

HISTORIC AND DESIGN REVIEW COMMISSION

August 21, 2024

HDRC CASE NO: 2024-295
ADDRESS: 120 CALLAGHAN AVE
LEGAL DESCRIPTION: NCB 719 BLK 1 LOT N 1-2 OF 5
ZONING: RM-4, H
CITY COUNCIL DIST.: 1
DISTRICT: Lavaca Historic District
APPLICANT: Peggy Howe/HOWE PEGGY LEE
OWNER: Peggy Howe/HOWE PEGGY LEE
TYPE OF WORK: Demolition of a designated structure
APPLICATION RECEIVED: April 26, 2023
60-DAY REVIEW: Set for Review for August 21, 2024
CASE MANAGER: Edward Hall

REQUEST:

The applicant is requesting a Certificate of Appropriateness for approval to demolish the historic structure at 120 Callaghan Avenue, located within the Lavaca Historic District.

APPLICABLE CITATIONS:

UDC Section 35-614. – Demolition

Demolition of a historic landmark constitutes an irreplaceable loss to the quality and character of the City of San Antonio. Accordingly, these procedures provide criteria to prevent unnecessary damage to the quality and character of the city's historic districts and character while, at the same time, balancing these interests against the property rights of landowners.

(a) Applicability. The provisions of this section apply to any application for demolition of a historic landmark (including those previously designated as historic exceptional or historic significant) or a historic district.

(3) Property Located in Historic District and Contributing to District Although Not Designated a Landmark.

No certificate shall be issued for property located in a historic district and contributing to the district although not designated a landmark unless the applicant demonstrates clear and convincing evidence supporting an unreasonable economic hardship on the applicant if the application for a certificate is disapproved. When an applicant fails to prove unreasonable economic hardship in such cases, the applicant may provide additional information regarding loss of significance as provided in subsection (c)(3) in order to receive a certificate for demolition of the property.

(b) Unreasonable Economic Hardship.

(1) Generally. The historic and design review commission shall be guided in its decision by balancing the historic, architectural, cultural and/or archaeological value of the particular landmark or eligible landmark against the special merit of the proposed replacement project. The historic and design review commission shall not consider or be persuaded to find unreasonable economic hardship based on the presentation of circumstances or items that are not unique to the property in question (i.e. the current economic climate).

(2) Burden of Proof. The historic and design review commission shall not consider or be persuaded to find unreasonable economic hardship based on the presentation of circumstances or items that are not unique to the property in question (i.e. the current economic climate). When a claim of unreasonable economic hardship is made, the owner must prove by a preponderance of the evidence that:

A. The owner cannot make reasonable beneficial use of or realize a reasonable rate of return on a structure or site, regardless of whether that return represents the most profitable return possible, unless the highly significant endangered, historic and cultural landmark, historic and cultural landmarks district or demolition delay designation, as applicable, is removed or the proposed demolition or relocation is allowed;

B. The structure and property cannot be reasonably adapted for any other feasible use, whether by the current owner or by a purchaser, which would result in a reasonable rate of return; and

C. The owner has failed to find a purchaser or tenant for the property during the previous two (2) years, despite having made substantial ongoing efforts during that period to do so. The evidence of unreasonable economic hardship

introduced by the owner may, where applicable, include proof that the owner's affirmative obligations to maintain the structure or property make it impossible for the owner to realize a reasonable rate of return on the structure or property. (3)Criteria. The public benefits obtained from retaining the cultural resource must be analyzed and duly considered by the historic and design review commission.

As evidence that an unreasonable economic hardship exists, the owner may submit the following information to the historic and design review commission by affidavit:

A. For all structures and property:

- i. The past and current use of the structures and property;
- ii. The name and legal status (e.g., partnership, corporation) of the owners;
- iii. The original purchase price of the structures and property;

i. The assessed value of the structures and property according to the two (2) most recent tax assessments;

- v. The amount of real estate taxes on the structures and property for the previous two (2) years;
- vi. The date of purchase or other acquisition of the structures and property;
- vii. Principal balance and interest rate on current mortgage and the annual debt service on the structures and property, if any, for the previous two (2) years;
- viii. All appraisals obtained by the owner or applicant within the previous two (2) years in connection with the owner's purchase, financing or ownership of the structures and property;
- ix. Any listing of the structures and property for sale or rent, price asked and offers received;
- x. Any consideration given by the owner to profitable adaptive uses for the structures and property;
- xi. Any replacement construction plans for proposed improvements on the site;
- xii. Financial proof of the owner's ability to complete any replacement project on the site, which may include but not be limited to a performance bond, a letter of credit, a trust for completion of improvements, or a letter of commitment from a financial institution; and
- xiii. The current fair market value of the structure and property as determined by a qualified appraiser.
- xiv. Any property tax exemptions claimed in the past five (5) years.

B. For income producing structures and property:

- i. Annual gross income from the structure and property for the previous two (2) years;
- ii. Itemized operating and maintenance expenses for the previous two (2) years; and
- iii. Annual cash flow, if any, for the previous two (2) years.

C. In the event that the historic and design review commission determines that any additional information described above is necessary in order to evaluate whether an unreasonable economic hardship exists, the historic and design review commission shall notify the owner. Failure by the owner to submit such information to the historic and design review commission within fifteen (15) days after receipt of such notice, which time may be extended by the historic and design review commission, may be grounds for denial of the owner's claim of unreasonable economic hardship.

When a low-income resident homeowner is unable to meet the requirements set forth in this section, Then the historic and design review commission, at its own discretion, may waive some or all of the requested information and/or request substitute information that an indigent resident homeowner may obtain without incurring any costs. If the historic and design review commission cannot make a determination based on information submitted and an appraisal has not been provided, then the historic and design review commission may request that an appraisal be made by the city.

(d)Documentation and Strategy.

(1)Applicants that have received a recommendation for a certificate shall document buildings, objects, sites or structures which are intended to be demolished with 35mm slides or prints, preferably in black and white, and supply a set of slides or prints to the historic preservation officer.

(2)Applicants shall also prepare for the historic preservation officer a salvage strategy for reuse of building materials deemed valuable by the historic preservation officer for other preservation and restoration activities.

(3)Applicants that have received an approval of a certificate regarding demolition shall be permitted to Receive a demolition permit without additional commission action on demolition, following the commission's recommendation of a certificate for new construction. Permits for demolition and construction shall be issued simultaneously if requirements of section 35-609, new construction, are met, and the

property owner provides financial proof of his ability to complete the project.

(4) When the commission recommends approval of a certificate for buildings, objects, sites, structures designated as

landmarks, or structures in historic districts, permits shall not be issued until all plans for the site have received

approval from all appropriate city boards, commissions, departments and agencies. Permits for parking lots shall not

be issued, nor shall an applicant be allowed to operate a parking lot on such property, unless such parking lot plan

was approved as a replacement element for the demolished object or structure.

(e) Issuance of Permit. When the commission recommends approval of a certificate regarding demolition of buildings, objects, sites, or structures in historic districts or historic landmarks, permits shall not be issued until all plans for the site have received approval from all appropriate city boards, commissions, departments and agencies. Once the replacement plans are approved a fee shall be assessed for the demolition based on the approved replacement plan square footage. The fee must be paid in full prior to issuance of any permits and shall be deposited into an account as directed by the historic preservation officer for the benefit, rehabilitation or acquisition of local historic resources. Fees shall be as follows and are in addition to any fees charged by planning and development services:

0—2,500 square feet = \$2,000.00

2,501—10,000 square feet = \$5,000.00

10,001—25,000 square feet = \$10,000.00

25,001—50,000 square feet = \$20,000.00

Over 50,000 square feet = \$30,000.00

FINDINGS:

- a. The applicant is requesting a Certificate of Appropriateness for approval to demolish the historic structure at 120 Callaghan Avenue, located within the Lavaca Historic District.
- b. The historic structure at 120 Callaghan was constructed circa 1915 in the Folk Victorian style. The structure featured a primary side-gable configuration, rectangular two over two windows, a primary front gable with decorative wood shingles and an asymmetrical front porch with turned columns. The property is contributing to the Lavaca Historic District.
- c. **PROPERTY HISTORY** – The Historic and Design Review Commission approved the construction of a rear addition and exterior modifications on September 18, 2019. On May 11, 2020, Office of Historic Preservation staff received violation reports that work was being performed outside of the scope of work, including demolition. A stop work order was issued that day and in the following weeks, it was determined by both Office of Historic Preservation staff and Development Services Department staff that the property owner at the time had exceeded the scope for both the Certificate of Appropriateness on file and the permits on file. The owner at the time submitted construction documents to reconstruct the historic structure, in-kind, and received HDRC approval on July 15, 2020. The property owner at the time of the previous approval and illegal demolition is deceased. The property is currently under new ownership and is actively being marketed. Due to safety concerns, OHP staff allowed the remaining two walls (the south/front façade and side/east) to be laid down to prevent collapse, in June 2024. The historic structure was previously damaged by fire in 2019.
- d. **SUB-COMMITTEE REVIEW** – The Demolition and Designation Committee met on site on August 14, 2024, to view the condition of the structure. At that site visit, it was observed that very little original or historic materials remained on the site including the entire foundation and subfloor system, framing, and porch elements. A few sections of original siding, windows, and some previously-salvaged flooring remain on site.
- e. **DEMOLITION NOTICE** – Demolition notice postcards were mailed to properties within a 200-foot radius of the property, as required by the Unified Development Code.
- f. The loss of a landmark structure is an irreplaceable loss to the quality and character of San Antonio. Demolition of any contributing buildings should only occur after every attempt has been made, within reason, to successfully reuse the structure. Clear and convincing evidence supporting an unreasonable economic hardship on the applicant if the application for a certificate is disapproved must be presented by the applicant in order for demolition to be considered. The criteria for establishing unreasonable economic hardship are listed in UDC Section 35-614 (b)(3). The applicant must prove by a preponderance of the evidence that:

1. *The owner cannot make reasonable beneficial use of or realize a reasonable rate of return on a structure or site, regardless of whether that return represents the most profitable return possible, unless*

the highly significant endangered, historic and cultural landmark, historic and cultural landmarks district or demolition delay designation, as applicable, is removed or the proposed demolition or relocation is allowed;

[The current owner and applicant has not provided an estimate to reconstruct the structure. Per Bexar County Appraisal District records, the assessed value of this lot is \$185,000.]

2. *The structure and property cannot be reasonably adapted for any other feasible use, whether by the current owner or by a purchaser, which would result in a reasonable rate of return;*

[Many historic elements of the original structure have been removed and are no longer on site. Staff finds that salvageable materials from the original structure should be reused on site in either the reconstruction of the original structure or new construction.]

3. *The owner has failed to find a purchaser or tenant for the property during the previous two (2) years, despite having made substantial ongoing efforts during that period to do so. The evidence of unreasonable economic hardship introduced by the owner may, where applicable, include proof that the owner's affirmative obligations to maintain the structure or property make it impossible for the owner to realize a reasonable rate of return on the structure or property.*

[This property is being actively marketed by the owner. Per Bexar County Deed History, this property was purchased by the current owner in January 2022. The current condition of the structure without a determined path forward from the Commission may prevent the future sale and reconstruction or new construction.]

- g. Staff finds that the applicant has not fully satisfied the burden of proof requirements to demonstrate an unreasonable economic hardship, as the UDC requires all three criteria, noted above, to be met.
- h. LOSS OF SIGNIFICANCE – When an applicant fails to prove unreasonable economic hardship, the applicant may provide to the Historic and Design Review Commission additional information which may show a loss of significance in regards to the subject of the application in order to receive Historic and Design Review Commission recommendation of approval of the demolition. If, based on the evidence presented, the Historic and Design Review Commission finds that the structure or property is no longer historically, culturally, architecturally or archeologically significant, it may make a recommendation for approval of the demolition. In making this determination, the historic and design review commission must find that the owner has provided sufficient evidence to support a finding by the commission that the structure or property has undergone significant and irreversible changes which have caused it to lose the historic, cultural, architectural or archeological significance, qualities or features which qualified the structure or property for such designation. Additionally, the Historic and Design Review Commission must find that such changes were not caused either directly or indirectly by the owner, and were not due to intentional or negligent destruction or a lack of maintenance rising to the level of a demolition by neglect.
- i. REPLACEMENT PLANS – The applicant has not provided specific or detailed replacement plans at this time. The property is currently for sale. If demolition is approved, a new owner would be required to obtain approval for any replacements plans that go beyond the scope of the previously-approved reconstruction.

RECOMMENDATION:

Consistent with the UDC, staff finds that the structure has experienced a loss of significance due to the extent of original materials that were removed by the previous owner. Staff recommends approval of demolition with the following stipulations:

- i. Deconstruction is required. Because deconstruction is not likely to yield many salvageable, high-quality materials, the project may be eligible for exemptions as determined by OHP staff.

- ii. Any replacements plans that go beyond the scope of the previously-approved reconstruction drawings shall be subject to additional approval by the Historic and Design Review Commission.

123 Callaghan Ave

San Antonio, Texas

Google Street View

Mar 2016 See latest date



STREET VIEW PHOTO CIRCA 2019



STREET VIEW PHOTO CIRCA 2019

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STREET VIEW PHOTO CIRCA 2019



PHOTO CIRCA JUNE 2019



PHOTO CIRCA JANUARY 2021



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PHOTO FROM AUGUST 2024



PHOTO FROM AUGUST 2024



PHOTO FROM AUGUST 2024



PHOTO FROM AUGUST 2024

PHOTO FROM AUGUST 2024





Investigation Report

Property

Address	120 Callaghan
District/Overlay	Lavaca
Owner Information	Mario J Mendiola

Site Visit

Date	05/11/2020
Time	02:43 PM (-5 GMT)
Context	citizen report
Present Staff	Huy Pham, Edward Hall
Present Individuals	Other
Types of Work Observed	Exterior Maintenance and Alterations, Demolition
Amount of Work Completed	75%
Description of work	Demolition of historic facades and materials beyond the scope of approval for construction of a rear addition

Action Taken

Violation Type	No Certificate of Appropriateness (Code 35-451a), Beyond scope of Certificate of Appropriateness (Code 35-451h)
OHP Action	Posted "Notice of Investigation"
Will post-work application fee apply?	Yes

Documentation



Investigation Report

Photographs





Investigation Report



May 11, 2020 at 2:36 PM
120 Callaghan Ave
San Antonio TX 78210
United States



Investigation Report





Investigation Report





Investigation Report





Investigation Report





Investigation Report





Investigation Report



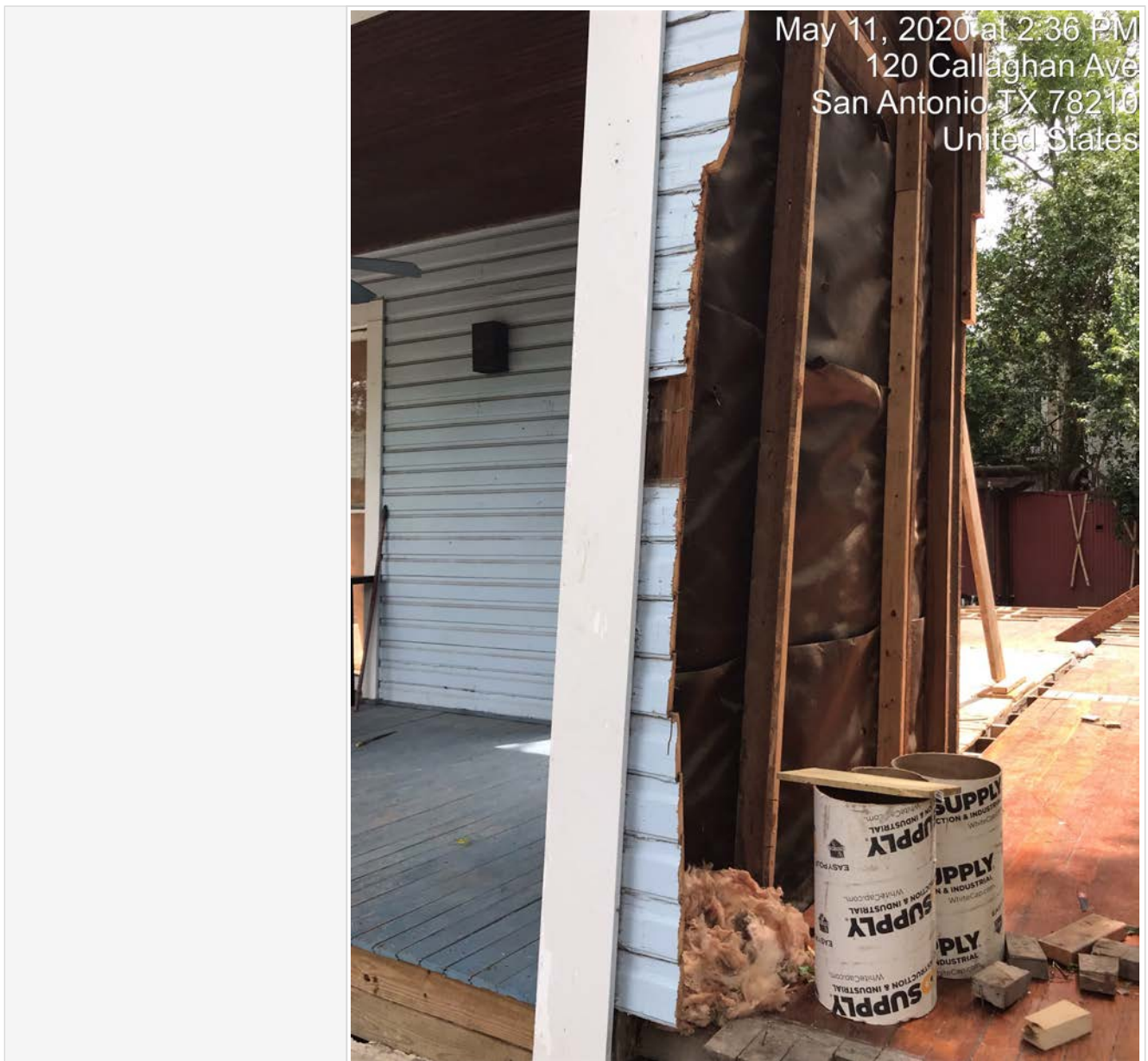


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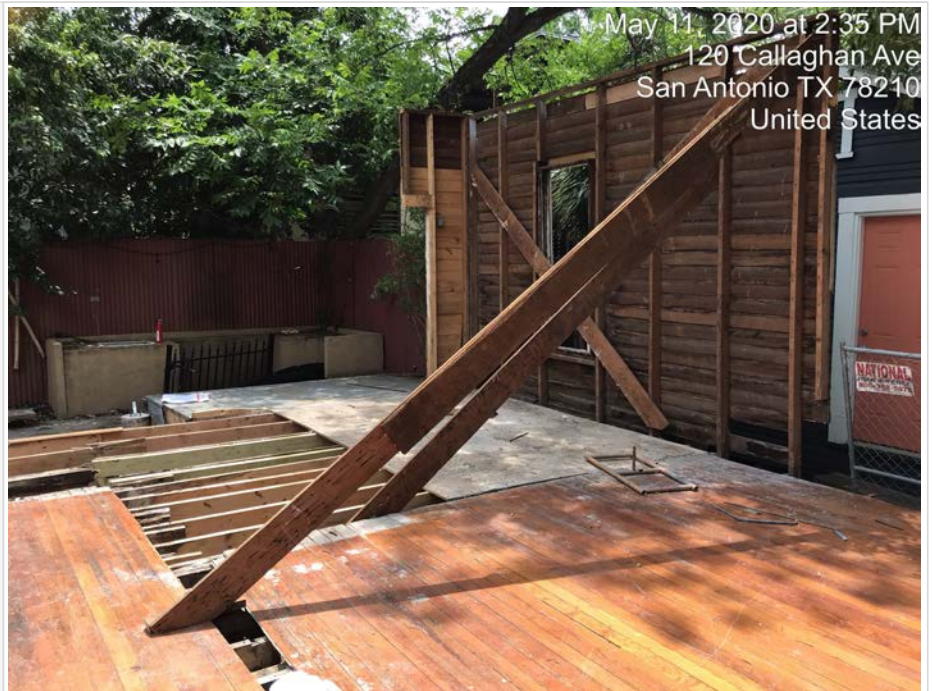


Investigation Report





Investigation Report





Investigation Report





Investigation Report

May 11, 2020 at 2:42 PM
127 Callaghan Ave
San Antonio TX 78210
United States

CITY OF SAN ANTONIO
OFFICE OF HISTORIC PRESERVATION
1901 S. Alamo St. San Antonio, Texas 78204
7:45am - 4:30pm Monday - Friday
(210) 207 - 0035

NOTICE OF INVESTIGATION

ADDRESS: 120 Callaghan [BCAD] OWNER: MONIO MENDOZA J

An investigation of this property has been performed by the Office of Historic Preservation and the following violations have been identified:

☒ Code 35-451(a): Work without Certificate of Appropriateness (COA):

☒ Code 35-451(b): Work beyond Scope of Approval: DEMOLITION OF HISTORIC FACADES
NOT APPROVED WITH REAR ADDITION PLANS

☐ Code 35-615: Demolition by Neglect:

STOP WORK ☒ Yes ☐ Not Applicable

Please contact the Office of Historic Preservation within 48 hours of the inspection date: 5/10/2020

A re-inspection by staff may occur without prior notice; photographs have been recorded for evidence.

Continued failure to comply with the laws of the City of San Antonio and the terms of this notice will subject you to criminal and civil penalties, to the full extent permitted by law. Violations of City ordinances are criminal class C violations and will be prosecuted accordingly. Violations of this law are also subject to civil penalties in state district court by the City of San Antonio. Penalties for continued violations of the law include but are not limited to: (1) a criminal conviction on your record; (2) criminal fines; (3) civil penalties in the range of \$1,000.00 per day; (4) attorney's fees; (5) expenses to the City of San Antonio; (6) removal of your property and that with the same; (7) removal of your property; (8) a criminal finding that you have committed a crime and are responsible to the community for the same; (9) destruction of your property; (10) if you are found to be a nuisance, the City may remove your fabric and leave debris for this project and others, etc.





Investigation Report



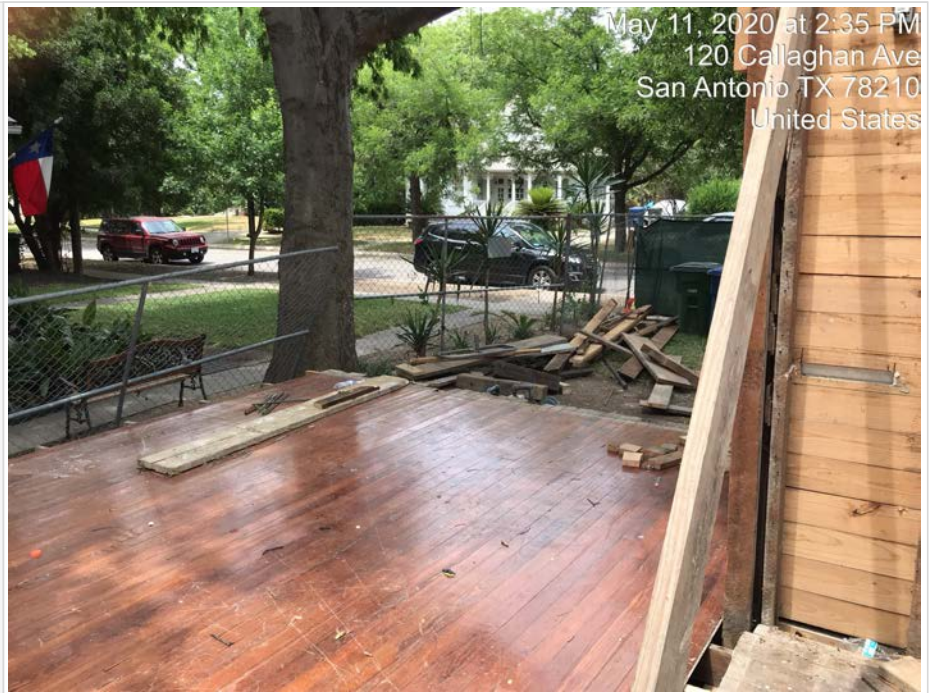


Investigation Report





Investigation Report





Investigation Report



May 11, 2020 at 2:35 PM
120 Callaghan Ave
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United States

05/11/2020 02:46 PM