abandoned dangerous container and accumulation of weeds and trash to remain on his premises. In addition, he is in violation for permitting the property to remain in unsanitary conditions as well as failing to post the numbers of his address on the residence or paint them at the curb in front of his property 1245 Van Patten Avenue.

Contrary to Section(s) 18-2(4), 18-2(5), 19-339(A2), 18-2(1), 18-2(2), 25-5, 30-1(B)

I SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT THE FACTS SET FORTH ABOVE ARE TRUE TO THE BEST OF MY INFORMATION AND BELIEF. I UNDERSTAND THAT IT IS A CRIMINAL OFFENSE SUBJECT TO THE PENALTY OF IMPRISONMENT TO MAKE A FALSE STATEMENT IN A CRIMINAL COMPLAINT.

Gerard Anaya C465

Codes Enforcement Officer
Title

Approved: _____

CASE NO. LCPD2021-00061006

CITY OF LAS CRUCES

Plaintiff

Date Filed 06/16/2021

Vs

Hernandez, Lorraine G.
1460 Branding Iron Cir
Las Cruces, NM 88005

Defendant

CRIMINAL COMPLAINT

CRIME Dilapidated Structure, Building Dangerous to Children, Nuisance (Prohibited Weeds), Nuisance (Prohibited Trash), Abandoned Dangerous Container, Unsanitary Conditions, Unlisted Address

The undersigned, under penalty of perjury, complains that on the 16th day, of June 2021, in the City of Las Cruces, County of Dona Ana, State of New Mexico, the above-named defendant(s) did:

The above referenced individual has allowed a dilapidated structure as well as an abandoned dangerous container and accumulation of weeds and trash to remain on her property 1245 Van Patten Avenue in the City of Las Cruces, County of Dona Ana, and State of New Mexico.

The structure is in such a dilapidated condition that it is unfit for human habitation, or kept in such an unsanitary condition that it is a menace to the health of people residing in the vicinity thereof, or presents a more than ordinarily dangerous fire hazard in the vicinity where it is located. It is attractive and dangerous to children as it is a vacant accessible building along a public right of way with piles of debris and may constitute a hazard to health and welfare to children who may not be able to recognize these dangers.

The defendant has permitted or caused to remain in or about her premises any solid waste, weeds, automobiles not in operating condition which emits odors or serves as a feeding or breeding place for flies, insects or rodents and which in the opinion of the city manager is unsanitary or injurious to public health. In addition, the defendant has failed to paint the numbers of her address at the curb in front of her property or post them on the residence.

The violations were reported on June 16, 2021 at which time I, Officer G. Anaya C465 responded to the property. Mr. Lorraine G. Hernandez is in violation of the City of Las Cruces Municipal Code for allowing a dilapidated structure that is dangerous to children as well as an abandoned dangerous container and accumulation of weeds and trash to remain on her premises. In addition, she is in violation for permitting the property to remain in unsanitary conditions as well as failing to post the numbers of her address on the residence or paint them at the curb in front of her property 1245 Van Patten Avenue.

Contrary to Section(s) 18-2(4), 18-2(5), 19-339(A2), 18-2(1), 18-2(2), 25-5, 30-1(B)
I SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT THE FACTS SET FORTH ABOVE ARE TRUE TO THE BEST OF MY INFORMATION AND BELIEF. I UNDERSTAND THAT IT IS A CRIMINAL OFFENSE SUBJECT TO THE PENALTY OF IMPRISONMENT TO MAKE A FALSE STATEMENT IN A CRIMINAL COMPLAINT.

Gerard Anaya C465

Codes Enforcement Officer
Title

Approved: _____

CASE NO. 2022008214

CITY OF LAS CRUCES

Plaintiff

Date Filed 01/26/22

Vs.

JON L HERNANDEZ
1245 W VAN PATTEN AVE
LAS CRUCES, NM 88005
Defendant

CRIMINAL COMPLAINT

CRIME: Unsanitary Conditions, Nuisance (trash), Nuisance (harborage for vermin), Nuisance (dilapidated structure), Nuisance (dilapidated fence), Inoperable Vehicle, Dangerous Container.

1. On January 26th, 2022 I, Officer Arruda, was on Uniform Patrol with the Office of Codes Enforcement, City of Las Cruces, and State of New Mexico.
 2. I observed the property at 1245 W Van Patten with the west facing wall of the structure bowing outward and falling down. There was no curb address, nor numbering on the mailbox or house. There was an accumulation of various items, trash, debris, in large piles on the property. A gold pickup truck was partially dismantled in the back yard. The back fence was broken in a couple places, making it easy for a child to access the yard where the large piles of trash and debris were located, as well as a full sized refrigerator, which appeared to be unused and unsecured in the back yard, with the doors still attached.
 3. The property is owned by the defendant, per a Dona Ana County assessors check
- Defendant is in violation of the Las Cruces Municipal Code Sections listed below:

18-2 (2) Accumulations of rubbish, trash, refuse, litter, junk and other abandoned materials, metals, lumber or other things.

18-2 (3) Any condition which provides harborage for rats, mice, snakes and other vermin.

18-2 (4) Any building or other structure which is in such a dilapidated condition that it is unfit for human habitation, or kept in such an unsanitary condition that it is a menace to the health of people residing in the vicinity thereof, or presents a more than ordinarily dangerous fire hazard in the vicinity where it is located.

18-2 (5) Any condition that is attractive and dangerous to children, such as a vacant accessible building, excavation, dilapidated wall and fences and barbed wire fences along public ways, wood piles and debris on vacant lots which may constitute a hazard to health and welfare to children who may not be able to recognize these dangers.

18-37 No person shall park, store, leave or permit the parking, storing, or leaving of any motor vehicle of any kind which is in an abandoned or wrecked or dismantled or inoperative or partially dismantled condition, whether attended or not, upon any private or public property within the city for a period of time in excess of 72 hours. The presence of an abandoned or wrecked or dismantled or inoperative or partially dismantled vehicle or parts thereof (except such parts that have been reconstructed or converted for practical use) on public property or private property is declared a public nuisance which may be abated in accordance with this article

25-5 (a) It shall be unlawful for any person to permit or cause to remain in or about their property any solid waste, which emits odors or serves as a feeding or breeding place for flies, mosquitos, insects or rodents and which, in the opinion of the utilities director or his/her designee, is unsanitary or injurious to public health.

19-339 (1) Abandoning, discarding or keeping in any place accessible to children any refrigerator, icebox, freezer, airtight container, cabinet or similar container, of a capacity of 1½ cubic feet or more, which is no longer in use, without having the attached doors, hinges, lids or latches removed or without sealing the doors or other entrances so as to make it impossible for anyone to be imprisoned therein; or

(2) Who, being the owner, lessee or manager of any premises, knowingly permits any abandoned or discarded refrigerator, icebox, freezer, airtight container, cabinet or similar container of a capacity of 1½ cubic feet or more, and which remains upon such premises in a condition whereby a child may be imprisoned therein.

Contrary to Section(s) 18-2(2), 18-2(3), 18-2(4), 18-2(5), 18-37, 25-5, and 19-339, Las Cruces Municipal Code.

I SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT THE FACTS SET FORTH ABOVE ARE TRUE TO THE BEST OF MY INFORMATION AND BELIEF. I UNDERSTAND THAT IT IS A CRIMINAL OFFENSE SUBJECT TO THE PENALTY OF IMPRISONMENT TO MAKE A FALSE STATEMENT IN A CRIMINAL COMPLAINT.

Jeffery Arruda PSN 468

Codes Enforcement Officer
Title

Approved: _____

CASE NO. 2022008214

CITY OF LAS CRUCES

Plaintiff

Date Filed 01/26/22

Vs.

LORRAINE G HERNANDEZ
1245 W VAN PATTEN AVE
LAS CRUCES, NM 88005
Defendant

CRIMINAL COMPLAINT

CRIME: Unsanitary Conditions, Nuisance (trash), Nuisance (harborage for vermin), Nuisance (dilapidated structure), Nuisance (dilapidated fence), Inoperable Vehicle, Dangerous Container.

1. On January 26th, 2022 I, Officer Arruda, was on Uniform Patrol with the Office of Codes Enforcement, City of Las Cruces, and State of New Mexico.
2. I observed the property at 1245 W Van Patten with the west facing wall of the structure bowing outward and falling down. There was no curb address, nor numbering on the mailbox or house. There was an accumulation of various items, trash, debris, in large piles on the property. A gold pickup truck was partially dismantled in the back yard. The back fence was broken in a couple places, making it easy for a child to access the yard where the large piles of trash and debris were located, as well as a full sized refrigerator, which appeared to be unused and unsecured in the back yard, with the doors still attached.
3. The property is owned by the defendant, per a Dona Ana County assessors check

Defendant is in violation of the Las Cruces Municipal Code Sections listed below:

18-2 (2) Accumulations of rubbish, trash, refuse, litter, junk and other abandoned materials, metals, lumber or other things.

18-2 (3) Any condition which provides harborage for rats, mice, snakes and other vermin.

18-2 (4) Any building or other structure which is in such a dilapidated condition that it is unfit for human habitation, or kept in such an unsanitary condition that it is a menace to the health of people residing in the vicinity thereof, or presents a more than ordinarily dangerous fire hazard in the vicinity where it is located.

18-2 (5) Any condition that is attractive and dangerous to children, such as a vacant accessible building, excavation, dilapidated wall and fences and barbed wire fences along public ways, wood piles and debris on vacant lots which may constitute a hazard to health and welfare to children who may not be able to recognize these dangers.

18-37 No person shall park, store, leave or permit the parking, storing, or leaving of any motor vehicle of any kind which is in an abandoned or wrecked or dismantled or inoperative or partially dismantled condition, whether attended or not, upon any private or public property within the city for a period of time in excess of 72 hours. The presence of an abandoned or wrecked or dismantled or inoperative or partially dismantled vehicle or parts thereof (except such parts that have been reconstructed or converted for practical use) on public property or private property is declared a public nuisance which may be abated in accordance with this article

25-5 (a) It shall be unlawful for any person to permit or cause to remain in or about their property any solid waste, which emits odors or serves as a feeding or breeding place for flies, mosquitos, insects or rodents and which, in the opinion of the utilities director or his/her designee, is unsanitary or injurious to public health.

19-339 (1) Abandoning, discarding or keeping in any place accessible to children any refrigerator, icebox, freezer, airtight container, cabinet or similar container, of a capacity of 1½ cubic feet or more, which is no longer in use, without having the attached doors, hinges, lids or latches removed or without sealing the doors or other entrances so as to make it impossible for anyone to be imprisoned therein; or

(2) Who, being the owner, lessee or manager of any premises, knowingly permits any abandoned or discarded refrigerator, icebox, freezer, airtight container, cabinet or similar container of a capacity of 1½ cubic feet or more, and which remains upon such premises in a condition whereby a child may be imprisoned therein.

Contrary to Section(s) 18-2(2), 18-2(3), 18-2(4), 18-2(5), 18-37, 25-5, and 19-339, Las Cruces Municipal Code.

I SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT THE FACTS SET FORTH ABOVE ARE TRUE TO THE BEST OF MY INFORMATION AND BELIEF. I UNDERSTAND THAT IT IS A CRIMINAL OFFENSE SUBJECT TO THE PENALTY OF IMPRISONMENT TO MAKE A FALSE STATEMENT IN A CRIMINAL COMPLAINT.

Jeffery Arruda PSN 468

Codes Enforcement Officer
Title

Approved: _____

STATE OF NEW MEXICO
MUNICIPAL COURT

COUNTY OF DONA ANA
CITY OF LAS CRUCES

CASE NO. LCPD2022-00042457

CITY OF LAS CRUCES
Plaintiff

Date Filed 04/29/2022

Vs

LORRAINE G. HERNANDEZ
1460 BRANDING IRON CIR
LAS CRUCES, NM 88005

Defendant

CRIMINAL COMPLAINT

CRIME DILAPIDATED STRUCTURE, BUILDING DANGEROUS TO CHILDREN, NUISANCE (PROHIBITED TRASH), ABANDONED DANGEROUS CONTAINER

The undersigned, under penalty of perjury, complains that on the 29th day, of APRIL 2022, in the City of Las Cruces, County of Dona Ana, State of New Mexico, the above-named defendant(s) did:

On April 29, 2022 while on uniformed duty and displaying the badge of a code enforcement officer arrived at 1245 Van Patten Ave Located in the city of Las Cruces, county of Dona Ana and state of New Mexico.

I observed a dilapidated structure as well as an abandoned dangerous container in the form of a refrigerator and accumulation of trash to be on the property.

The structure is in such a dilapidated condition that it is unfit for human habitation, or kept in such an unsanitary condition that it is a menace to the health of people residing in the vicinity thereof, or presents a more than ordinarily dangerous fire hazard in the vicinity where it is located. It is attractive and dangerous to children as it is an accessible building along a public right of way with piles of debris and may constitute a hazard to health and welfare to children who may not be able to recognize these dangers.

Ms. Lorraine G. Hernandez is in violation of the City of Las Cruces Municipal Code for allowing a dilapidated structure that is dangerous to children as well as an abandoned dangerous container and accumulation of and trash to remain on her premises.

Contrary to Section(s) 18-2(4), 18-2(5), 19-339(A2), 18-2(2),

I SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT THE FACTS SET FORTH ABOVE ARE TRUE TO THE BEST OF MY INFORMATION AND BELIEF. I UNDERSTAND THAT IT IS A CRIMINAL OFFENSE SUBJECT TO THE PENALTY OF IMPRISONMENT TO MAKE A FALSE STATEMENT IN A CRIMINAL COMPLAINT.

Rebekah Ellis C482

Codes Enforcement Officer
Title

Approved: _____

STATE OF NEW MEXICO
MUNICIPAL COURT

COUNTY OF DONA ANA
CITY OF LAS CRUCES

CASE NO. LCPD2022-00042449

CITY OF LAS CRUCES
Plaintiff

Date Filed 04/29/2022

Vs

JON L. HERNANDEZ
1245 VAN PATTEN AVENUE
LAS CRUCES, NM 88005

Defendant

CRIMINAL COMPLAINT

CRIME DILAPIDATED STRUCTURE, BUILDING DANGEROUS TO CHILDREN, NUISANCE (PROHIBITED TRASH), ABANDONED DANGEROUS CONTAINER

The undersigned, under penalty of perjury, complains that on the 29th day, of APRIL 2022, in the City of Las Cruces, County of Dona Ana, State of New Mexico, the above-named defendant(s) did:

On April 29, 2022 while on uniformed duty and displaying the badge of a code enforcement officer arrived at 1245 Van Patten Ave Located in the city of Las Cruces, county of Dona Ana and state of New Mexico.

I observed a dilapidated structure as well as an abandoned dangerous container in the form of a refrigerator and accumulation of trash to be on the property.

The structure is in such a dilapidated condition that it is unfit for human habitation, or kept in such an unsanitary condition that it is a menace to the health of people residing in the vicinity thereof, or presents a more than ordinarily dangerous fire hazard in the vicinity where it is located. It is attractive and dangerous to children as it is an accessible building along a public right of way with piles of debris and may constitute a hazard to health and welfare to children who may not be able to recognize these dangers.

Mr. Jon L. Hernandez is in violation of the City of Las Cruces Municipal Code for allowing a dilapidated structure that is dangerous to children as well as an abandoned dangerous container and accumulation of and trash to remain on his premises.

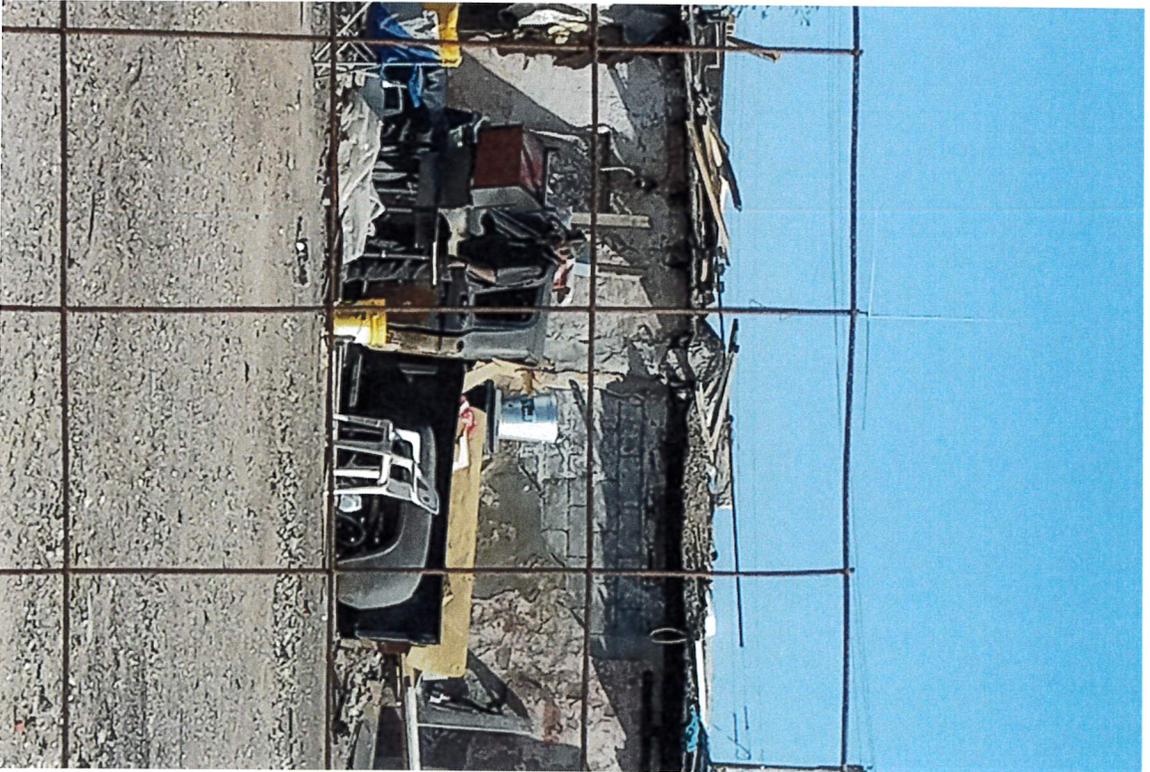
Contrary to Section(s) 18-2(4), 18-2(5), 19-339(A2), 18-2(2),

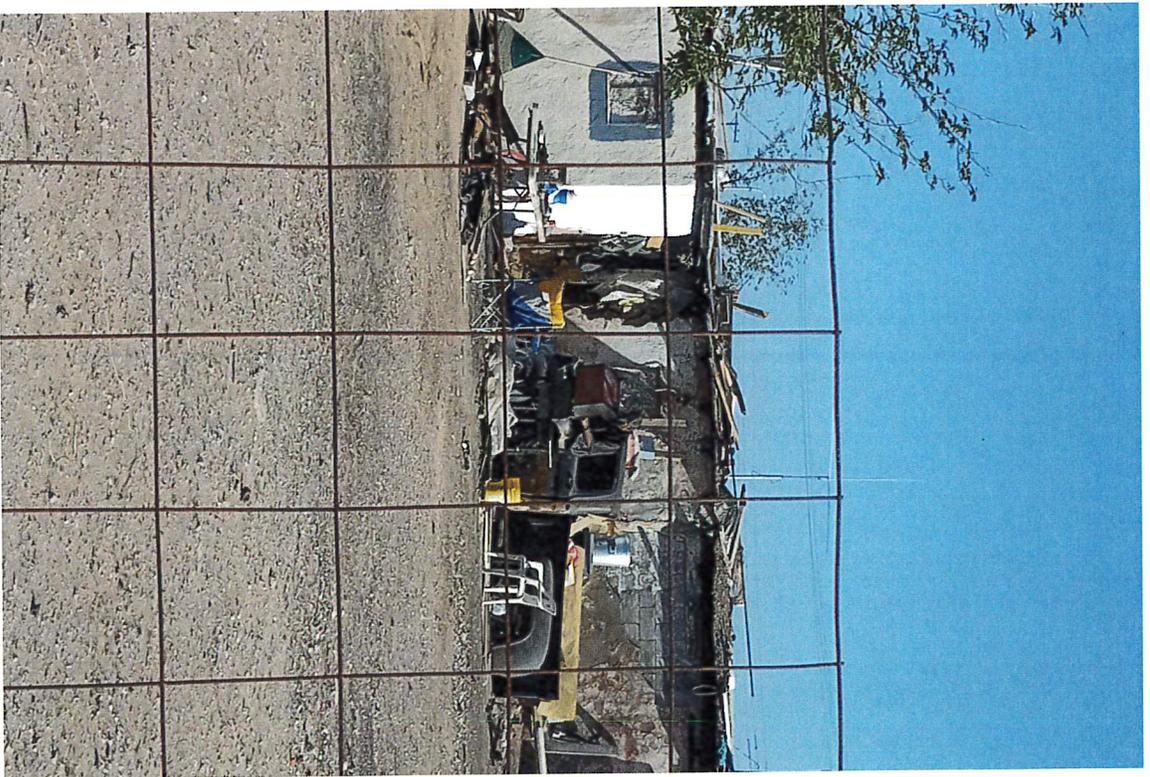
I SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT THE FACTS SET FORTH ABOVE ARE TRUE TO THE BEST OF MY INFORMATION AND BELIEF. I UNDERSTAND THAT IT IS A CRIMINAL OFFENSE SUBJECT TO THE PENALTY OF IMPRISONMENT TO MAKE A FALSE STATEMENT IN A CRIMINAL COMPLAINT.

Rebekah Ellis C482

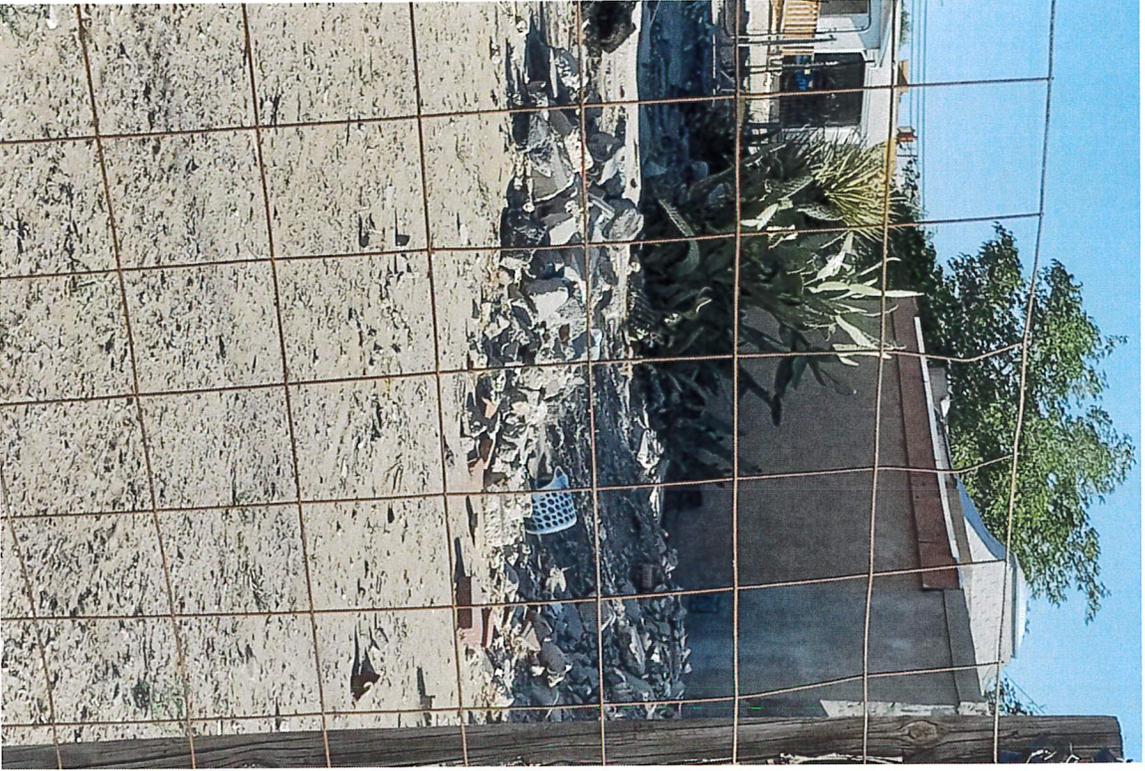
Codes Enforcement Officer
Title

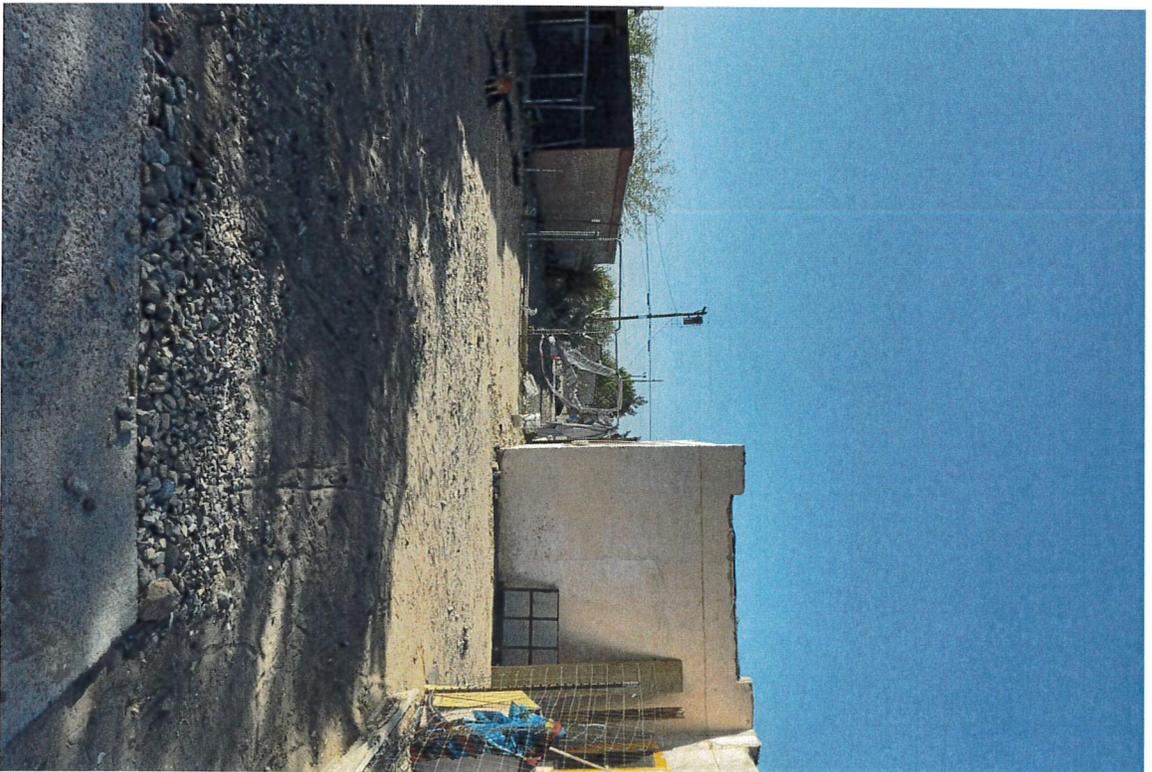
Approved: _____

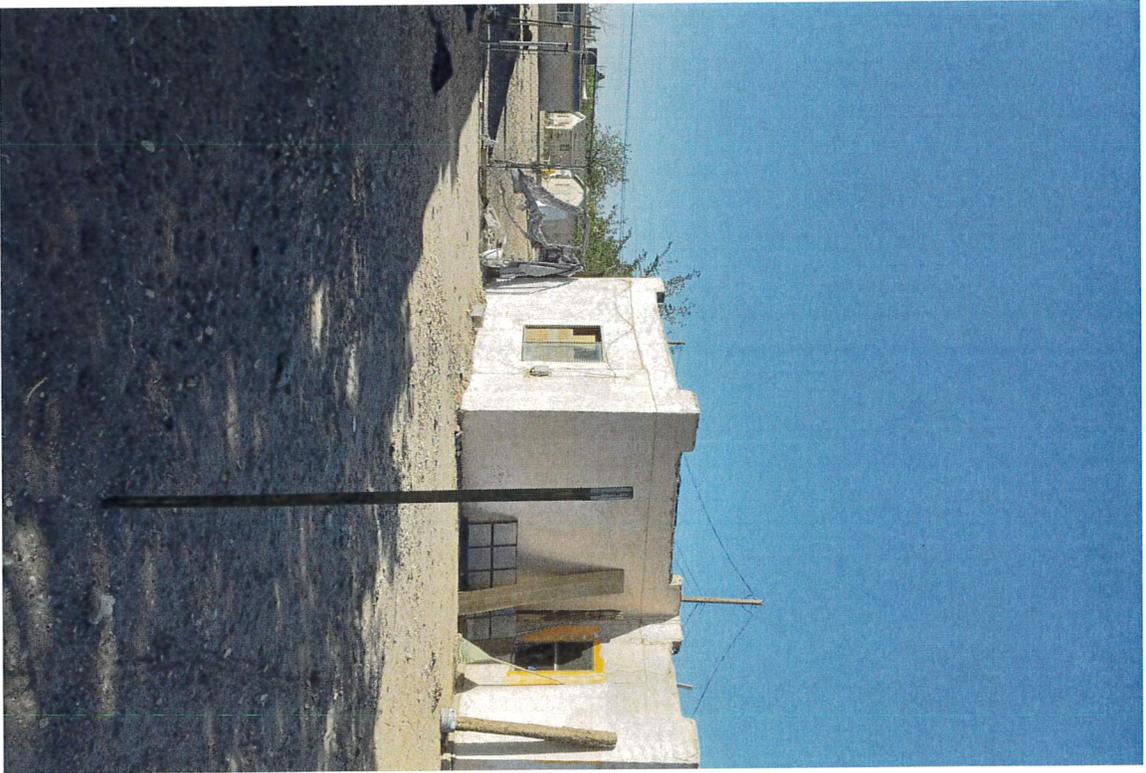






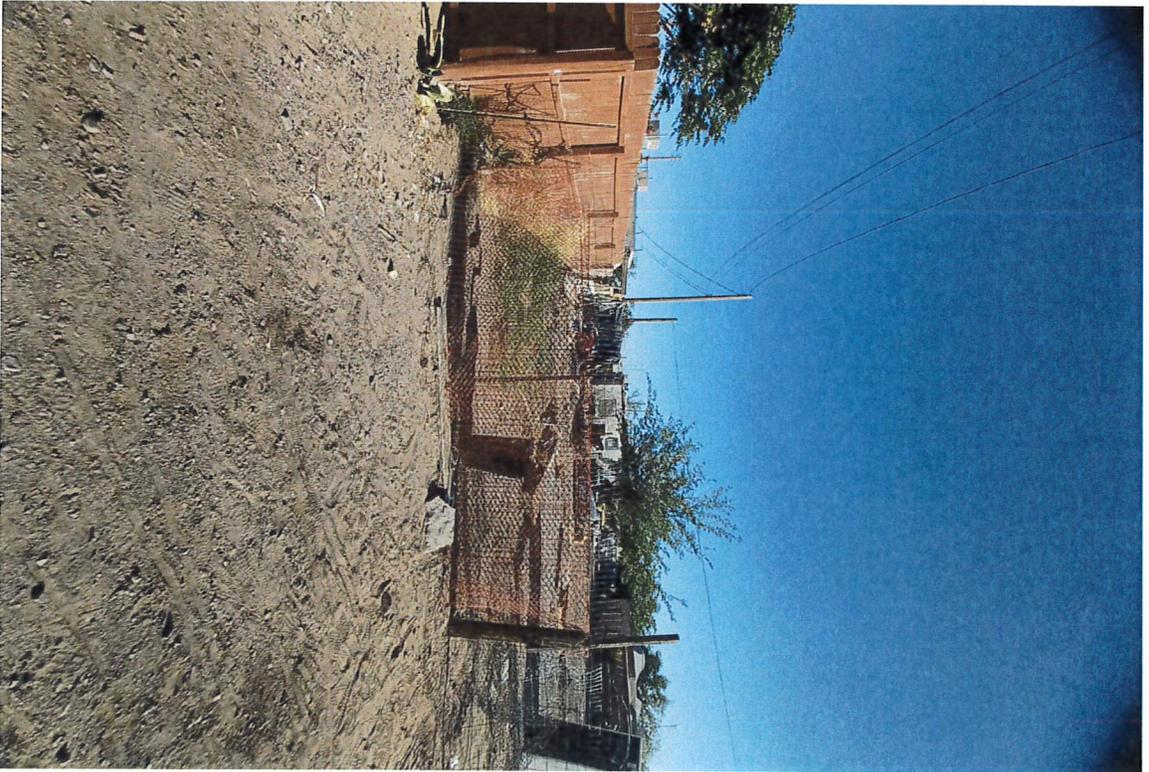
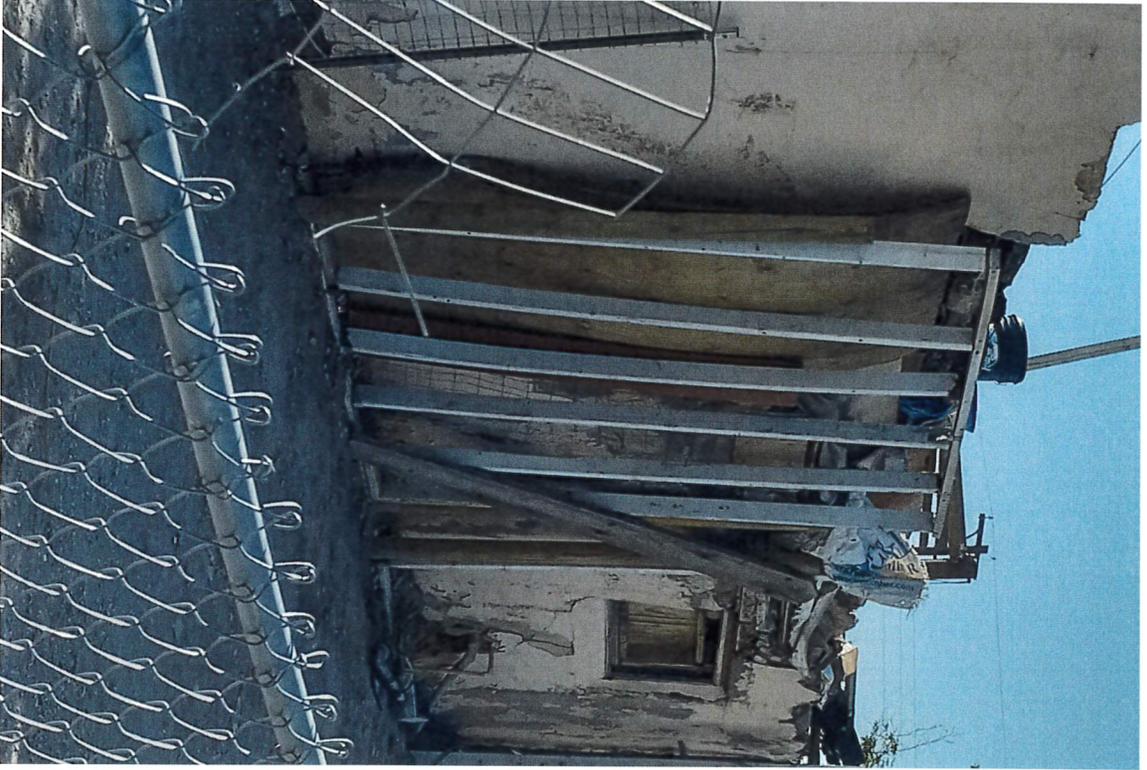




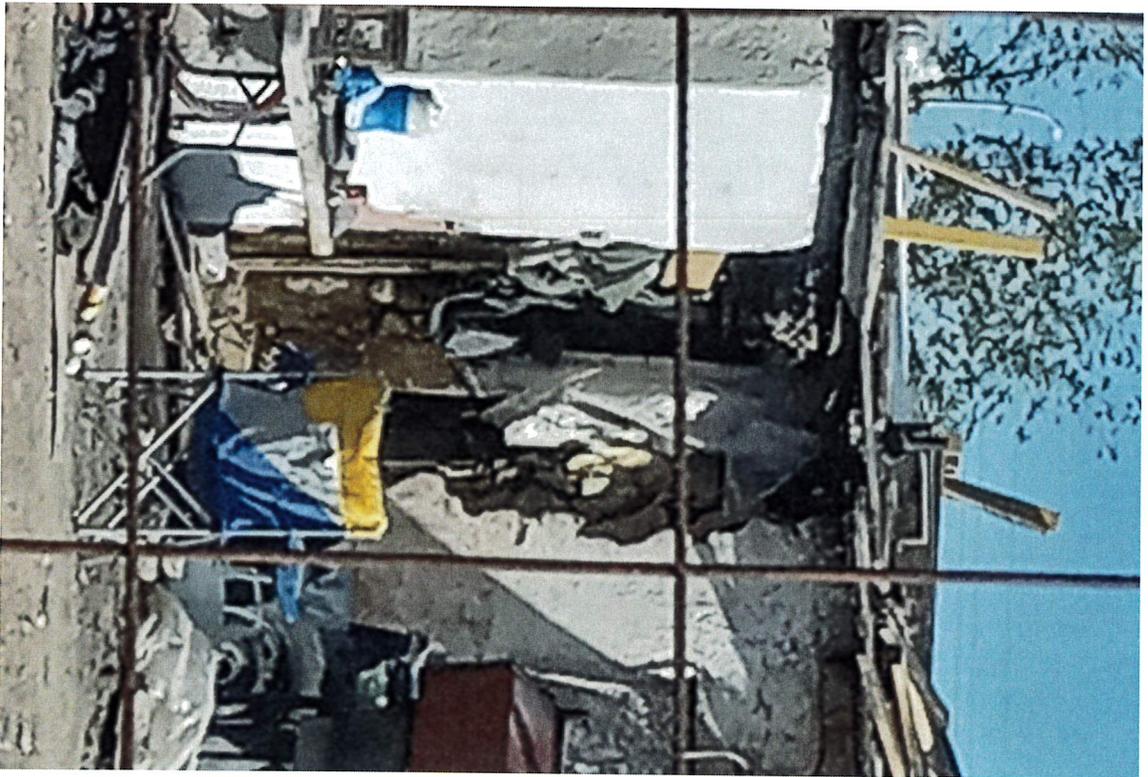


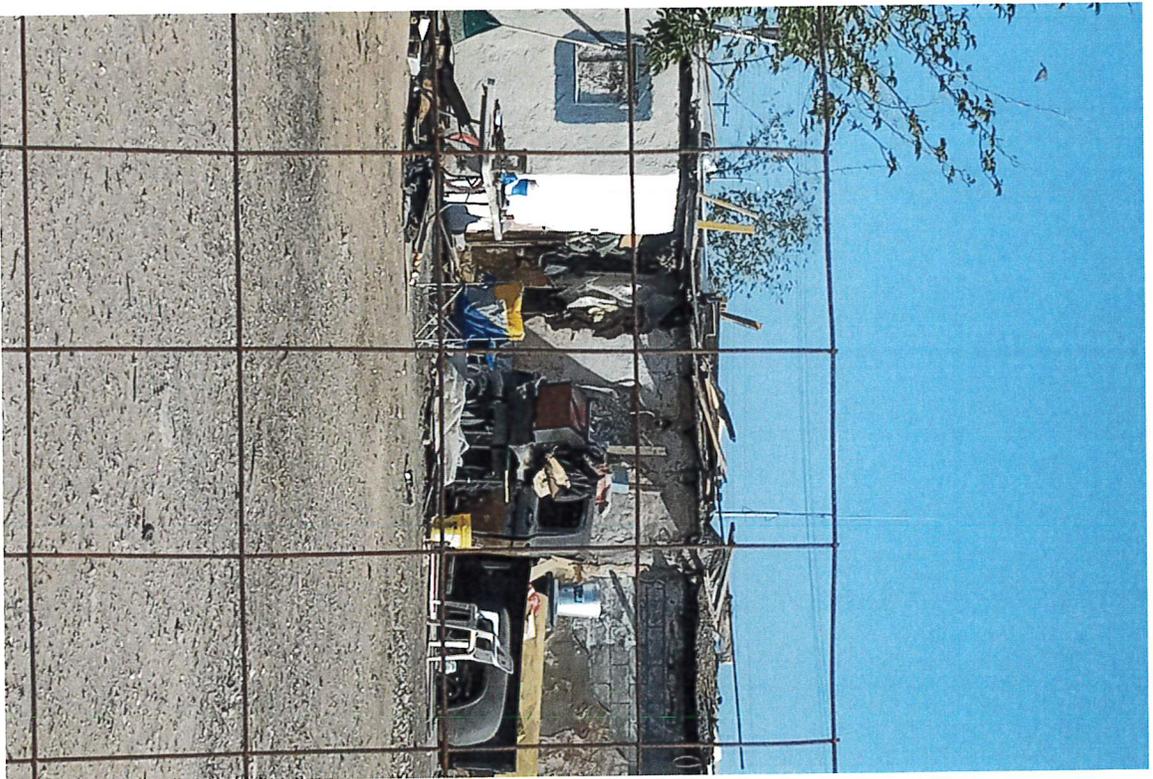




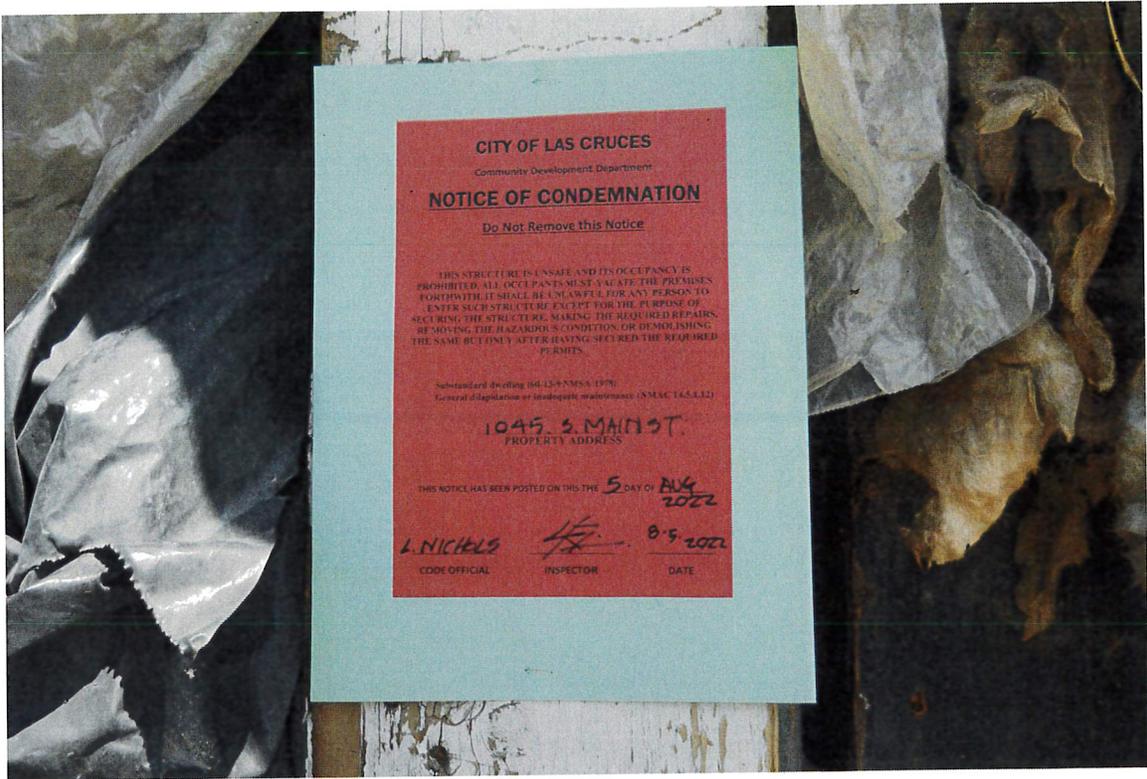














x(4)



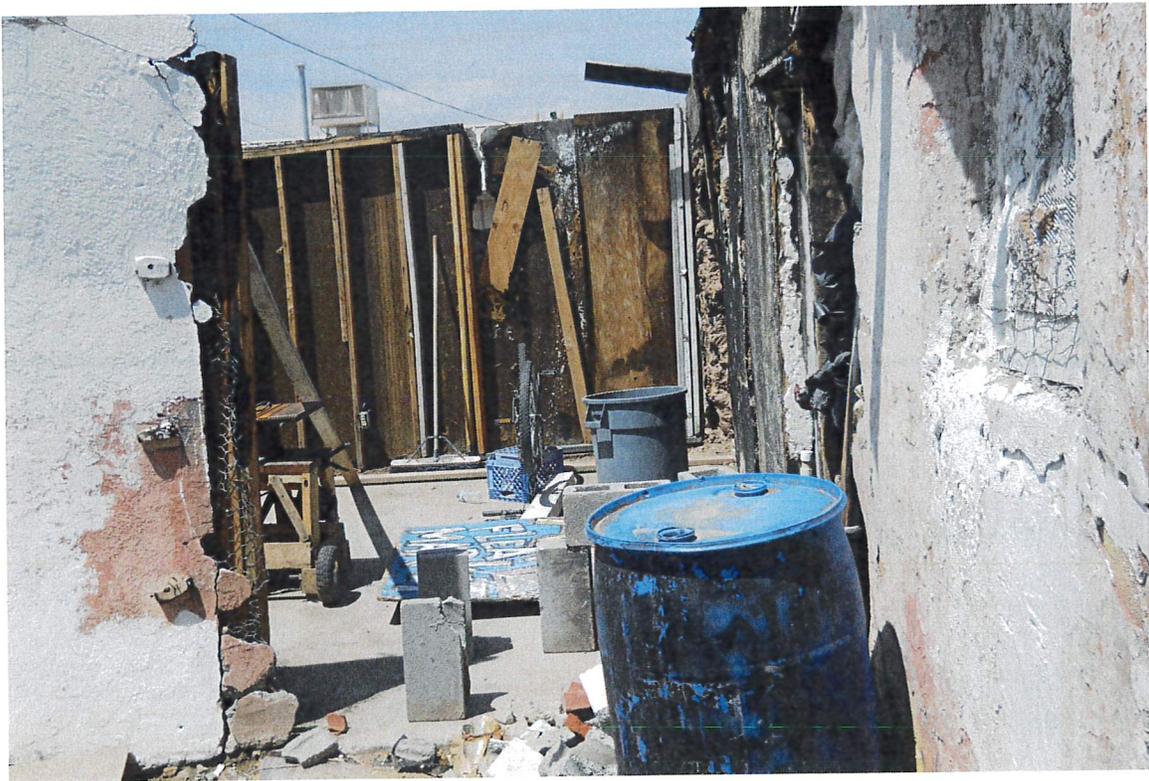
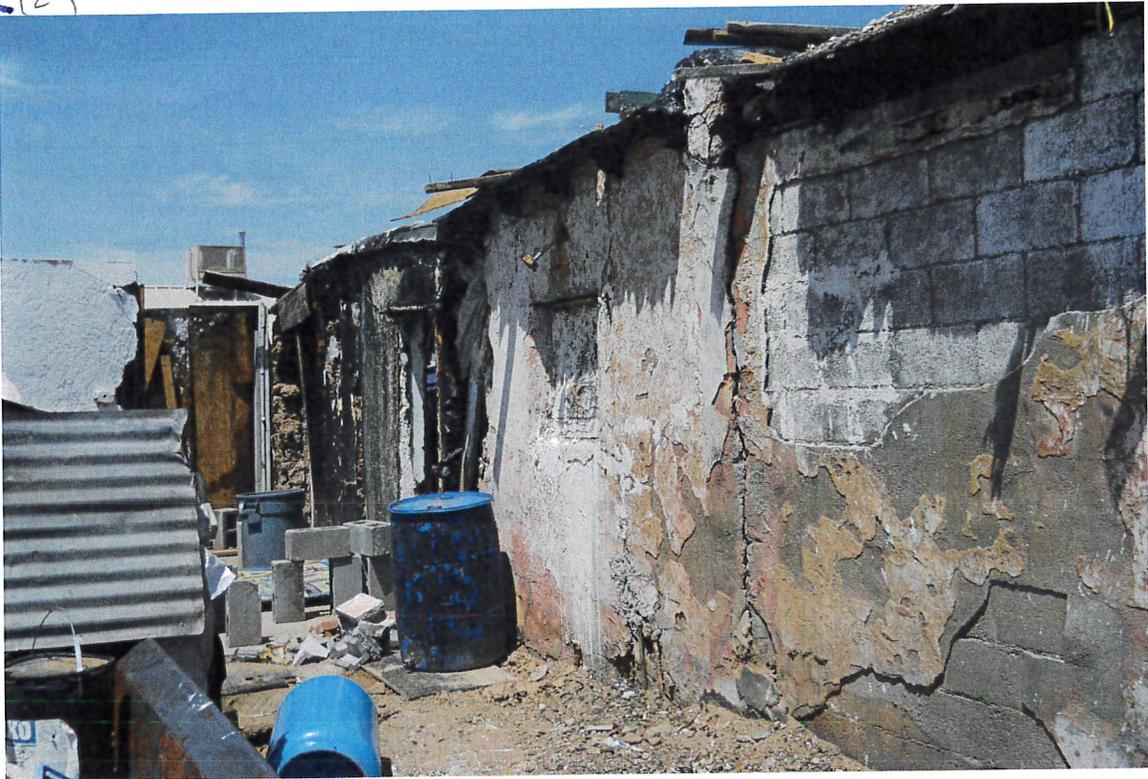


x(3)





(2)















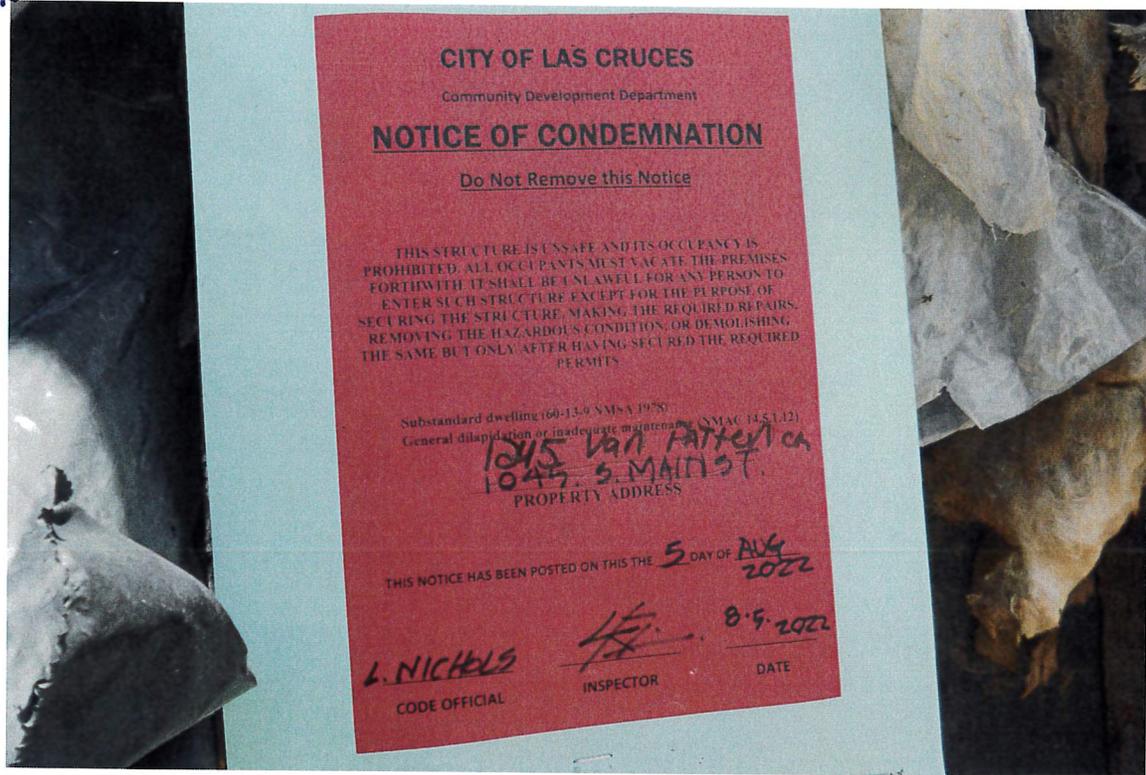




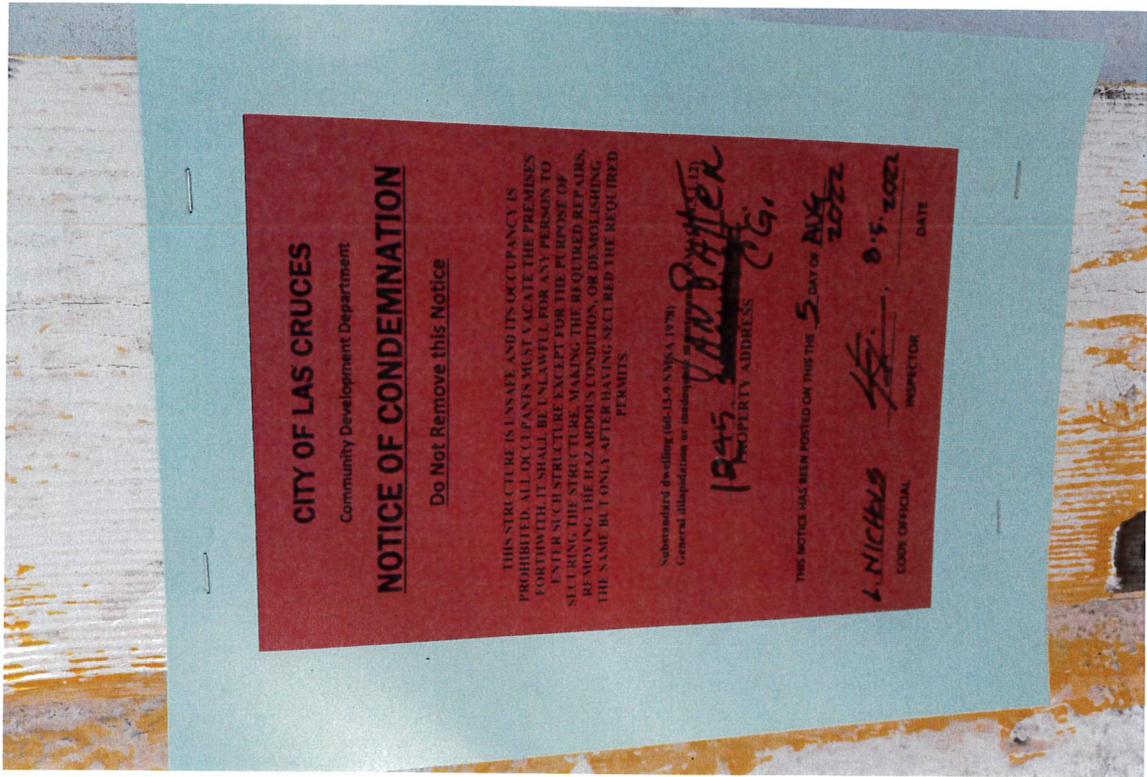


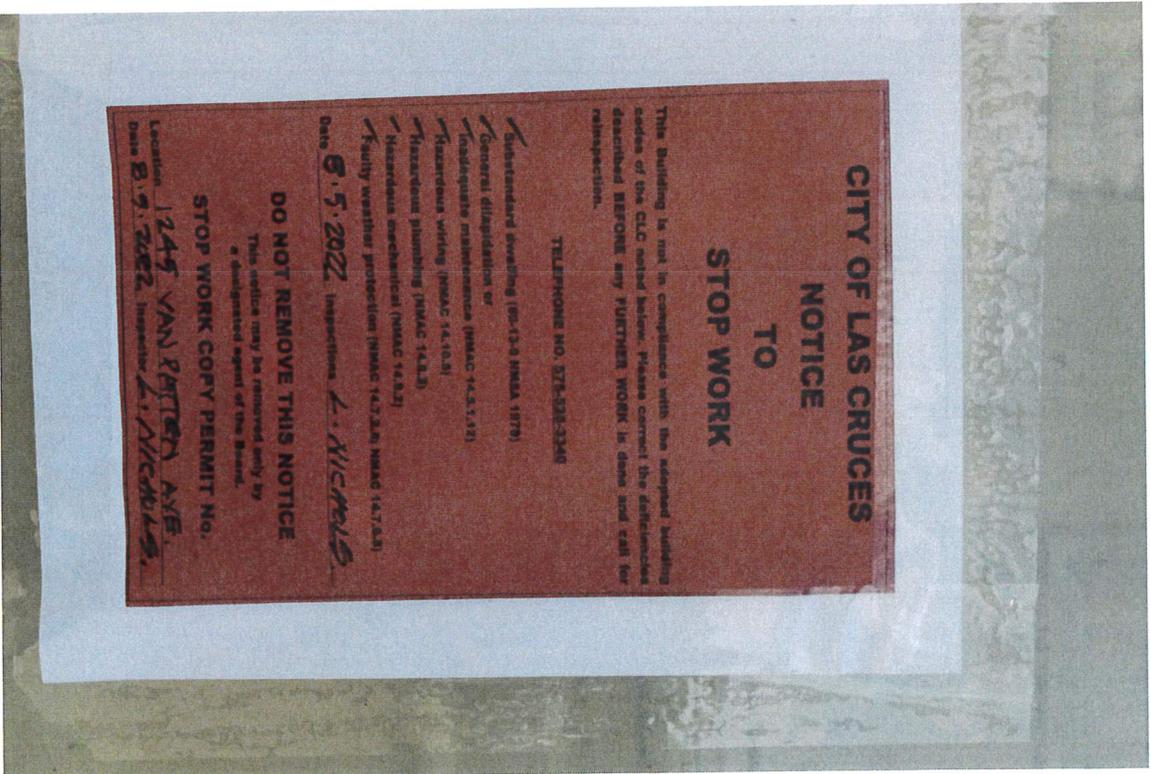


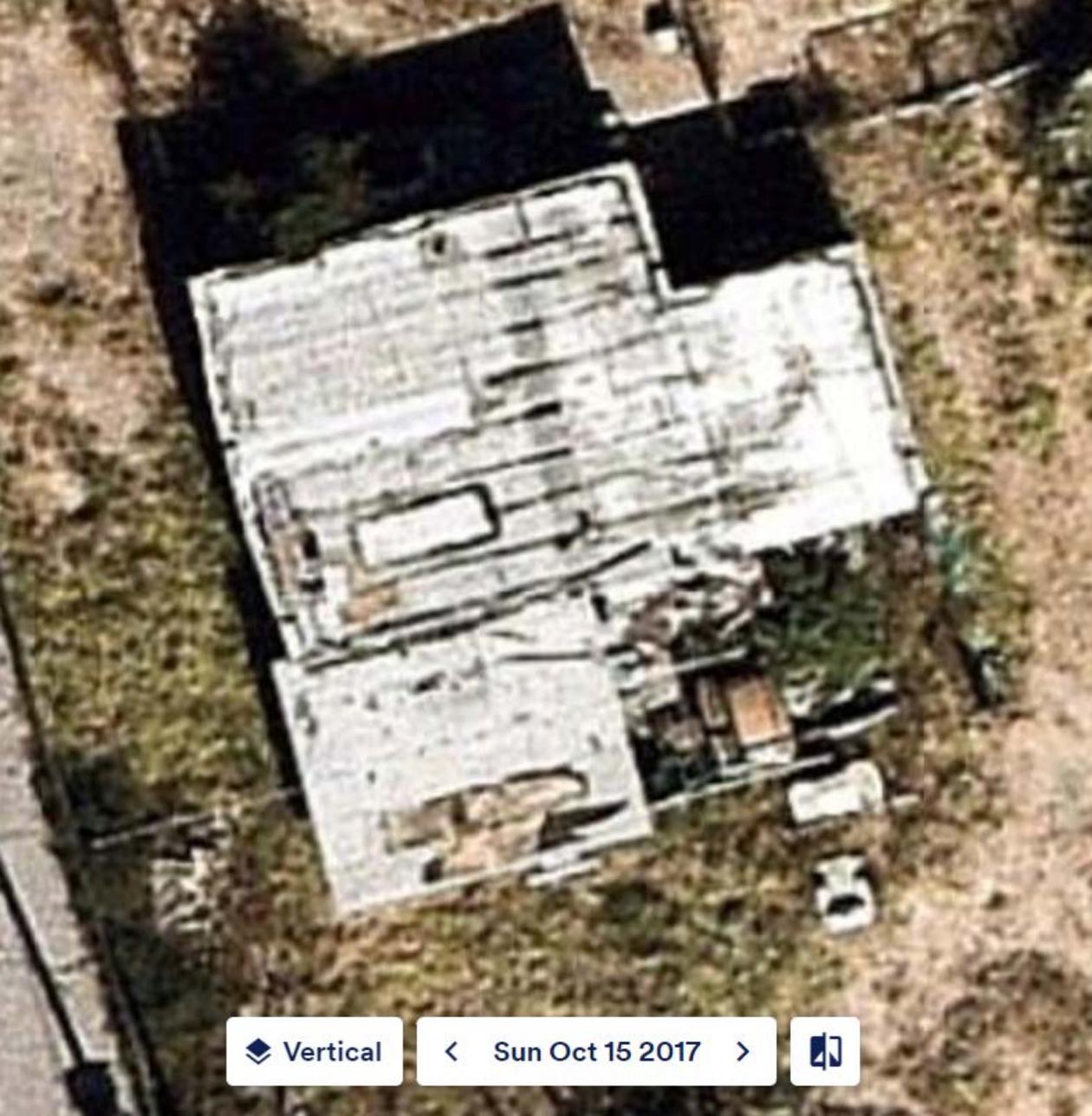
x (1)







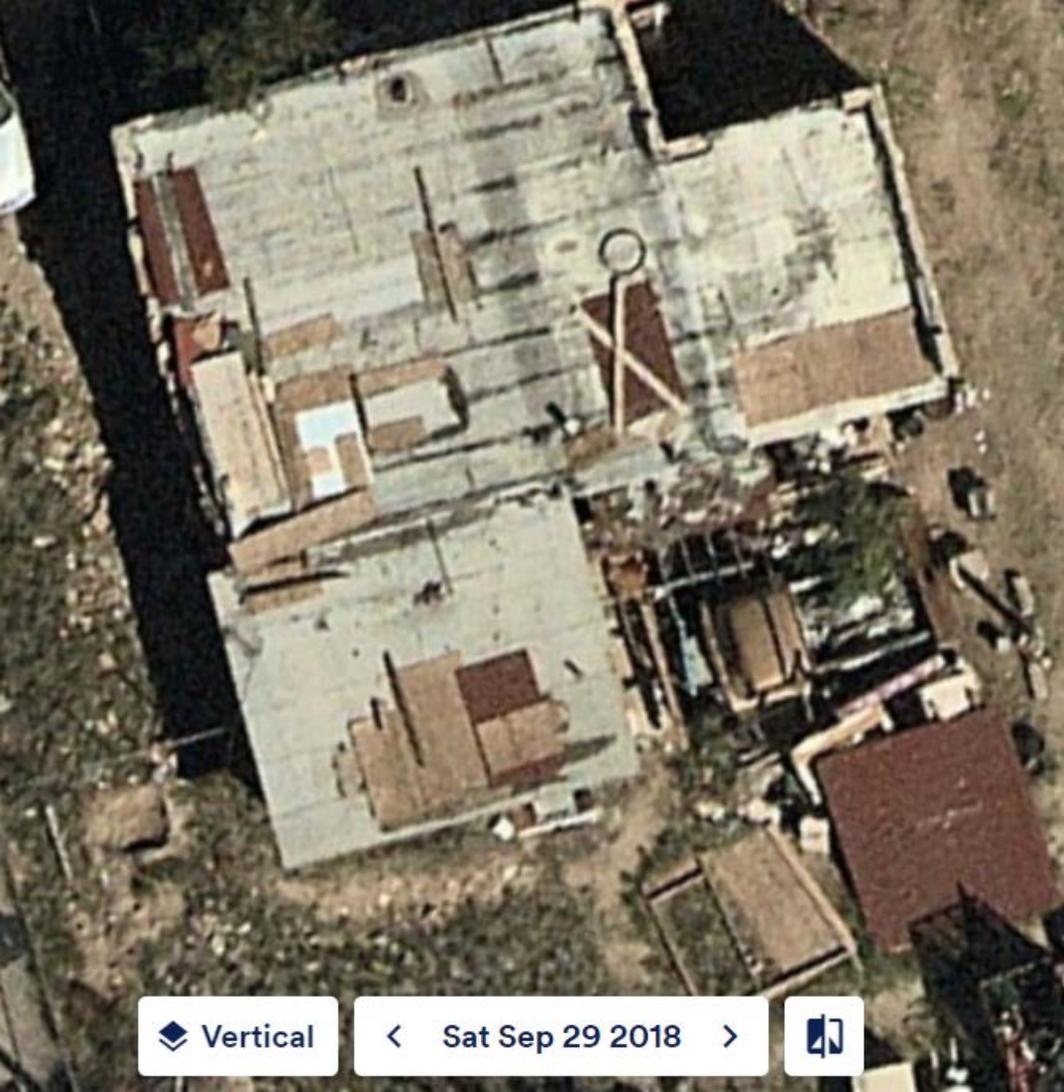




Vertical

< Sun Oct 15 2017 >

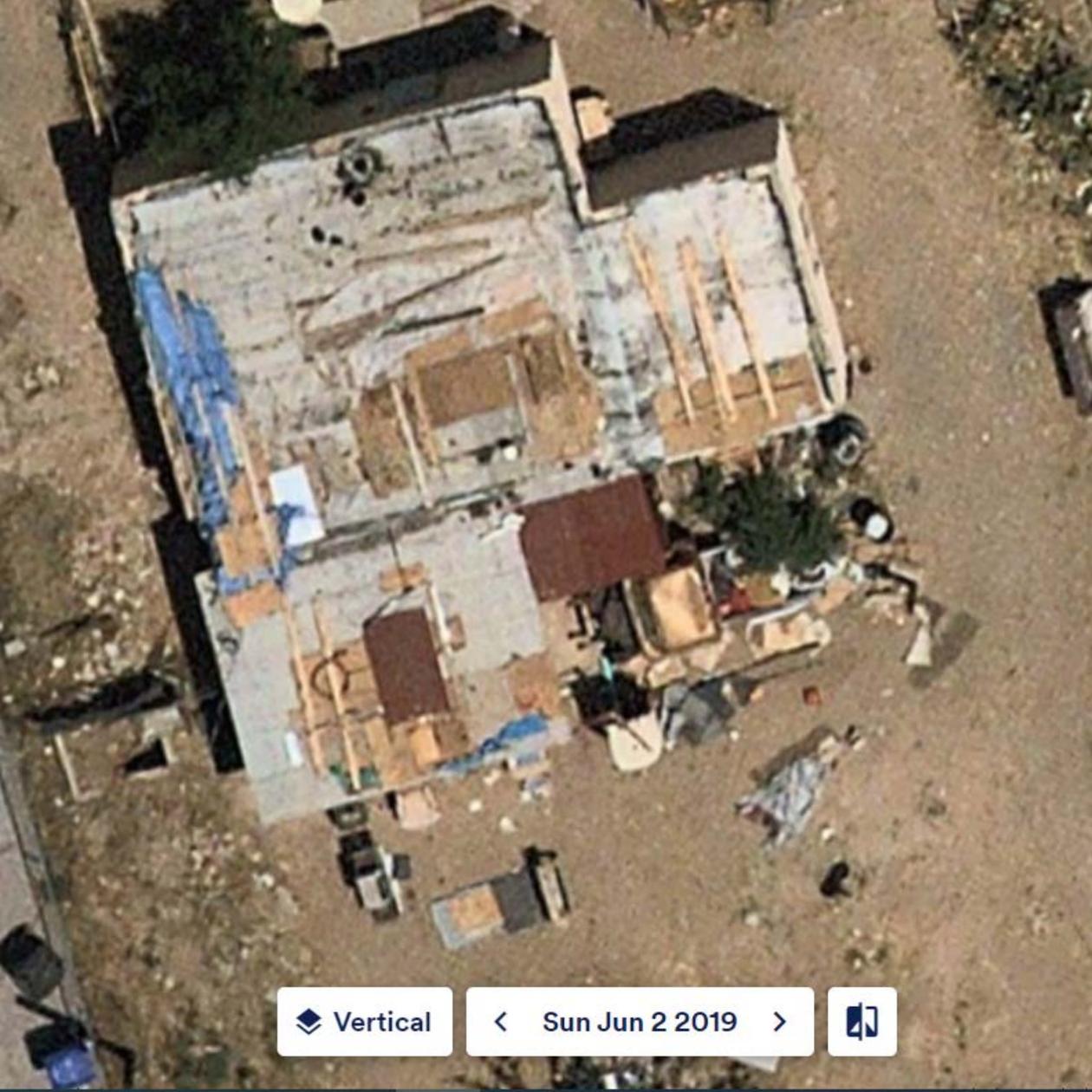




Vertical

< Sat Sep 29 2018 >





Vertical

< Sun Jun 2 2019 >

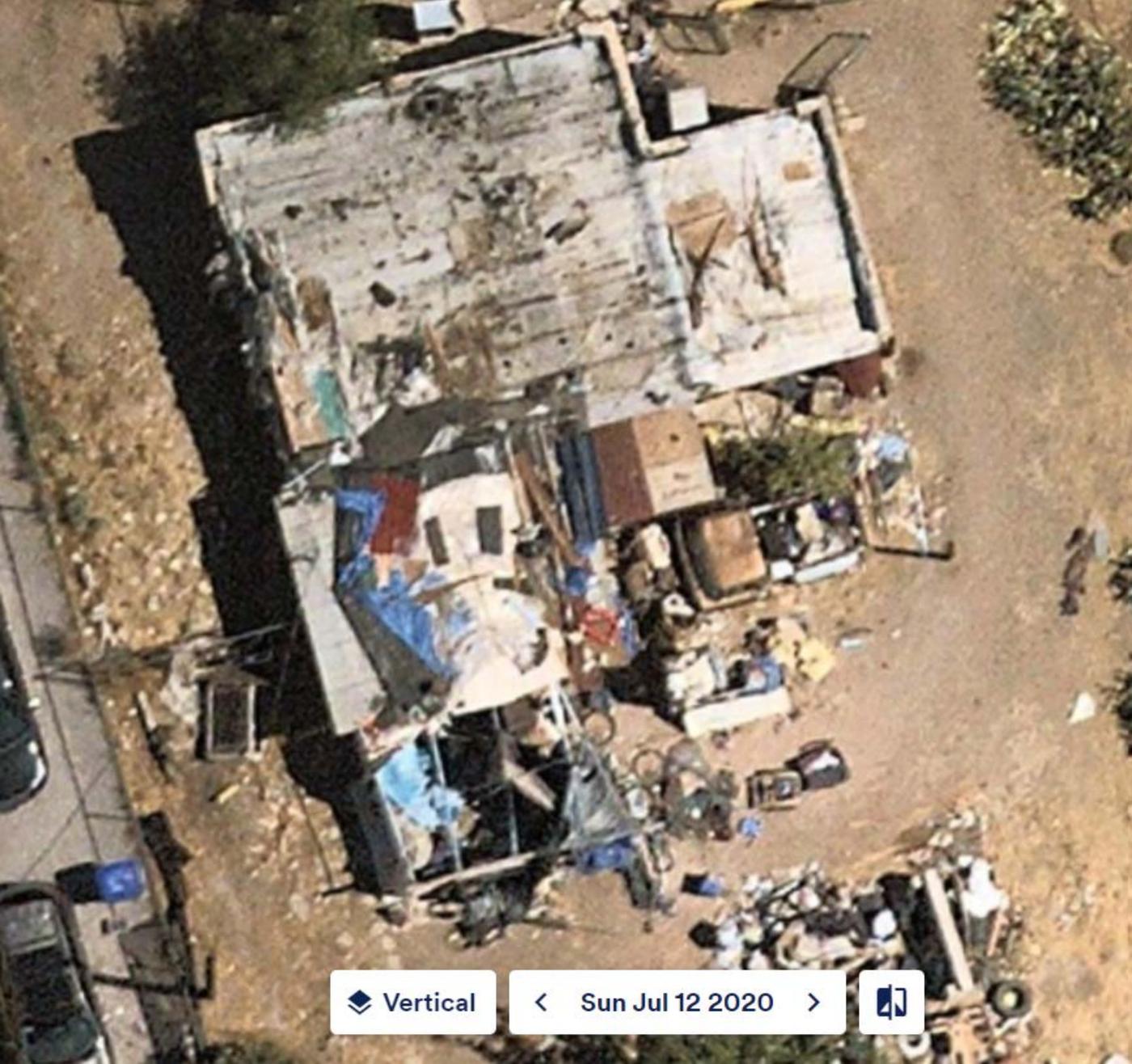




Vertical

< Wed Feb 19 2020 >

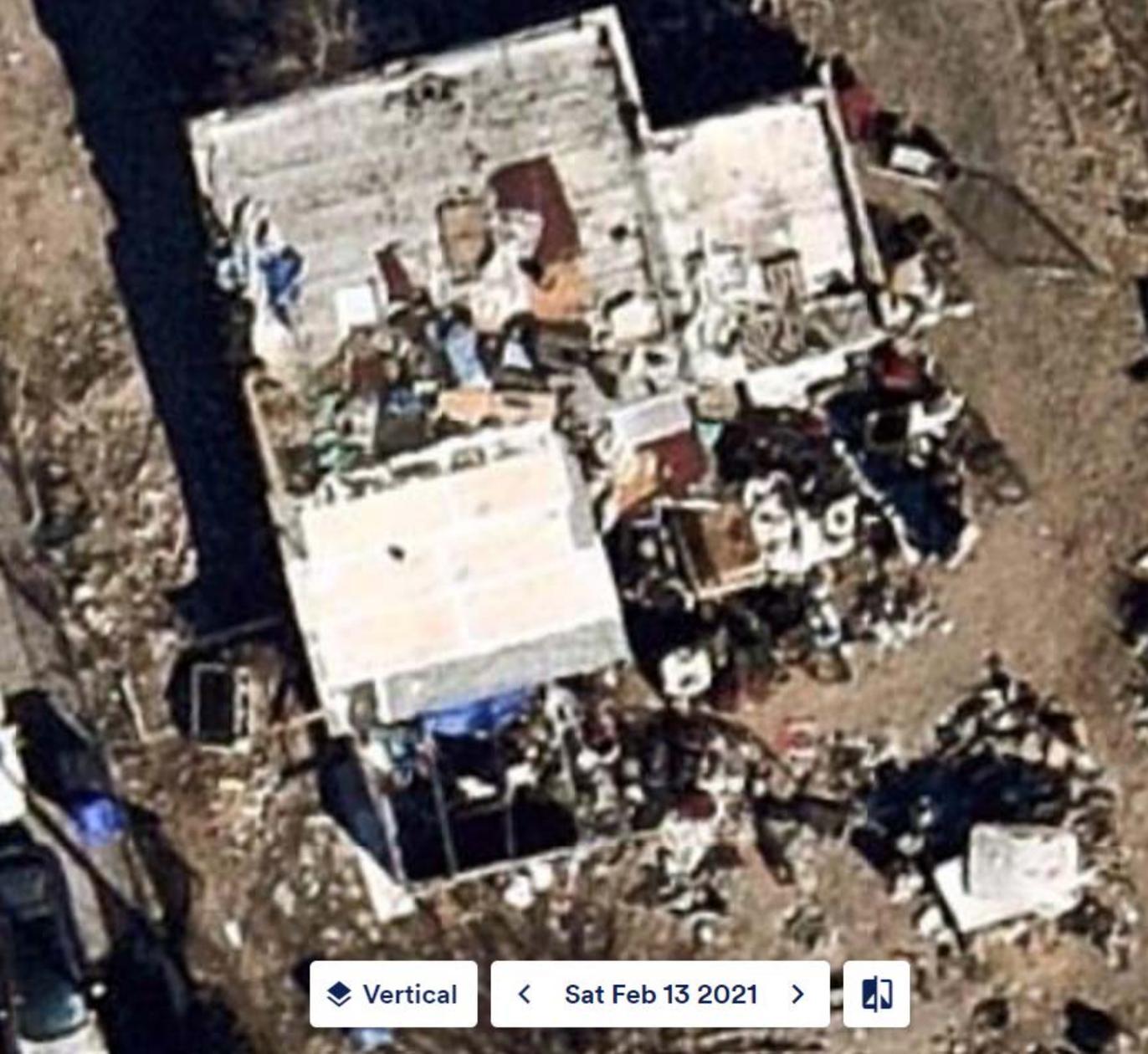




Vertical

< Sun Jul 12 2020 >

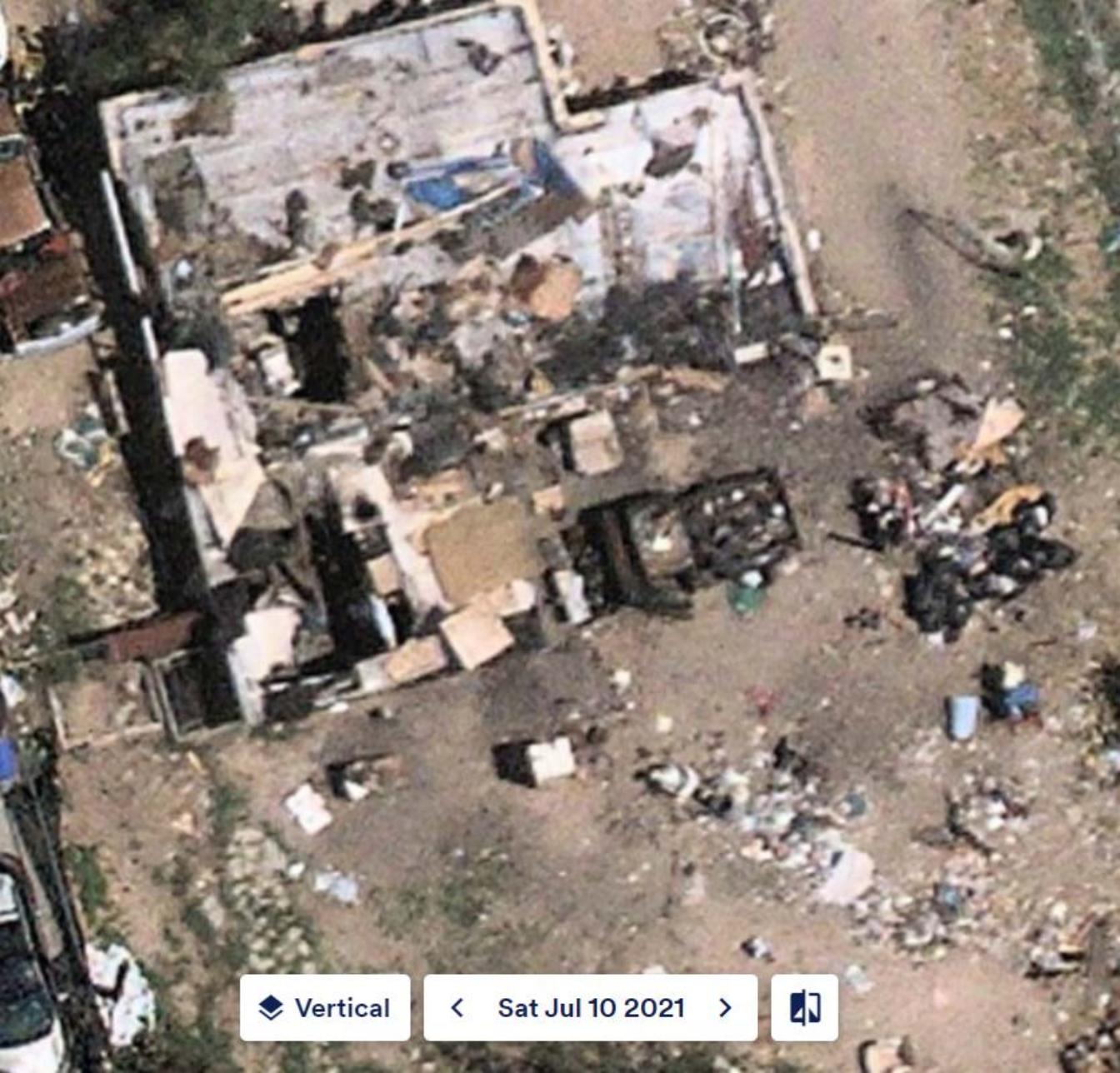




Vertical

< Sat Feb 13 2021 >

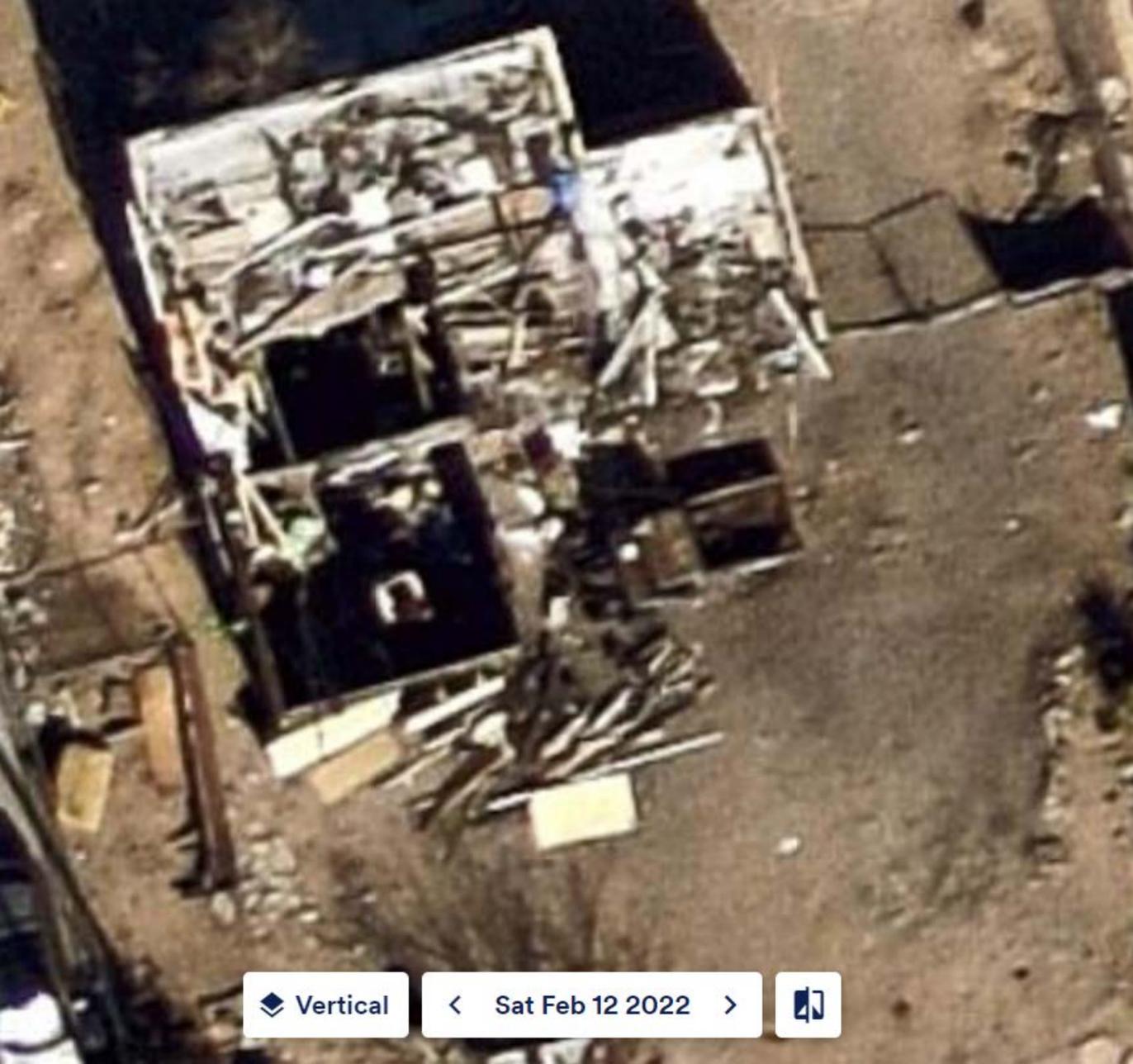




Vertical

< Sat Jul 10 2021 >

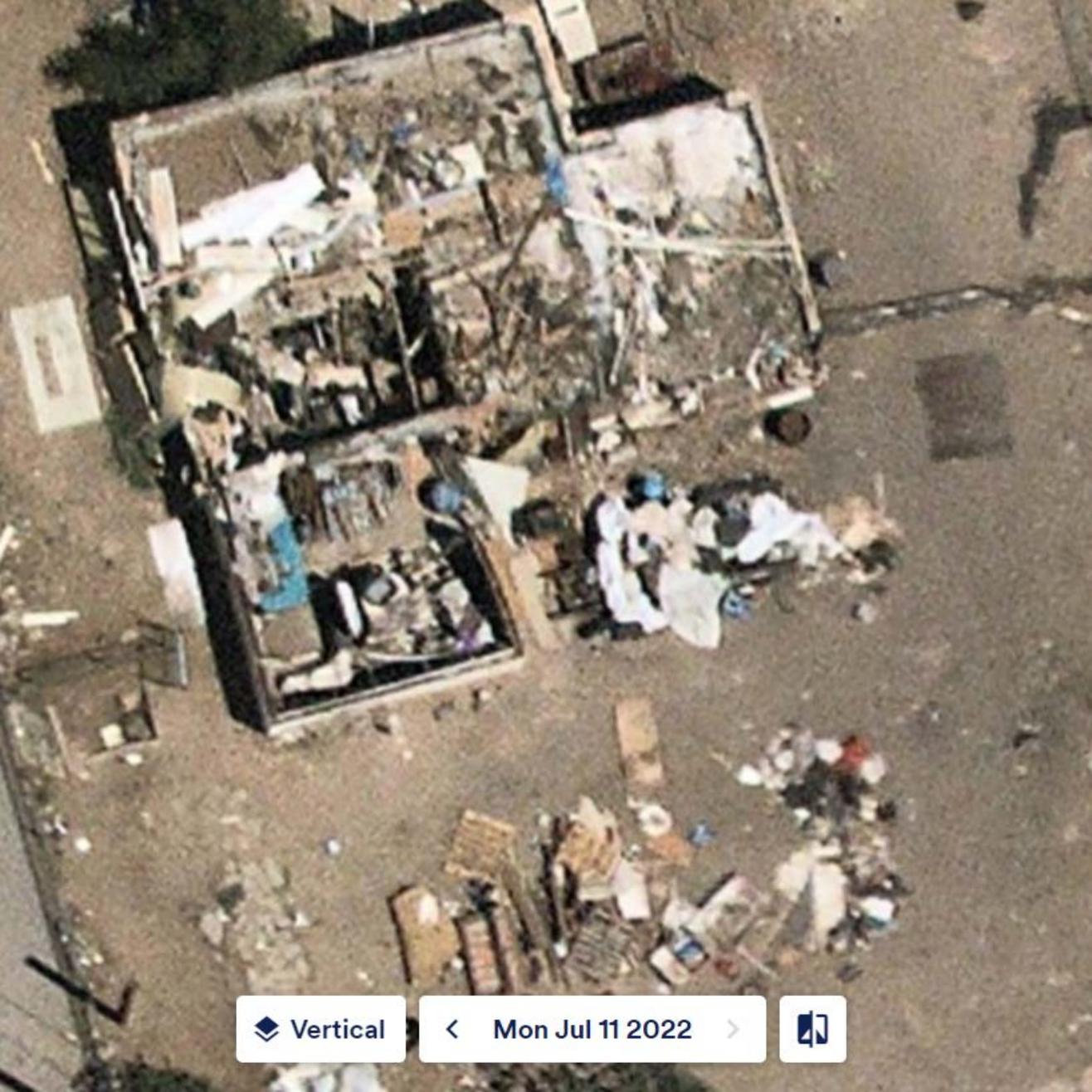




Vertical

< Sat Feb 12 2022 >





Vertical

< Mon Jul 11 2022 >



Community Development
700 N. Main Street, Suite 1100
Las Cruces, NM. 88001
Telephone (575) 528-3022

Jon L Hernandez
Lorraine G Hernandez

August 5,2022

**NOTICE AND ORDER
WITH APPEAL**

Property Owners:

Owner Name Jon L. Hernandez

Owner Address 1245 Van Patten Ave Las Cruces NM 88005

Owner Name Lorraine G. Hernandez

Owner Address 1460 Branding Iron Cir Las Cruces NM 88005

Property Location: **1245W. VAN PATTEN STREET
LAS CRUCES, NM. 88005**

Dear Property Owner:

On August 5 2022, Community Development Department and Code Enforcement Division, inspected the building or structure owned, occupied, or controlled by you at:
1245 West Van Patten , LAS CRUCES, NM. 88005

The property is more particularly described as:

Parcel Number : 4-006-135-242-124

Legal Summary Subd: PALMER'S SUBDIVISION Lot: LT 7 8 9 Block: 20 S: 13 T: 23S R: 1E

Violations of the Las Cruces Municipal Building Code Ch. 30, Art. II, Div. 17, Sec. 30-721 ("LCMC Sec 30-721" or "Code") which adopts and makes effective NMAC 14.7.2.8, were found that must be corrected to maintain the accepted standards of health and safety provided for in the Code.

A right to appeal this notice and order by filling a written application for appeal with the Legal Department for the City of Las Cruces, Per LCMC Section 30-142. The application for appeal must be filled within twenty (30) days after the day this notice is served.

FINDINGS

City of Las Cruces Code Enforcement and the City's Building Official have found the building to be substandard under the provisions of the Code. The findings of the inspection are listed and will be provided to you.

Sincerely, 

Larry F. Nichols, CBO 575-528-3340

1245 Van Patten Findings :

Statutory Authority (Section 60-13-9,60-13-10.3 and 60-13-44 NMSA 1978): Any building or portion thereof, including any dwelling unit, guest room, or suite of rooms, or the premises on which the same is located, in which there exists any of the following listed conditions to an extent that endangers the life, limb, health, property, safety or welfare of the public, or the occupants thereof shall be deemed and declared a *SUBSTANDARD BUILDING*.

Substandard Dwelling Findings -Certified Building Inspector- Cesar Grado

Building and premises deficiencies: Structural deficiencies on ceiling, roof, and beam framing. Structural issues seen throughout property.

1. Rodent infestation within the interior of sleeping units and Office.
2. Faulty weather protection due to several broken windows, and missing exterior door thresholds.

Unsafe Structure or Other Safety Hazards (NMAC 14.5.1.12): *Inadequate sanitation includes general dilapidation or inadequate maintenance.*

General dilapidation or inadequate maintenance Findings-Fire Investigator -Michael Danner

1. A extensively fire damaged property, subject to demolition
2. Extension cords cannot be used as permanent wiring. NMAC 14.10.5 Devices must be either plugged directly into the wall or into an approved surge protector.
3. Remove Weeds, trash, debris, and outside storage that are fire Hazards.

2021 NM Plumbing Code (NMAC 14.8.2): *Hazardous plumbing includes all plumbing except that which conformed with all applicable laws in effect at the time of installation and which has been maintained in good condition and which is free of cross-connections and siphonage between fixtures.*

Hazardous Plumbing Findings Certified Plumbing Inspector- Ray Sartan

Exterior plumbing

1. Several PVC drains broken and allowing sewage ponding and sewer gas to escape
2. Domestic water piping exposed in multiple locations with no freeze protection and leaking causing ponding
3. Underground domestic water piping leaking up through the ground causing ponding
4. Rusting on gas piping noted near ground level
5. No backflow control device at the water meter to isolate the building water system from the City's water supply system

Interior plumbing

1. Entire interior fire damaged to the extent the premises in uninhabitable
2. Several fixtures with broken valves, or missing handles, etc.due to fire damage

2012 NM Electrical Safety Code (NMAC 14.10.5): Hazardous wiring includes all wiring except that which conformed with all applicable laws in effect at the time of installation and which has been maintained in good condition and is being used in a safe manner.

1. Entire interior fire damaged to the extent the premises in uninhabitable and Utility service was ordered to be disconnected



1245 Van Patten

August 12, 2022

STAFF CONTACT:

Larry F Nichols, CBO, CPM (575) 528-3340,
lnichols@las-cruces.org

LCPD Brian Klimeck (575) 932-8009

Code - Officer Ellis (575-518-9699)

OWNER:

Owner Name Jon L. Hernandez

Owner Address 1245 Van Patten Ave Las Cruces NM 88005

Owner Name Lorraine G. Hernandez

Owner Address 1460 Branding Iron Cir Las Cruces NM 88005

Legal Summary Subd: PALMER'S SUBDIVISION Lot: LT 7 8 9 Block: 20 S: 13 T: 23S R: 1E

Parcel Number 4-006-135-242-124

SITE ADDRESS:

1245 Van Patten Ave Las Cruces NM 88005

EXISTING ZONING:

Residential

REQUEST:

Site assessment to determine property condemnation

SATUTORY AUTHORITY:

Substandard dwelling (Section 60-13-9, 60-13-10.3 and 60-13-44 NMSA 1978):

[14.5.1.3 NMAC -Rp14.5.1.2
NMAC,11/15/2016]

LCMC Ord. No. 2478 Article II, Division 1,
Sec, 30-137 14.5.1.12 Unsafe structure or
other Life Safety Hazard: A.(2) and A. (3)

LCMC 2015 International Building code, as
adopted by NMAC 14.7.3.8 - 14.7.2.44

Section 104 and section 116

Property Report