

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

In re:

NEIGHBORS LEGACY HOLDINGS,
INC, et al.

Debtors.

Chapter 11

Case No.: 18-33836-MI

(Jointly Administered)

**OBJECTION OF CECILIA BROWN TO DEBTORS’ NOTICE OF AMENDED
EXECUTORY CONTRACTS AND UNEXPIRED LEASES SUBJECT TO
POSSIBLE ASSUMPTION AND ASSIGNMENT AND PROPOSED CURE
AMOUNTS**

[Related to Docket No. 236 and 255]

Cecilia Brown (“Brown”) hereby files her objection to the *Debtors’ Amended Notice Of Executory Contracts And Unexpired Leases Subject To Possible Assumption And Assignment And Proposed Cure Amounts* (the “Amended Cure Notice”) [Dkt. No. 255]. In support of this Objection, Brown states as follows:

1. On August 15, 2018, the above-captioned Debtors filed their *Notice of Executory Contracts and Unexpired Leases Subject to Possible Assumption and Assignment and Proposed Cure Amounts* (“Cure Notice”) [Docket No. 236]. The Cure Notice sets forth the executory contracts and unexpired leases that the Debtors claim are subject to potential assumption and assignment to the successful bidder(s) to be identified at the conclusion of the auction of the Debtors’ assets. The Cure Notice also states the amounts that the Debtors claim are sufficient to cure any defaults under each potentially assumed executory contract or unexpired lease.

2. On August 17, 2018, the Debtors filed the Amended Cure Notice.

3. Brown is listed as a Lessor under an unexpired Lease Agreement entered into by Brown and the Debtor NEC Odessa Emergency Center, LP (“Odessa”), as Lessee, that may be included as part of the sale of the Debtors’ assets.



4. The Debtors' Amended Cure Notice reflects a total cure amount of \$0 for Brown's Lease with Odessa.

5. Following the filing of the Cure Notice, Brown received the inspection report for the leased premises attached to this Notice as Exhibit 1 (the "Report"). The Report identifies certain areas of the property which have been damaged and must be repaired by the Debtor as Lessee under the Lease. These repairs are estimated to cost approximately \$1,500.

6. Brown does not object to the assumption of her Lease Agreement with Odessa provided however that all defaults under the Lease Agreement are fully cured as required by 11 U.S.C. § 365 of the Bankruptcy Code, and any successful bidder provides adequate assurance of future performance.

6. To date, Brown has not been provided with any assurance of future performance by any qualified bidder in connection with the proposed sale or auction.

7. Brown continues to investigate this issue and reserves the right to modify, supplement and/or amend this Oobjection as further information becomes available, as well as object to the assumption and/or assignment of the Lease Agreement or to the sale of assets, including any objections to any assignee and any proposed adequate assurance.

WHEREFORE, Brown respectfully requests that this Court approve the Debtors' request to assume the Lease Agreement with the corrected cure amount of \$1,500, and upon the successful bidder providing adequate assurance of future performance under the Lease Agreement pursuant to 11 U.S.C. § 365.

Dated: August 23, 2018

POLSINELLI, P.C.

By: /s/ Janel M. Glynn
Janel M. Glynn
POLSINELLI P.C.
One E. Washington, Suite 1200
Phoenix, AZ 85004
E-Mail: jglynn@polsinelli.com

CERTIFICATE OF SERVICE

I hereby certify that on August 23, 2018, a true and correct copy of the forgoing documents was served by the Electronic Case Filing System for the United States Bankruptcy Court for the Southern District of Texas on those parties registered to receive electronic notices.

/s/ Janel M. Glynn, AZ Bar #025497
Janel M. Glynn

Exhibit 1

Inspection Report

Cecilia Brown

Property Address:
2731 N. Grandview
Odessa Texas



Front of the property

National Property Inspections

Larry Allen # 22418
5017 Spring Creek Road
Abilene Texas 79602
325-669-8394

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Date: 8/16/2018	Time: 10:39 AM	Report ID:
Property: 2731 N. Grandview Odessa Texas	Customer: Cecilia Brown	

The tenant maintenance inspection was performed by national property inspections on the neighbors emergency room facility at 2731 Grandview Odessa Texas. The walk-through survey was done August 16 2018. At the time of the inspection the building was occupied by the tenants and was operational at the time of inspection. Property sits on almost 1 acre with a building size of 8000 ft.building consist of a steel framing with the synthetic stucco construction and was overall good condition at time of inspection.

Building Use: Medical emergency center, Medical	Construction Type: Standard construction	Number of floors/stories: One floor
Approximate building size: 8000 ft.Â²	Age Of building: Two years old	Apparent occupancy status: Building is occupied by tenant
Client Is Present: No	Weather: Sunny Clear	Rain in last 3 days: Yes
Temperature: 82		

1. General Physical Condition



Driveway entrance



Front of the building



South side of the building



Entrance



Front



Behind the building



Looking at the back of the building



North side of the building



Easement through the property



Back of the building

A. Topography

General Topography: Flat and Sloped

Comments:

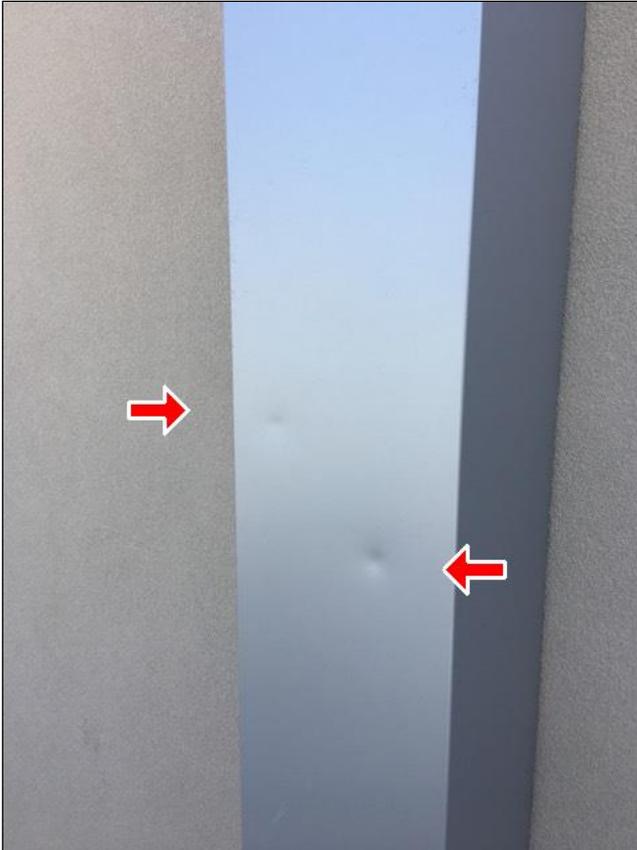
The general topography was flat and sloped.

B. Storm Water Drainage

Storm Water Drainage: Municipal Drains nearby

Comments:

- (1) Storm drainage around the building area was flat to sloping away from the building envelope.
- (2) There was light storm damage on the downspouts on the back of the building



B. Item 1(Picture) gutter down spot

C. Access and Egress

Access and Egress: Paved Driveway

Comments:

The main entrance of the building is accessible by driveway on the north east side of the building there are parking spots on the east side northside and west side. Approximately 50 parking spots were available on the premises.

D. Paving, Curbing and Parking

Paving Curbing Parking: Asphalt Parking Lot

Number of Parking levels: One

Number of parking spaces: 50

Method used to determine parking spaces: estimated roughly

Comments:

Paving around the building was in good shape. The easement that goes through the property and goes to the building behind has some damage and cracks In the pavement on the easement. I would recommend repair of the damage done in the easement by qualified contractor. (depending on where the responsibility goes tenant or the building behind the tenant).



D. Item 1(Picture) Patching and sealing required in the easement

E. Flatwork (sidewalks, plazas, patios)

Comments:

The sidewalks and entrances to the building were in good shape at the time of inspection.

F. Landscaping and Appurtenances

Comments:

(1) The landscaping appeared to be in good condition at time of inspection. The sprinkler system on the southeast corner of the property, need some attention. A sprinkler valve is laying up on top of the curb and it appears there is a missing sprinkler box at that point. I would recommend a qualified sprinkler contractor to repair.



F. Item 1(Picture) Sprinkler damage on SE corner of property

(2) The rain and freeze sensor for the sprinkler system is broke off the side of the building. I would recommend a qualified person to repair



F. Item 2(Picture)



F. Item 3(Picture)

2. Utilities



Electrical coming into the building



Fire Hydrant



Electrical panels inside



A/C on roof



Back up Generator



Generator Serial #9882871

A. Water

Water Source: Public Utility

Comments:

The water comes from the municipal water system.

B. Electricity

Electric source: Power company, Back up generator (limited)

Comments:

The source for electricity is the public utility company.

C. Natural gas

Gas supply: Natural Gas

Comments:

The natural gas comes from local public gas system.

D. Sanitary Sewer

Sanitary Sewer: Public sewer system

Comments:

Sanitary waste discharges into the municipal sewer at the street.

Out of Scope Issues:

Utilities: Operating conditions of any systems or accessing manholes or utility pits.

3. Structural Frame and Building Envelope



Roof Area



Main Entrance Parapet



North Wall



roof looking south



Emergency room Parapet

A. Foundation

Foundation: Masonry

Method used to observe Crawlspace Cellars or Basement: No Crawlspace

Comments:

The foundation was performing as intended at the time of inspection.

B. Building Frame

Building Type: Post and Beam, EIFS (Exterior Insulation Finish System)

Roof-Type: Flat

Roof Structure: Steel trusses

Method used to observe attic: From entry

Attic info: Scuttle hole

Attic Insulation: Fiberglass

Ventilation: None found

Comments:

The building frame was performing as intended at the time of inspection.

C. Facades or Curtain Wall (The principal face of the building)

Comments:

The facade was in good shape at the time of inspection.

D. Sidewall System (exterior wall cladding and components)

Siding Style: Brick, Cement stucco

Siding Material: EIFS

Comments:

The Synthetic stucco system had couple of hairline cracks around the building. These areas need to be sealed by a qualified contractor.

E. Fenestration System (i.e. windows, openings, doors etc.)

Exterior Entry Doors: Steel, Handicap automatic door

Comments:

The windows and doors were in good shape at the time of inspection.

F. Parapets (protective wall barriers at balcony, roof etc.)

Comments:

The Parapet system was in good shape at the time of inspection.

G. Roofing

Roof Covering: Rubber membrane

Viewed roof covering from: Walked roof

Comments:

The roof appears to be in good condition at the time of inspection.

Out of Scope Issues:

Entering of Crawlspace or confined areas (however, the field observer should observe conditions to the extent easily visible from the point of access to the crawl or confined space areas), determination of previous substructure flooding or water penetration unless easily visible or if such information is provided.

Roof: Walking on pitched roofs, or any roof areas that appear to be unsafe, or roofs with no built-in access, or determining any roofing design criteria.

4. Mechanical and Electrical System

A. Plumbing water supply and Distribution and Fixtures

Plumbing Water Supply (into building): Not visible

Plumbing Water Distribution (inside building): Not visible

Water Heater Location: Attic

Comments:

There was a sink in the soiled utility area on the Southwest corner of the building that was not working at the time of inspection.



A. Item 1(Picture)

B. Plumbing Drain, Waste and Vent Systems

Plumbing Waste: PVC, Cast iron

Comments:

(1) There were some of the cabinets that had show light stains below the traps under sink, but there were no leaks on any of these sinks tested at the time of inspection.

(2) The toilet was loose and the caulking was cracked around the toilet in the patients bathroom on the east wall. I would recommend a qualified plumber to repair.



B. Item 1(Picture)

C. Domestic hot water production

Water Heater Power Source: Electric

Water Heater Capacity: 40 Gallon (1-2 people)

Water Heater Manufacturer: A.O. SMITH

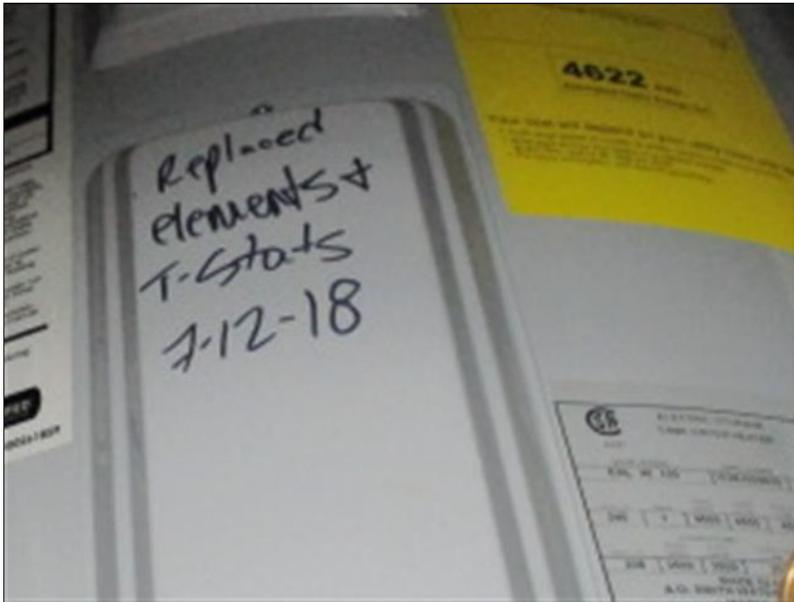
Comments:

AO Smith Hot Water Heater 40 Gallons

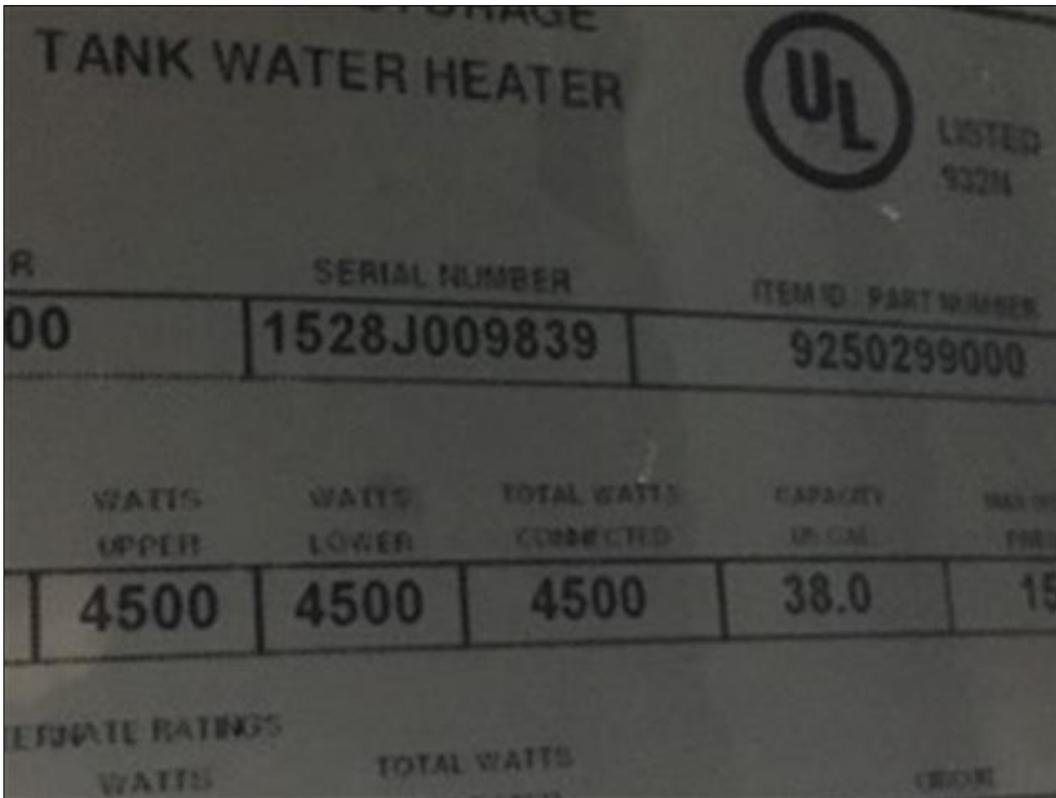
Manufactured July 2015

Serial # 1528J009839

There was work done on this in July 2018



C. Item 1(Picture) Date of repair label



C. Item 2(Picture) ID Tag

D. Heating Equipment

Heat Type: Heat Pump Forced Air (also provides cool air)

Number of Heat Systems (excluding wood): Two

Energy Source for Heat: Gas

Ductwork: Insulated

Comments:

The Heater was not tested at the time of inspection

E. Air conditioning and Ventilation

Cooling Equipment Type: Heat Pump Forced Air (also provides warm air), Air conditioner unit

Cooling Equipment Energy Source: Electricity

Number of AC Only Units: Two

Comments:

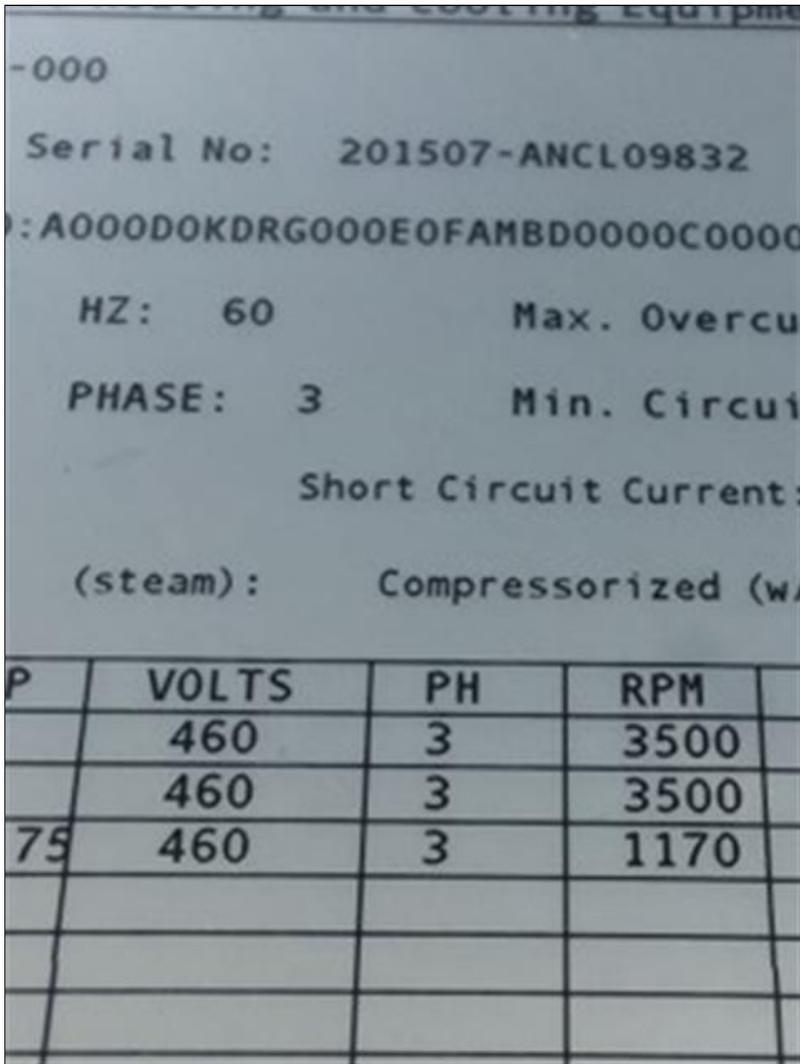
The A/C units were functioning at the time of inspection.

Unit #1 Manufacturer AAON Date July 2015

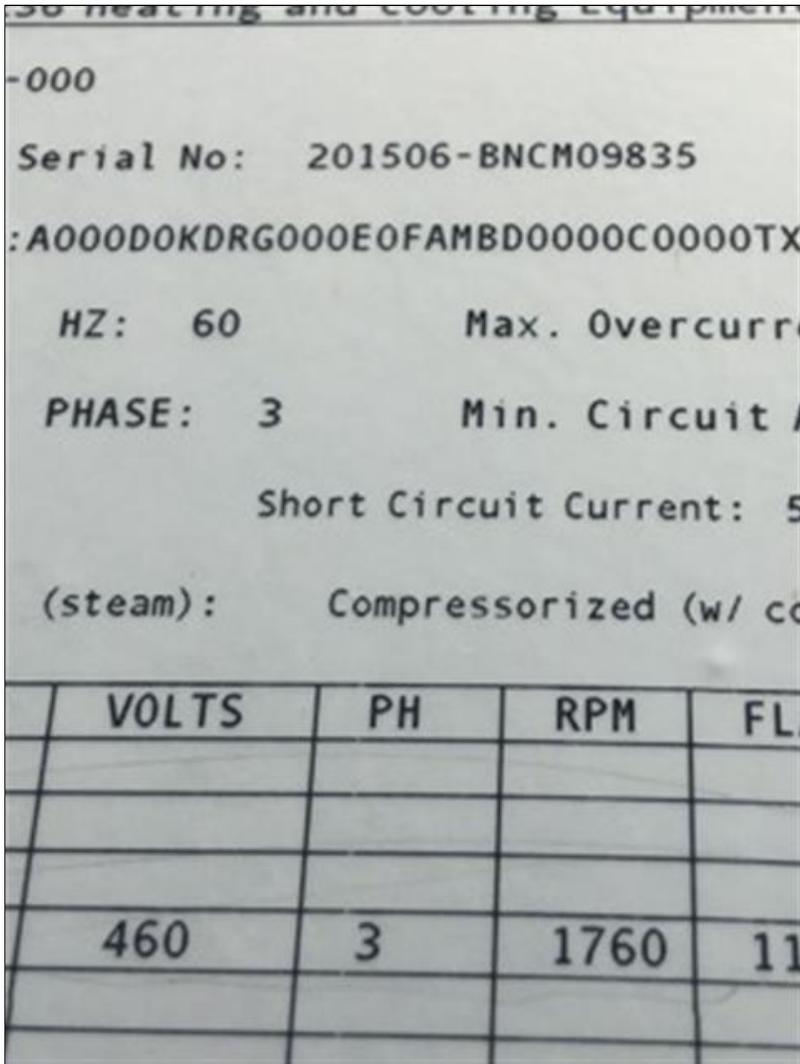
Serial#20157-ANCL09832

Unit#2 AAON Date of Manufacture june 2015

Serial# 20156-BNCM09835



E. Item 1(Picture) Data Tag



E. Item 2(Picture) ID Tag #2



E. Item 3(Picture)



E. Item 4(Picture) one 16 ton one 15.5 ton

F. Electric Service and Meter

Electrical Service Conductors: Below ground, 3 Phase

Units individually metered (Electrical): Yes

Comments:

This was in good shape.

G. Electric Distribution

Panel capacity: Adequate

Panel Type: Circuit breakers

Electric Panel Manufacturer: SIEMENS

Comments:

This was functioning as intended at the time of inspection.

Out of Scope Issues:

Plumbing: Determining adequate pressure and flow rate, fixture-unit values and counts, verifying pipe sizes, or verifying the point of discharge for underground systems. Observation of flue connections, interiors of chimneys, flues or boiler stacks, or tenant owned or maintained equipment. Removing of electrical panel and device covers, except if removed by building staff, EMF issues, electrical testing, or operating of any electrical devices, or opening on process related equipment or tenant owned equipment. Examining of cables, sheaves, controllers, motors, inspection tags, or entering elevator/escalator pits or shafts.

5. Fire Protection

Out of Scope Issues

Determining NFPA hazard classifications, classifying, or testing fire rating of assemblies.

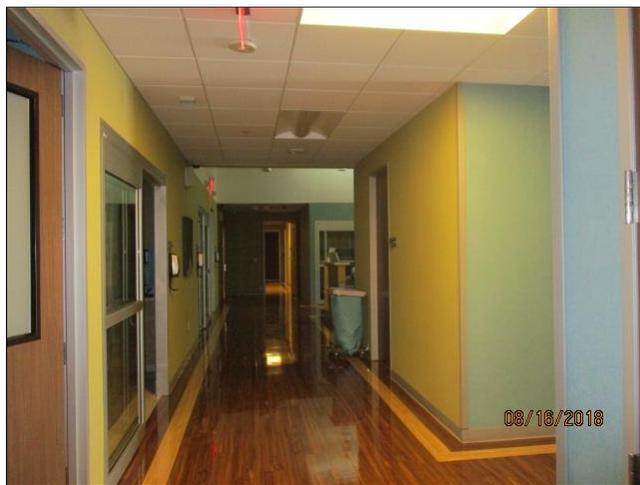
6. Interior Elements (Tenants)



Lobby



East Hallway



West hall



Exam room



North hall



Physician Quarters



Breakroom



Front Counter

A. Ceiling, Walls, Floors

Ceiling Materials: Drywall

Wall Material: Drywall

Floor Covering(s): Tile

Comments:

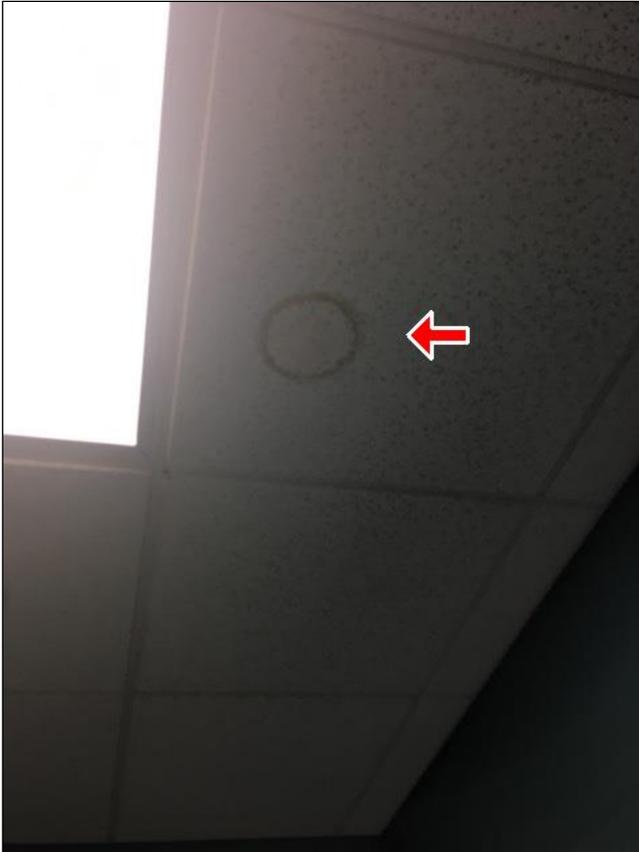
There were 3 areas that had show water stains in the ceiling tiles. The first was on the east exam room ceiling. The second was in the oxygen room. The third was in the vacuum room behind the oxygen room. I would recommend monitoring for source of leak and repair by qualified contractor.



A. Item 1(Picture) Vacuum room



A. Item 2(Picture)



A. Item 3(Picture) exam room

B. Windows and Doors

Comments:

There was one chip out of the door veneer on the house keeping door. (minor cosmetic)

Out of Scope Issues:

Operating appliances or fixtures, determining or reporting STC (Sound Transmission Class) ratings, and flammability issues/regulations

7. Common Areas (Interior)

A. Ceiling, Walls, Floors

Comments:

There were ceiling stains in the tiles in a exam room on the east wall, oxygen room, and the vacuum room. These were cosmetic in nature. The stains were no bigger than 3 inches in diameter. I would monitor these areas for further damage. If the damage persists, I would recommend a qualified person to inspect and advise.

Out of Scope Issues:

Operating appliances or fixtures, determining or reporting STC (Sound Transmission Class) ratings, and flammability issues/regulations.

8. Additional Considerations

Additional Considerations:

There may be additional or conditions at a property that users may wish to assess in connection with commercial real estate that are outside the scope of this guide (Out of Scope considerations). Outside Standard Practices. Whether or not a user elects to inquire into non-scope considerations in connection with this guide or any other PCA is not required for compliance by this guide. Other standards or protocols for assessment of conditions associated with non-scope conditions may have been developed by governmental entities, professional organizations, or other private entities.

Additional Issues:

Following are several non-scope considerations that users may want to assess in connection with E 2018 commercial real estate. No implication is intended as to the relative importance of inquiry into such non-scope considerations, and this list of non-scope considerations is not intended to be all-inclusive: Seismic Considerations, Design Consideration for Natural Disasters (Hurricanes, Tornadoes, High Winds, Floods, Snow, etc.), Insect/Rodent Infestation, Environmental Considerations, ADA Requirements, FFHA Requirements, Indoor Air Quality, and Property Security Systems.

B. Out of Scope Considerations

Comments:

Activity Exclusions—The activities listed below generally are excluded from or otherwise represent limitations to the scope of a PCA prepared in accordance with this guide. These should not be construed as all-inclusive or imply that any exclusion not specifically identified is a PCA requirement under this guide. Removing or relocating materials, furniture, storage containers, personal effects, debris material or finishes; conducting exploratory probing or testing; dismantling or operation. This should include material life-safety/building code violations. ing of equipment or appliances; or disturbing personal items or property, that obstructs access or visibility. Preparing engineering calculations (civil, structural, mechanical, electrical, etc.) to determine any system's, component's, or equipment's adequacy or compliance with any specific or commonly accepted design requirements or building codes, or preparing designs or specifications to remedy any physical deficiency. Taking measurements or quantities to establish or confirm any information or representations provided by the owner or user, such as size and dimensions of the subject property or subject building; any legal encumbrances, such as easements; dwelling unit count and mix; building property line setbacks or elevations; number and size of parking spaces; etc. Reporting on the presence or absence of pests such as wood damaging organisms, rodents, or insects unless evidence of such presence is readily apparent during the course of the field observer's walk-through survey or such information is provided to the consultant by the owner, user, property manager, etc. The consultant is not required to provide a suggested remedy for treatment or remediation, determine the extent of infestation, nor provide opinions of probable costs for treatment or remediation of any deterioration that may have resulted. Reporting on the condition of subterranean conditions, such as underground utilities, separate sewage disposal systems, wells; systems that are either considered process related or peculiar to a specific tenancy or use; wastewater treatment plants; or items or systems that are not permanently installed. Entering or accessing any area of the premises deemed to pose a threat of dangerous or adverse conditions with respect to the field observer or to perform any procedure, that may damage or impair the physical integrity of the property, any system, or component. Providing an opinion on the condition of any system or component, that is shutdown, or whose operation by the field observer may increase significantly the registered electrical demand-load; however, the consultant is to provide an opinion of its physical condition to the extent reasonably possible considering its age, obvious condition, manufacturer, etc. Evaluating acoustical or insulating characteristics of systems or components. Providing an opinion on matters regarding security of the subject property and protection of its occupants or users from unauthorized access. Operating or witnessing the operation of lighting or other systems typically controlled by time clocks or that are normally operated by the building's operation staff or service companies. Providing an environmental assessment or opinion on the presence of any environmental issues such as asbestos, hazardous wastes, toxic materials, the location and presence of designated wetlands, IAQ, etc.

Warranty, Guarantee, and Code Compliance Exclusions: By conducting a PCA and preparing a PCR, the consultant merely is providing an opinion and does not warrant or guarantee the present or future condition of the subject property, nor may the PCA be construed as either a warranty or guarantee of any of the following: Any system's or component's physical condition or use, nor is a PCA to be construed as substituting for any system's or equipment's warranty transfer

inspection; Compliance with any federal, state, or local statute, ordinance, rule or regulation including, but not limited to, building codes, safety codes, environmental regulations, health codes or zoning ordinances or compliance with trade/design standards or the standards developed by the insurance industry; however, should there be any conspicuous material present violations observed or reported based upon actual knowledge of the field observer or the PCR reviewer, they should be identified in the PCR; Compliance of any material, equipment, or system with any certification or actuation rate program, vendor's or manufacturer's warranty provisions, or provisions established by any standards that are related to insurance industry acceptance/approval, such as FM, State Board of Fire Underwriters, etc.

Additional/General Considerations: Further Inquiry: There may be physical condition issues or certain physical improvements at the subject property that the parties may wish to assess in connection with a commercial real estate transaction that are outside the scope of this guide. Such issues are referred to as non-scope considerations and if included in the PCR, should be identified.

Out of Scope Considerations: Whether or not a user elects to inquire into non-scope considerations in connection with this guide is a decision to be made by the user. No assessment of such non-scope considerations is required for a PCA to be conducted in compliance with this guide.

Other Standards: There may be standards or protocols for the discovery or assessment of physical deficiencies associated with non-scope considerations developed by government entities, professional organizations, or private entities, or a combination thereof.

Additional Issues: No implication is intended as to the relative importance of inquiry into such non-scope considerations, and this list of non-scope considerations is not intended to be all-inclusive: Seismic Considerations, Design Consideration for Natural Disasters (Hurricanes, Tornadoes, High Winds, Floods, Snow, etc.), Insect/Rodent Infestation, Environmental Considerations, ADA Requirements, FFHA Requirements, Indoor Air Quality, and Property Security Systems.

D. Exhibits (See attached, if any)

Comments:

There are no attachments to be viewed.

E. Opinions of probable costs to remedy physical deficiencies

Comments:

Refer to the *Immediate Costs Summary* and the *Short Term Cost Summary*

Uncertainty Not Eliminated—No PCA can wholly eliminate the uncertainty regarding the presence of physical deficiencies and the performance of a subject property's building systems. Preparation of a PCR in accordance with this guide is *intended to reduce, but not eliminate*, the uncertainty regarding the potential for component or system failure and to reduce the potential that such component or system may not be initially observed. This guide also recognizes the inherent subjective nature of a consultant's opinions as to such issues as workmanship, quality of original installation, and estimating the RUL of any given component or system. The guide recognizes a consultant's suggested remedy may be determined under time constraints, formed without the aid of engineering calculations, testing, exploratory probing, the removal of materials, or design. Furthermore, there may be other alternate or more appropriate schemes or methods to remedy the physical deficiency. The consultant's opinions generally are formed without detailed knowledge from those familiar with the component's or system's performance.

Not Technically Exhaustive—Appropriate due diligence according to this guide is not to be construed as technically exhaustive. There is a point at which the cost of information obtained or the time required to conduct the PCA and prepare the PCR may outweigh the usefulness of the information and, in fact, may be a material detriment to the orderly and timely completion of a commercial real estate transaction. It is the intent of this guide to attempt to identify a balance between limiting the costs and time demands inherent in performing a PCA and reducing the uncertainty about unknown physical deficiencies resulting from completing additional inquiry.