



Toll Free: (800) 435-7764
Fax: (877) 217-1389
Email: myclaim@farmersinsurance.com
Please include your claim # on any correspondence
National Document Center
P.O. Box 268994
Oklahoma City, OK 73126-8994

February 22, 2023

CHEF EKREM'S MEDITERRANEAN
[REDACTED]

COSTA MESA CA 92627-3149

Delivered by email to: [REDACTED]

RE:	Insured:	Chef Ekrem's Mediterranean
	Claim Number:	[REDACTED]
	Policy Number:	[REDACTED]
	Loss Date:	01/14/2021
	Location of Loss:	1781 Newport Blvd Ste C, Costa Mesa, CA
	Subject:	Important Claim Information

Dear CHEF EKREM'S MEDITERRANEAN :

Thank you for choosing us to provide for your insurance needs. We value you as a customer and appreciate the opportunity to be of service.

Please see the enclosed copy of the Claim Outcome Letter that was originally mailed to you on September 6, 2022.

We encourage you to visit www.farmers.com to learn more about our self-service options available to you, including the ability to view your claim status, upload documents and photos and find local service providers.

If you have any questions, please call me at (949) 689-3396.

Thank you.

[REDACTED]
Special Commercial Property Claims Representative

[REDACTED]
Truck Insurance Exchange

Email communications are preferred and should be sent to myclaim@farmersinsurance.com. If hard copies of communications are required, they should be sent to our National Document Center at P.O. Box 268994, Oklahoma City, OK 73126-8994.

Enclosure(s):
Correspondence -



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September 06, 2022

CHEF EKREM'S MEDITERRANEAN
DBA KABOB REPUBLIC

CA 92656-2757

RE:	Insured:	Chef Ekrem's Mediterranean
	Claim Number:	[REDACTED]
	Policy Number:	[REDACTED]
	Loss Date:	01/14/2021
	Location of Loss:	1781 Newport Blvd Ste C, Costa Mesa, CA
	Subject:	Claim Outcome Letter

Dear CHEF EKREM'S MEDITERRANEAN :

Thank you for choosing us to provide for your insurance needs. We value you as a customer and appreciate the opportunity to be of service.

We've completed our evaluation of your claim. You reported a claim for business income and food supplies lost due to the repeated closure of your restaurant business.

As Claims Representative Seann Clifford explained to you on September 6, 2022, after completing our investigation, which included inspections and reports by American Leak Detection and SPC Engineering, we found that the cause of the damages that forced the repeated closure of your restaurant business was faulty construction of the subflooring for the back addition of the building where your restaurant business is located, as well as improper installation of the walk-in cooler located within your rented unit. Damages due to faulty construction and improper installation are excluded from coverage under your policy, therefore there is no coverage for the business income and food supplies losses your business has sustained due to these damages.

Please see the enclosed copies of the reports from American Leak Detection and SPC Engineering for additional information.

You may wish to review these provisions of your Businessowners Special Property Coverage Form, BP 00 02 01 97 policy. They form the basis for our decision:

A. Coverage

We will pay for direct physical loss of or damage to Covered Property at the premises described in the Declarations caused by or resulting from any Covered Cause of Loss.

...

3. Covered Causes Of Loss

Risks Of Direct Physical Loss unless the loss is;

- a. Excluded in Section **B.**, Exclusions; or
- b. Limited in Paragraph **A.4.**, Limitations;

that follow.

...

5. Additional Coverages

f. Business Income

(1) Business Income

We will pay for the actual loss of Business Income you sustain due to the necessary suspension of your "operations" during the "period of restoration." The suspension must be caused by direct physical loss of or damage to property at the described premises. The loss or damage must be caused by or result from a Covered Cause of Loss. With respect to loss of or damage to personal property in the open or personal property in a vehicle, the described premises include the area within 100 feet of the site at which the described premises are located.

...

B. Exclusions

...

- 3. We will not pay for loss or damage caused by or resulting from any of the following **B.3.a.** through **B.3.c.** But if an excluded cause of loss that is listed in **B.3.a.** through **B.3.c.** results in a Covered Cause of Loss, we will pay for the loss or damage caused by that Covered Cause of Loss.

...

c. Negligent Work

Faulty, inadequate or defective:

- (1) Planning, zoning, development, surveying, siting;
- (2) Design, specifications, workmanship, repair, construction, renovation, remodeling, grading, compaction;
- (3) Materials used in repair, construction, renovation or remodeling; or
- (4) Maintenance;

of part or all of any property on or off the described premises.

...

Based on the facts of this loss as well as all information known to us at this present time, we regret to inform you that we are unable to pay this claim. Your policy includes a provision that says it is your duty to protect the insured property from further damage.

We wish to inform you there are time limits as found in the Conditions language of your policy. These limits may have been extended by statute in your state. The time period set forth in the Conditions section is the shortest period which may apply.

E. Property Loss Conditions

4. **Legal Action Against Us**

No one may bring a legal action against us under this insurance unless:

- a. There has been full compliance with all of the terms of this insurance; and
- b. The action is brought within 2 years after the date on which the direct physical loss or damage occurred.

Please note, on occasion, policies are updated with newer editions. We encourage you to reference your policy and included endorsements for any updates.

Even though only parts of your policy are mentioned and quoted in this letter, additional portions may apply. If they are found to be relevant and applicable, they will be applied. Because of this, we recommend you review your entire policy.

By writing this letter, we do not waive any of the terms, conditions or provisions of the insurance policy, all of which are expressly retained and reserved. We expressly retain all available defenses now and hereafter.

If you believe your claim has been wrongfully rejected or denied, in whole or in part, please contact us for further clarification. The state of California requires that we provide you with the following notice: You may also have the matter reviewed by writing to the California Department of Insurance, Consumer Services and Market Conduct Branch, Claims Services Bureau, 300 South Spring Street, South Tower, Los Angeles, CA 90013 or by calling 1-800-927-4357 or 1-213-897-8921.

If you have any questions about your claim, or additional information that you feel we may have overlooked, please contact Claims Representative Seann Clifford at (949) 689-3396.

Thank you.

[REDACTED]
Field Claims Supervisor

[REDACTED]
Truck Insurance Exchange

At this time, I can be reached by telephone and e-mail; my phone number and email address have not changed. Email communications are preferred to avoid any potential delays caused by mailing. If you are unable to use email and hard copies of communications are required, they may be sent to our National Document Center at P.O. Box 268994, Oklahoma City, OK 73126-8994. We are unable to receive deliveries at any office location from FedEx, UPS or any other courier at this time.

CC: [REDACTED]

Enclosure(s):

Special Investigation -
Photographs -



September 2, 2022

SPC 9368-01

[REDACTED]
TRUCK INSURANCE EXCHANGE
P. O. Box 268994
Oklahoma City, OK 73126



**Subject: LIMITED ENGINEERING REVIEW
DAMAGE EVALUATION**
Insured: Ekrem Ozturk
1781 Newport Boulevard, Suite C
Costa Mesa, CA 92627
Claim No. [REDACTED]
Date of Loss: January 14, 2021

Dear Mr. Clifford:

Per your request, we have performed and completed a limited engineering review at the above property. The purpose of this review was to evaluate the cause of sinking of the raised floor and floor tile cracking in the subject strip mall unit. Selected photographs are attached and show pertinent information and typical damage as observed at the site. The contents of this report are based on site observations, engineering evaluation, and professional experience and judgment.

Site Description

The site is located along Newport Boulevard, approximately 1000 feet north of 17th Street in Costa Mesa, California and consists of a single-story commercial building. For reference purposes, the building is situated on the western side of the street and consists of two units. The insured's unit (Kabob Republic restaurant), Suite C, is on the right side and occupies approximately one-third of the building (Photo 1). The front of the building is on a slab-on-grade foundation with a large, raised-floor addition attached to the rear; a narrow, slab-on-grade addition is located behind the raised-floor addition, as shown on a recent aerial photo (Photo 2).

Background

We understand that the subject building, 1781 Newport Boulevard, was constructed in 1956 and was purchased by the current owner in 2012. It appears that the original slab-on-grade building previously had a small loading dock at the rear, similar to the one at 1775 Newport Avenue (Photo 3). Based on a review of historical aerial photographs, an addition was constructed onto the back of the subject building (1781 Newport Boulevard) in the mid 1960's. The addition was constructed with a raised floor so that the floor of the unit would be all on one level.

The insured's unit had been previously occupied by another restaurant, Wingstop, for at least nine years prior. After Wingstop moved out, the insured leased and moved into the unit in 2017. According to the insured, there was already a walk-in cooler in place when he moved in.

Within the same building, the larger unit next door had been occupied by a used CD/DVD store for many years, and in 2020, the present tenant Scuba.com moved in. According to the insured, his unit started experiencing problems with the raised floor when Scuba.com's initial tenant improvements were taking place approximately two years ago. During our interview, the insured did not know the nature of the construction work that was being performed, but reportedly, a large hole in the raised floor suddenly opened up adjacent to the shared wall with Scuba.com, and the walk-in cooler developed gaps along the shared wall. The tiled floor became uneven and the tile began to crack. Repairs made to the walk-in cooler by the building owner included sealing the gaps with spray foam. As the problems became worse, the insured reportedly had to temporarily close his restaurant. On August 5, 2022, American Leak Detection found no plumbing leaks, but observed that the sinking floor "appears to be a result of the leaking walk-in cooler and moisture leaking through the kitchen tile flooring when spraying/washing the kitchen floors." On August 17, 2022, the insured's contractor, Harrison Building, Inc., provided a list of structural and other problems that they had observed. We were contacted by Truck Insurance Exchange to evaluate the cause of the floor movement and tile cracking.

Observations

A site visit was performed on August 25, 2022. At the site, we met with the insured, who showed us the damages and provided background information. A summary of our observations is as follows:

Interior

- The customer area and kitchen are located within the front, slab-on-grade portion of the unit (Photo 4).
- In the back, the raised-floor portion of the unit is covered with 6" x 6" square commercial floor tile. Improvements include a walk-in cooler, a sink, and a water heater. The walk-in cooler does not have its own insulated floor, but is installed directly on the tile. The raised floor is uneven and sloping toward the cooler (Photo 5). There is a ramp on the right side of the unit leading down to the rear.
- A short distance away from the cooler toward the front, the floor slope increases near a floor drain (Photos 6, 7). The raised floor feels weak and unsupported near the drain, and the surrounding floor tile is loose and cracked. The cove base has separated from the end of the interior wall line.

- At the separated cove base, there is older patching with sealant, as well as a grout repair along the bottom of the wall. The damage has reopened since the time of repair (Photo 8).
- In front of the cooler door, the floor is sloping toward the cooler at 2.1% (Photo 9).
- A gap at the corner of the cooler was sealed with spray foam. A few feet away, a large hole in the floor reportedly opened up during tenant improvements next door in 2020 (Photo 10).
- The inside of the cooler does not have its own insulated floor, but is installed directly on top of the floor tile (Photo 11).
- There is a gap between the floor tile and the front wall of the cooler (Photo 12). Gaps were also reportedly sealed at the back of the cooler along the shared wall with Scuba.com. When washing the floor, the water would reportedly drain through the gaps at the back.

Crawlspace

- The crawlspace access is located at the rear of the raised-floor portion of the building (Photo 13).
- Viewing near the access toward the front of the unit, the floor joists run front-to-back and the girders run left-to-right. The floor joists are attached to the girders with joist hangers. The ramp, which runs along the right side of the unit, is on the other side of the wall as indicated (Photo 14).
- A girder is supported on a post at the location of the interior wall adjacent to the ramp (Photo 15). This framing appears newer than the original construction of the addition in the mid 1960's. Construction debris was noted throughout the crawlspace.
- Moving further toward the front from the girder shown in Photo 15, there is another girder end that appears to be unsupported near the location of the most severe floor deformation. There is abundant wood and tile construction debris in the crawlspace which prevented access to the heavily deformed floor area between the walk-in cooler and the floor drain (Photo 16).
- The subfloor beneath the walk-in cooler is covered with white fungal blooms which have likely caused deterioration and weakening of the floor support framing. A black substance has dripped down on top of the fungus. This may be due to past hot mop waterproofing applied to the floor, or is possibly some other unknown substance (Photos 17, 18).

CONCLUSIONS

Based on site observations, engineering evaluation, and professional experience and judgment, we conclude that the floor unevenness and tile cracking is most likely gradual, long-term, and ongoing damage related to improper construction of the addition subfloor, as well as improper installation of the walk-in cooler. More specifically:

- The building was constructed in 1956 on a slab-on-grade foundation, and a raised-floor addition was constructed onto the rear of the building in the mid 1960's. From roughly 2008 to 2017, the unit was occupied by Wingstop, and the walk-in cooler was reportedly already in place when the insured leased and moved his own restaurant into the unit in 2017. According to the insured, problems with floor unevenness, tile damage, and gaps along the walk-in cooler began in 2020 during tenant improvements inside the unit next door, which is a part of the same building. Attempts were reportedly made by the building owner to seal the gaps with spray foam. As the problems became worse, the insured reportedly had to temporarily close his restaurant.
- The area with the most severe raised floor deformation is near the walk-in cooler. As observed from the crawlspace below, a nearby girder appears to be unsupported at its end. This likely led to floor deflection that was aggravated by the weight of the walk-in cooler and all of its contents. The cooler appears to have been in place years before the insured moved into the property.
- The walk-in cooler, which was installed over a raised floor, should have been installed with its own insulated floor to prevent condensation and leaking water from reaching the subfloor framing. Also, the subfloor should have been retrofitted with added support beneath the walk-in cooler to prevent any possible framing movement that could cause a breach in the waterproofing. As a result of condensation and leaking moisture from the cooler, the subfloor is currently in very poor condition, with widespread fungal blooms that are likely digesting the fiber of the wood and affecting its strength. Future collapse of the raised floor is possible if the deterioration is allowed to continue. Currently, the weakened subfloor has moved downward and caused floor unevenness and tile cracking. At least one past attempt to repair the subfloor appears to have been made as observed by the presence of relatively newer framing and abundant construction debris in the crawlspace, so it is likely that the subfloor has been undergoing distress for many years.

CLOSING REMARKS

This report has been prepared solely for the use of our client. The conclusions reached in this report are limited in nature and are the opinions of this consultant. Our conclusions are based on field observations, engineering evaluation, and professional experience and judgment. It should be recognized, however, that other features not readily visible may exist and may not have been identified. No warranty is either expressed or implied with respect to the future performance of the site.

The opportunity to be of service is sincerely appreciated. Should you have any questions or need further assistance, please call.

Respectfully submitted,

SPC ENGINEERING

[Redacted Signature]
[Redacted Name]
Senior Engineer



[Redacted Signature]
[Redacted Name] M.S., P.E., G.E.
Principal Engineer

Attachment: Photo Log (Photos 1 through 18)

Photographer: KC

P8251453.JPG

Date: AUG 25 2022



Photo 1: A front view of the unit, which occupies approximately one-third of the building.

Aerial Photo

NeighOrtho00000974N_210929.jpg

Date: SEP 29 2021

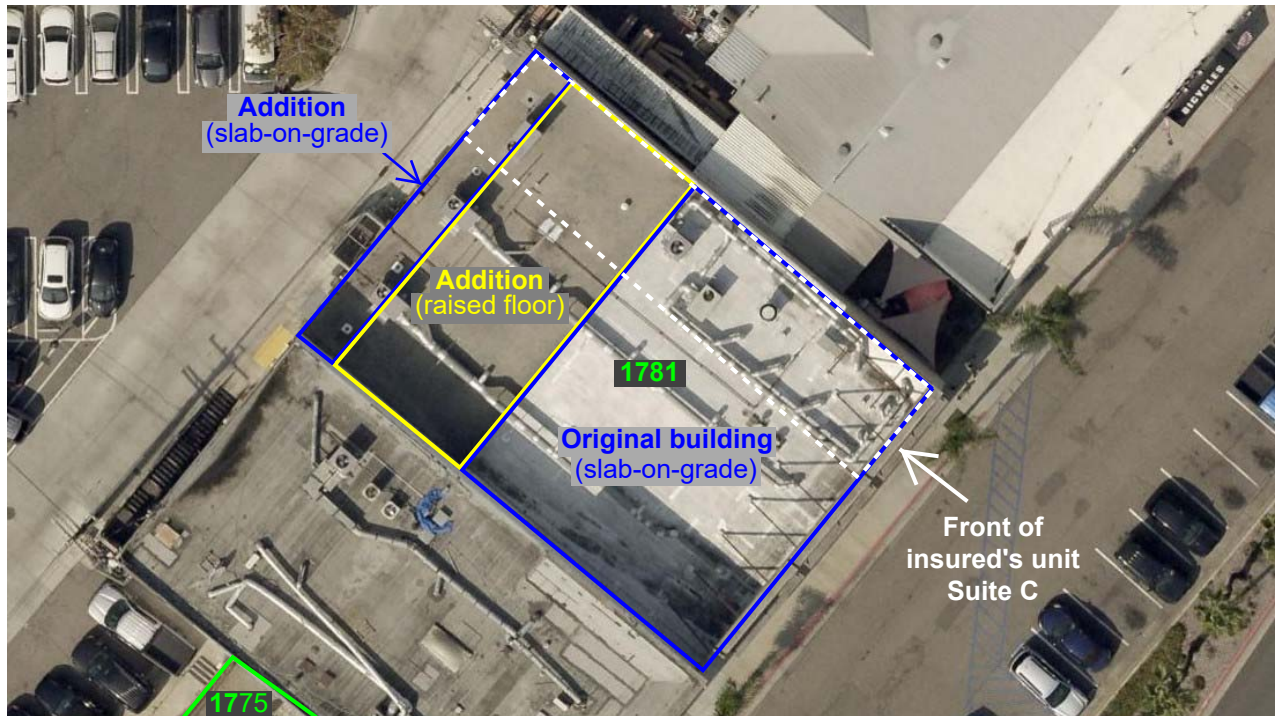


Photo 2: A recent aerial photo with annotations showing the location of the raised floor addition. Note the location of the nearby building 1775 Newport Blvd.



Street View Photo

Street view 2 Newport.JPG

Date: FEB 2021

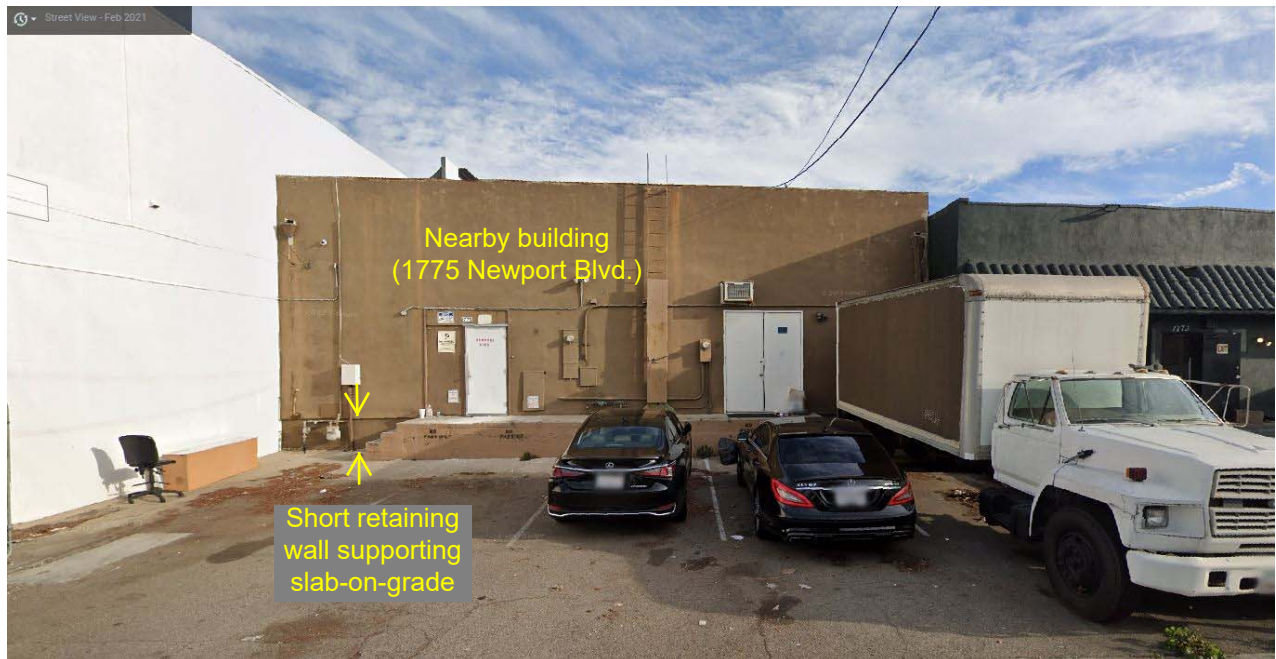


Photo 3: A researched photo showing the rear elevation of a nearby building - 1775 Newport Blvd. (see Photo 2). This photo shows an example of how 1781 Newport was likely originally constructed (before the raised floor addition was built), with a short foundation retaining wall, a slab-on-grade interior floor, and a raised dock for loading/unloading trucks.

Photographer: KC

P8251452.JPG

Date: AUG 25 2022



Photo 4: A view of the front, slab-on-grade portion of the insured's unit.



Photographer: KC

P8251471.JPG

Date: AUG 25 2022



Photo 5: A view of the rear, raised-floor portion of the restaurant. The floor is covered with 6" x 6" square commercial tile. The cooler, which does not have its own insulated floor, is installed directly on the tile. The raised floor is sloping toward the cooler. There is a ramp toward the rear on the right side of the building.

Photographer: KC

P8251479.JPG

Date: AUG 25 2022



Photo 6: A view toward the front showing the walk-in cooler and the sloping floor. The slope of the floor increases near a floor drain.



Photographer: KC

P8251480.JPG

Date: AUG 25 2022



Photo 7: A closer view of the damaged raised floor. The floor feels weak and unsupported near the drain. The tile is cracked and loose surrounding the drain, and the cove base is separating from the end of the interior wall.

Photographer: KC

P8251511.JPG

Date: AUG 25 2022



Photo 8: A closer view of the cove base tiles that are separating from the interior wall. Along the tiles, there is an older repair with sealant that has reopened.



Photographer: KC

P8251498.JPG

Date: AUG 25 2022



Photo 9: Another view of the tiled floor that is sloping toward the cooler at 2.1%.

Photographer: KC

P8251514.JPG

Date: AUG 25 2022

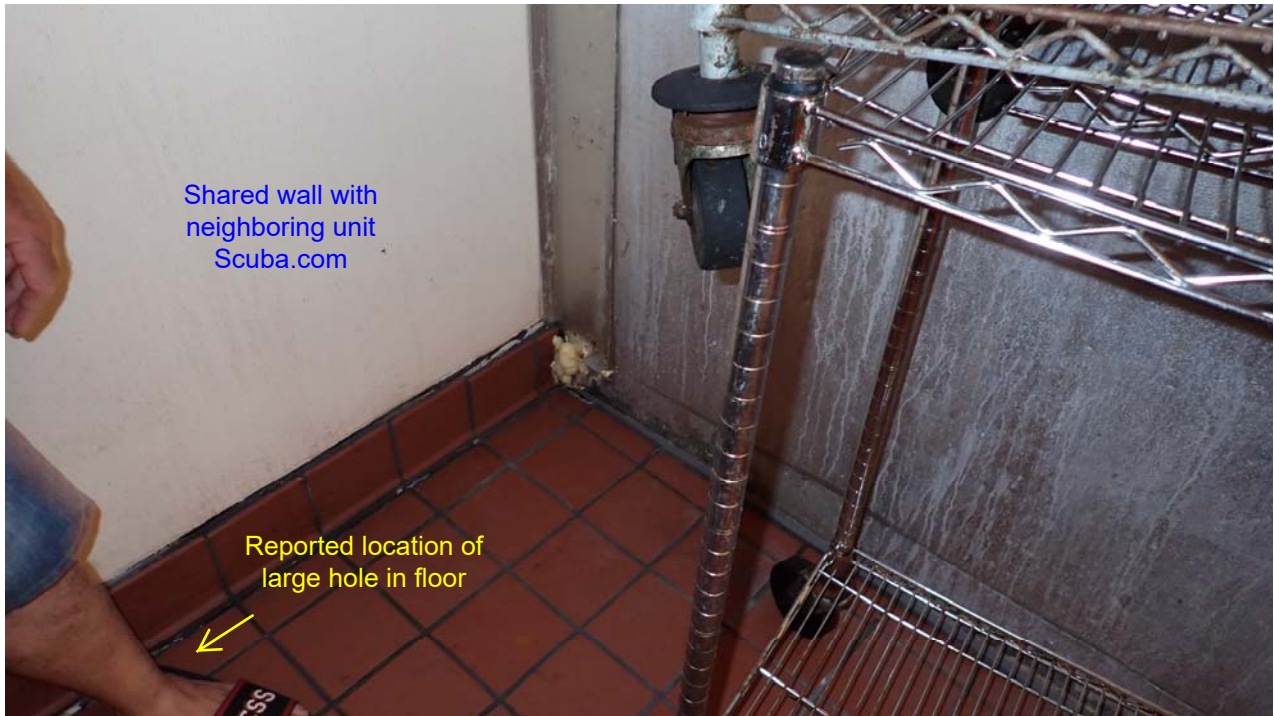


Photo 10: A gap at the corner of the cooler that was sealed with spray foam. Reportedly, a large hole opened up a few feet away during Scuba.com tenant improvements in 2020.



Photographer: KC

P8251503.JPG

Date: AUG 25 2022



Photo 11: The inside of the cooler, which is installed directly on the tile without its own insulated floor.

Photographer: KC

P8251506.JPG

Date: AUG 25 2022



Photo 12: A separation between the tile and the front wall of the cooler.



Photographer: KC

P8251462.JPG

Date: AUG 25 2022



Photo 13: The crawlspace access located at the rear of the raised floor portion of the building.

Photographer: KC

P8251530.JPG

Date: AUG 25 2022



Photo 14: The crawlspace of the raised-floor viewing from the crawlspace opening toward the front. The floor joists run front-to-back, and the girders run left-to-right. The floor joists are attached to the girders with joist hangers. The ramp shown in Photo 5 is on the other side of the wall.

Photographer: KC

P8251547.JPG

Date: AUG 25 2022



Photo 15: The girder shown in Photo 14 where it is supported on a post. The ramp shown in Photo 5 is on the other side of the wall. This framing generally appears newer than the construction of the addition in the mid 1960's, and there is construction debris throughout the crawlspace.

Photographer: KC

P8251550.JPG

Date: AUG 25 2022



Photo 16: The crawlspace viewing toward the front just beyond the girder shown in Photos 14 and 15. There is abundant wood and tile construction debris in the crawlspace. Near the area shown in Photo 7, the girder stops and the end does not appear to be supported. Further exploration in the crawlspace was impeded by construction debris.

Photographer: KC

P8251533.JPG

Date: AUG 25 2022



Photo 17: The framing below the cooler, which has severe white fungal blooms which have likely caused heavy deterioration and weakening of the floor support framing. The black substance, which has dripped over the white fungus, may be due to a past waterproofing attempt, or is some other unknown substance.

Photographer: KC

P8251537.JPG

Date: AUG 25 2022



Photo 18: A closer view of the subfloor support framing below the cooler.



August 5, 2022
Claim# 7004848022-1



LEAK DETECTION INSPECTION REPORT

Date

August 5, 2022

Prepared For

[REDACTED]

Company

Farmers Insurance

P.O. Box 268994

Oklahoma City, OK 73126-8994

Claim #: [REDACTED]

Property Inspected

Insured Name & Address:

Ekem Ozturk
1781 Newport Blvd #C
Costa Mesa, CA 92627

Inspection & Report By

American Leak Detection

Technician: [REDACTED]

Phone #: [REDACTED]

License #: [REDACTED]

August 5, 2022

Claim# [REDACTED]

Job Assignment Information, Symptoms, Visible Damage & Special Instructions

Job Assignment Information

COMMERCIAL LEAK DETECTION-Kami spoke with Ekem to book this job. This is a COMMERCIAL PROPERTY. He states that his restaurant has its own shut off. THE ISSUE IS THIS; NOTES FROM COMMENTS: Insured restaurant has ongoing issue with sinking floors. On a raised foundation. Need leak detection to determine if there is any active leaks in the property. PLEASE PERFORM A COMPLETE LEAK DETECTION, LOCATE AND MARK LEAK, GIVE CAUSE AND DURATION, TAKE PICTURES, AND GIVE ESTIMATES FOR REPAIRS.

Symptoms / Visible Damage / Special Instructions

The customer, the customer's representative, or the inspecting American Leak Detection technician has observed the following symptoms typical of water leaks and/or damage:

THE ISSUE IS THIS; NOTES FROM COMMENTS: Insured restaurant has ongoing issue with sinking floors. On a raised foundation. Need leak detection to determine if there is any active leaks in the property.

August 5, 2022

Claim# [REDACTED]

Identified causes & summary

If applicable, the following items were identified as to the origin of water and/or damage to the residence:

#121802724 8/6/2022 COMMERCIAL SLAB DETECTION

Steve and Gabriel performed an electronic leak detection of the pressurized water systems. Noted the incoming building water pressure at 52 psi.

Found no indications of any active pressurized water pipe leaks at this time. Observed pooling water at the base of the walk-in cooler walls. Recommend an appliance technician to test/inspect the walk-in cooler systems in order to determine the source of the pooling water around the walk-in cooler areas.

The evidence of the sinking floor at the areas in question appears to be a result of the leaking walk-in cooler and moisture leaking through the kitchen tile flooring when spraying/washing the kitchen floors.

(TI) For technical questions please contact the technician [REDACTED] For administrative assistance please contact the office at [REDACTED].

August 5, 2022

Claim# [REDACTED]

Photos

Photo #1

COMMERCIAL PROPERTY_2



Photo #2

INCOMIONG BUILDING PRESSURE



August 5, 2022

Claim# [REDACTED]

Photos

Photo #3

WATER LEAKING FROM WALK IN COOLER_4



Photo #4

WATER LEAKING FROM WALK IN COOLER_3



August 5, 2022

Claim# [REDACTED]

Photos

Photo #5

WATER LEAKING FROM WALK IN COOLER_2



Photo #6

WALK IN COOLER_2



August 5, 2022

Claim# [REDACTED]

Photos

Photo #7

WATER LEAKING FROM WALK IN COOLER



Photo #8

ACCESS PANEL FOR THE CRAWL SPACE OF THE
RAISED FOUNDATION



August 5, 2022

Claim# [REDACTED]

Photos

Photo #9

CRAWL SPACE ACCESS



Photo #10

WATER DAMAGED SUBFLOORING UNDER RAISED FOUNDATION



August 5, 2022

Claim# [REDACTED]

Photos

Photo #11

CRAWL SPACE AREAS



Photo #12

WALK IN COOLER



August 5, 2022

Claim# [REDACTED]

Photos

Photo #13

WATER HEATER MOP SINK



Photo #14

CRACKED TILE FLOORING SINKING_2



August 5, 2022

Claim# [REDACTED]

Photos

Photo #15

CRACKED TILE FLOORING SINKING



Photo #16

CRACKED TILE FLOORING



August 5, 2022

Claim# [REDACTED]

Photos

Photo #17

CRACK TILE FLOORING SINKING FLOOR



Photo #18

KITCHEN AREAS_2



August 5, 2022

Claim [REDACTED]

Photos

Photo #19

KITCHEN AREAS



Photo #20

DINING AREAS



August 5, 2022

Claim# [REDACTED]

Photos

Photo #21

MENS RESTROOM



Photo #22

WOMENS RESTROOM



August 5, 2022

Claim# [REDACTED]

Photos

Photo #23

COMMERCIAL PROPERTY



Photo #24

COLD WATER MAIN BACKFLOWS



August 5, 2022

Claim# [REDACTED]

Photos

Photo #25

WATER METER

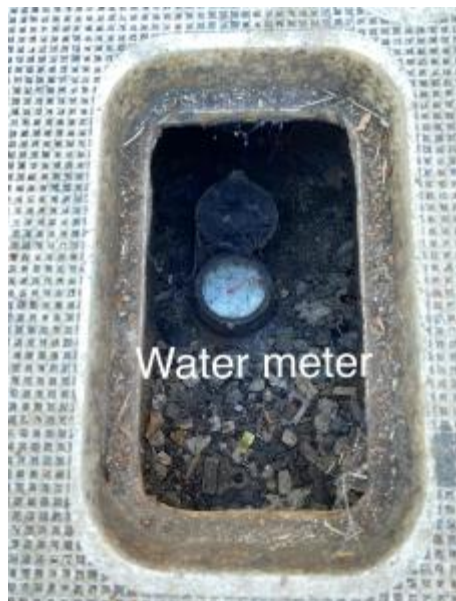
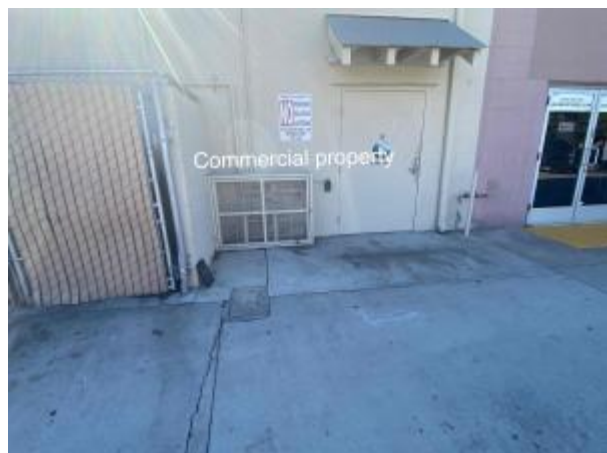


Photo #26

PROPERTY



August 5, 2022

Claim# [REDACTED]

Photos

Photo #27

FRONT OF PROPERTY

