NUISANCE ABATEMENT:

A targeted collaborative approach to addressing the worst of the worst nuisance properties

IMLA Mid-Year Conference

April 8, 2022

OVERVIEW

- A multi-agency task force designed to target the worst of the worst nuisance properties in the City
- Primary directive is to identify and investigate these properties and abate the nuisance through a coordinated and comprehensive approach
- Utilize all available remedies to abate

GOAL

- **RECLAIM**
  - disrupt and displace criminal/vagrant element
- **RESTORE**
  - abate all code violations
  - broken windows theory
- **REVITALIZE**

COMPOSITION

- The team composition will typically be from within your organization but it can also include agencies and departments from other governmental entities.
- What local, state or federal agencies and/or entities are available or interested in participating?
  - Oftentimes local, state, and federal participation will vary depending upon the agency's interest in the location/Defendants.
  - Each intergovernmental team member brings certain valuable skill sets, different technologies, and sometimes different penalties (civil and criminal) to the table.

COMPOSITION: AN EXAMPLE

- Development Services Department
  - Dangerous Premises
  - Code Compliance
- Police Department – SAFFE & Vice
- Neighborhood and Housing Services Department/DHS
- Animal Care Services
- Health Department
- Texas Alcoholic Beverage Commission
- City Attorney's Office

TYPES OF PROPERTIES ADDRESSED

- RESIDENTIAL
  - Drugs
  - Gang activity
  - Prostitution
  - Vacant structures
- COMMERCIAL
  - Motels/Hotels
  - Convenience stores
  - Apartment complexes
  - Bars
  - Massage Parlors
  - Salvage yards
- LAND
  - Vacant lots

UNIQUE ASPECTS OF DART

- All Volunteers
- Not Self-Funded nor grant-funded
- Not limited to properties with criminal activity
- Able to address habitual code problem properties
- Ability to ensure complete abatement if needed by means of demolition rather than just closure

Costs to Run an Abatement Unit

- Are there any additional material or administrative costs?
  - Additional gear or necessary equipment outside of what team members already have allocated to them for their normal duties?
  - Are additional support staff needed for administrative purposes?
- Time – are the team members working on or off the clock from their normal duties?
  - Are they salaried or are they hourly?
  - Do they qualify for overtime or compensatory time?
  - Are there union rules and agreements with your City that you have to be aware of in terms of time-management and compensation?

FUNDING

- Depending upon what the answers to the potential costs are, when setting up an abatement unit it is worthwhile to see whether the sponsoring Division or Department will make a budget for the unit.
  - The unit budget could be shared by several contributing Divisions or Departments as well.
  - Sometimes there are grants (state and/or federal) which may be available – talk to the grant writers in your Budget Department about potential grant sources.

Criteria for Properties to become a DART

- Each department researches property for ***documented*** habitual two year history
- Review of code history
  - Violations at the property in the past
  - Observed violations currently
- Review of police calls
  - Calls for service
  - Offense reports
  - Types of criminal activity

CONSIDERATIONS

- Team determines any special needs at property
  - Owner issues – Elderly owners – concerns of elder abuse - Adult Protective Services? Social Services? Hoarding issues?
  - Mental Health Issues?
  - Relocation issues – need for DHS involvement?
  - Animal Care Services?
  - Haz-Mat concerns – meth lab? asbestos concerns?
  - Level of drug activity – need for DEA or US Attorney involvement?
  - High risk property – weapons involved – SWAT involvement necessary prior to inspection?
  - Large complexes – need after action game plan
  - Health issues – such as raw sewage which might necessitate an immediate evacuation of the property

INSPECTION DAY

- Administrative warrant is obtained from magistrate to enter onto property
- Team determines any concerns or special needs that may arise
  - Gangs, Weapons, Hoarding, Elderly, Children
  - Relocation Issues/Notice to vacate/Social Services – need for NHSD assistance and partners: APS, CPS, Haven for Hope
  - Dangerous Animals – need assistance from ACS department
  - Health Concerns – need assistance from Health Department
- Safety Briefing
- During the inspection, the team meets informally to discuss findings and possible courses of action, to include available remedies.

Available Remedies on Date of Inspection

- Code enforcement
- Dangerous Premises enforcement
- Health code enforcement
- Criminal enforcement
- Animal enforcement
- TABC citations
- Relocation of eligible persons

AFTER ACTION MEETING

- Meeting held with property owner with all relevant team members present
  - Discuss violations
  - Advise owner of legal liability
  - Advise owner of City's requirements for compliance
  - Sometimes the problem arises from a tenant to the property; eviction might solve the problem

- Result from meeting:
  - Voluntary compliance
    - Nuisance Abatement Compliance Agreement
    - Action plan
    - Monitor property

  - Refusal to comply
    - BSB for repair, vacate, or demolition as warranted
    - Lawsuit filed encompassing all violations *if* property presents *substantial* threat to health, life, safety, welfare to abate nuisance conditions. (Code)
    - Lawsuit filed encompassing *habitual* criminal cases to close for one year. (Criminal)

LEGAL REMEDIES

- State nuisance statutes are your point of review – these are typically injunctive lawsuits
  - Public nuisances – typically conditions which create threats to public health, welfare and safety
  - Common nuisances – typically a history of criminal violations at or originating from the location which makes it a nexus for criminal activity
  - * NOTE * Each State will have it's own definition of what is a public or a common nuisance and some, like Texas, will blur the terms.
- Many state nuisance laws authorize or delegate authority to local governments to enforce them
- For public nuisances the remedies can include an injunction to repair, abate, remove the conditions which constitute a nuisance; or demolition
- For common nuisances the remedies can include an injunction to clean, repair, maintain a property while it is closed for any use for a period of time, and criminal trespass warnings to individuals entering the property during this period.

LEGAL REMEDIES

- General legal remedies will vary depending upon your local laws or ordinances; state laws; and laws which are specific to the agencies participating.
- Be sure to familiarize yourself with the Civil and Criminal penalties which may be available to you. Operate on many fronts.
  - On a municipal court level, there may be any number of low level criminal violations which you can charge the Defendant with; also there may be some civil or administrative actions available.
  - Administrative remedies – depending upon the types of violations, there may be administrative remedies available through a participating Department or Division; for example, a Department may have the grounds for revoking a certificate of occupancy.
  - Higher level criminal charges may be possible depending upon the violations.
  - Various state and federal agencies have their own enforcement mechanisms – civil and criminal; these will be handled by their appropriate legal teams.
  - Civil remedies – look at existing nuisance laws which will enable you to pursue injunctive relief and possibly seek monetary penalties.

TEXAS LEGAL REMEDIES

- Common Nuisance Statute - Ch. 125, CPRC
  - declares property to be a common & public nuisance due to habitual criminal activity
- Public Nuisance Statute – Ch. 54 & 214, LGC
  - declares property to be a public nuisance threatening life, health, safety, property
- Texas Alcoholic Beverage Commission Statute – Ch. 81 & 101, TABC
  - declares property to be a public nuisance due to habitual criminal activity and liquor violations
- San Antonio City Codes - Ch. 6, SAPMC, Ch. 5, Ch. 15

LITIGATION OUTCOMES

- CRIMINAL NUISANCE LAWSUIT (Ch. 125)
  - Property declared common nuisance
  - permanent injunction prohibiting any further criminal activity
  - close and board property for one year- no persons allowed on premises
  - post performance bond
  - attys fees, court costs, investigation expenses
  - disconnect all city supplied services
  - contempt action
  - Revoke liquor licenses

LITIGATION OUTCOMES

- Public Nuisances and Dangerous Structures (Ch. 54)
  - permanent injunction prohibiting or requiring specific action
  - declaration of public nuisance
  - order repair or demolition
  - allow city to enter and abate at owner's expense
  - Fines up to $1000/day in violation
  - attys fees, court costs, investigation expenses

LITIGATION OUTCOMES

Alcoholic Beverage Code:

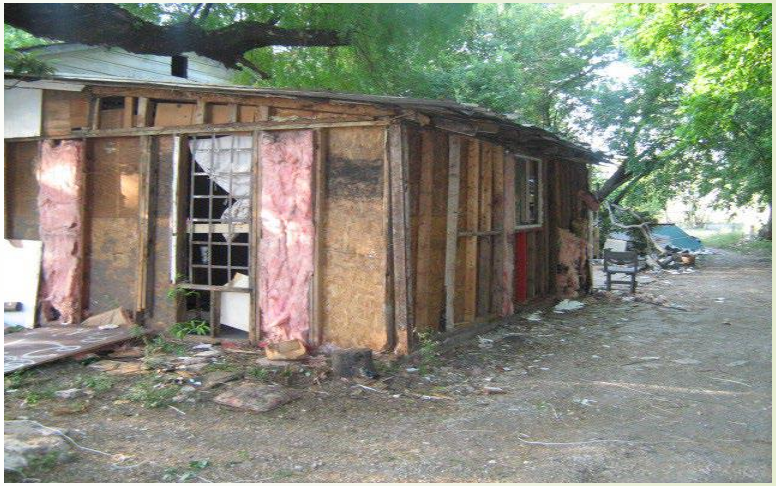
- Declare bar/restaurant common nuisance
- Upon a declaration of a common nuisance - Court may suspend, deny renewal, or revoke permit

Come along for a DART ride.....

Come along for a DART ride.....

When we arrived…

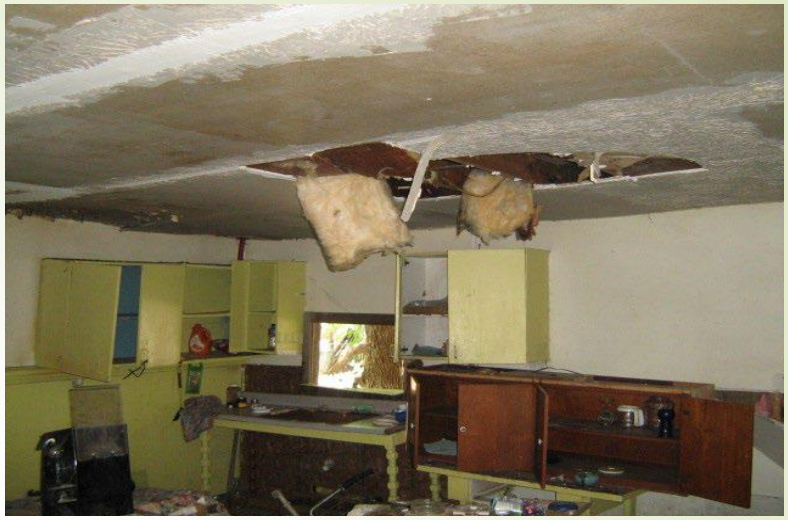
















After DART



500 Blk Club


10/13/2015


Love
always hopes,
10/13/2015


with lovin'.
Buttermilk
Crispy Chicken.
10/13/2015


09/01/2021 17:03

300 Blk Bank








BIG JOHN
06/01/2018

500 Blk Chicago










09/01/2021 16:30

100 Blk Loy










05/12/21 03:09 PM

100 Blk Dot – apt complex





Living Conditions



Grass has been cut

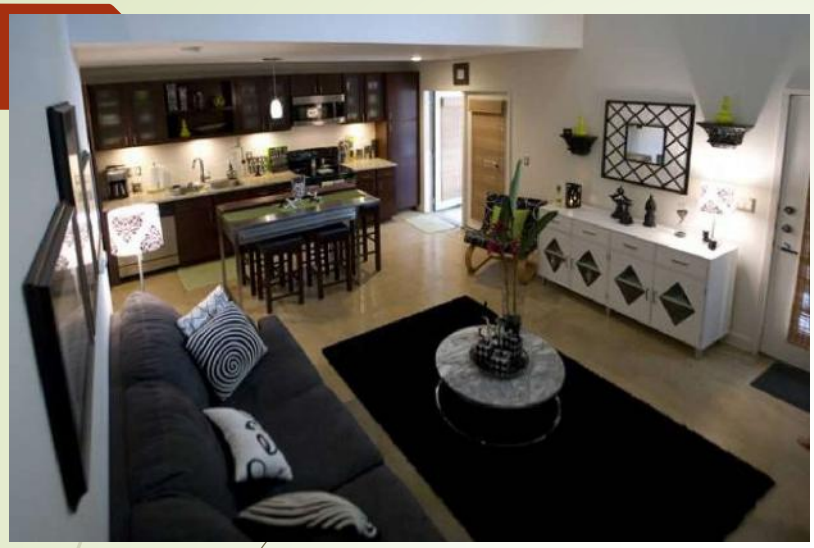








Utility room needs repairs











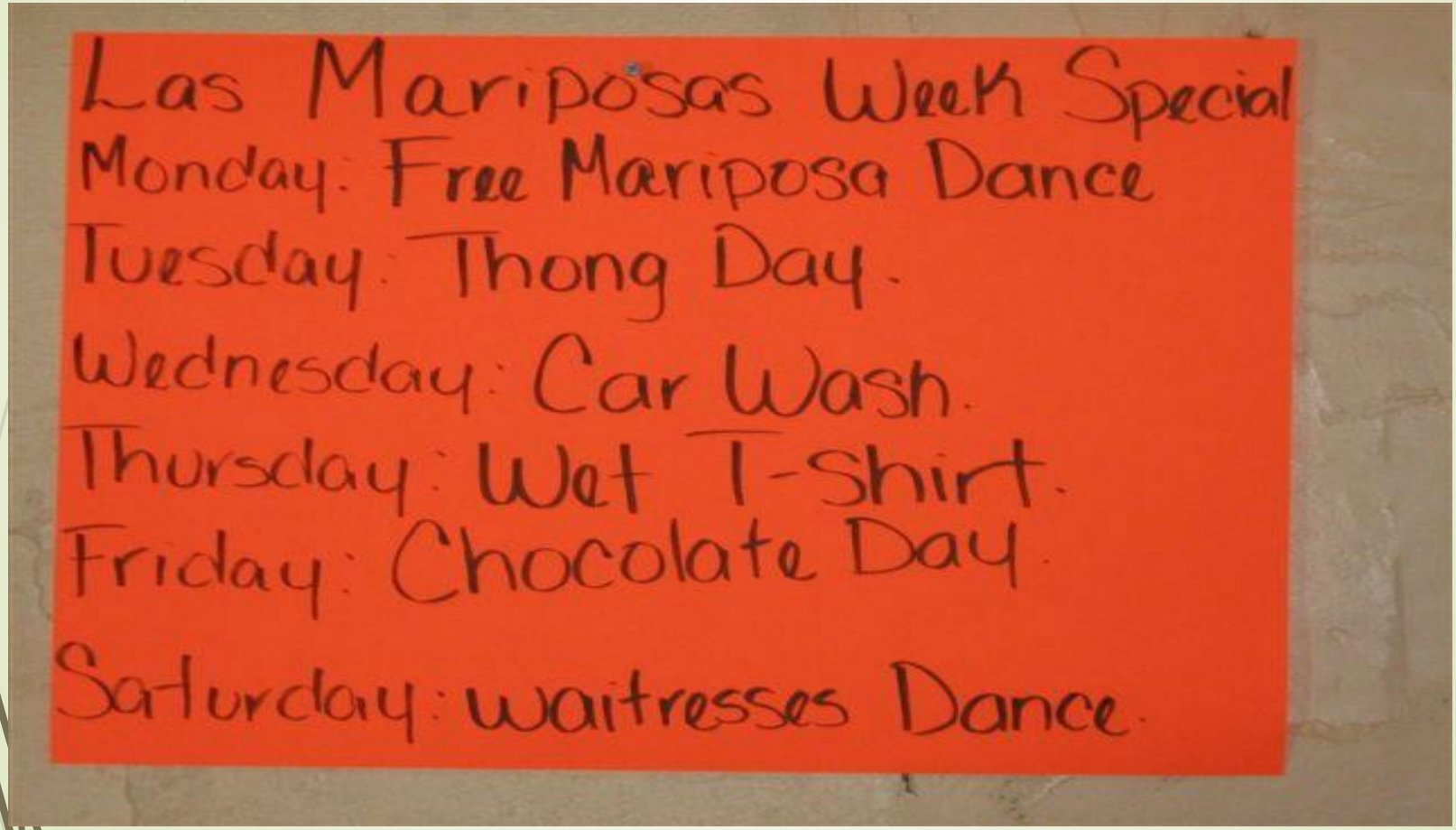
Taqueria - Mariposa



Welcome to Tacos



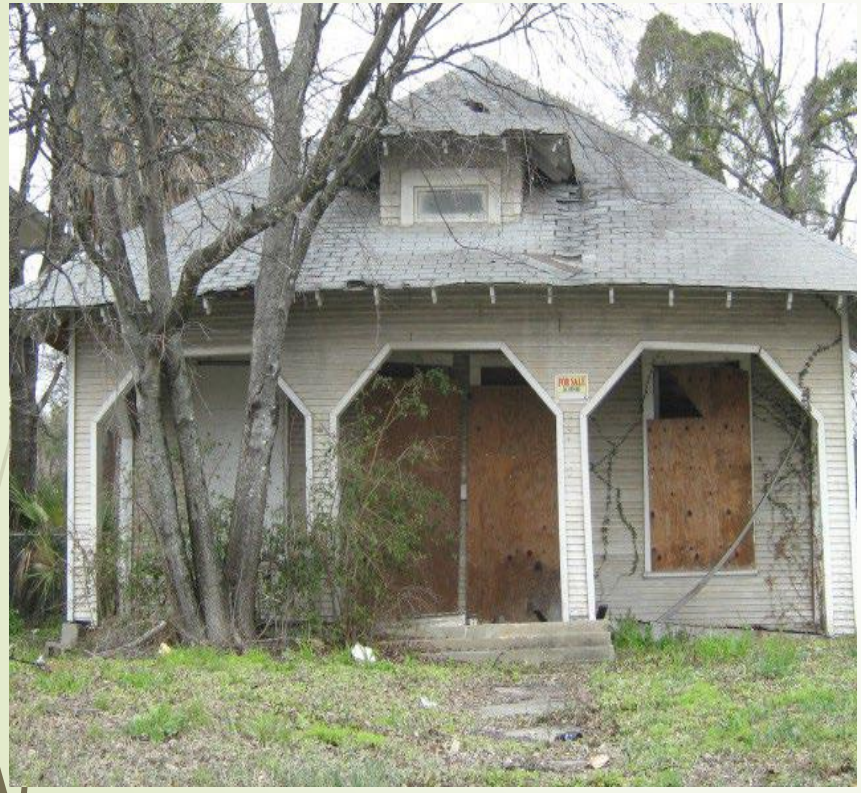
Weekly Specials

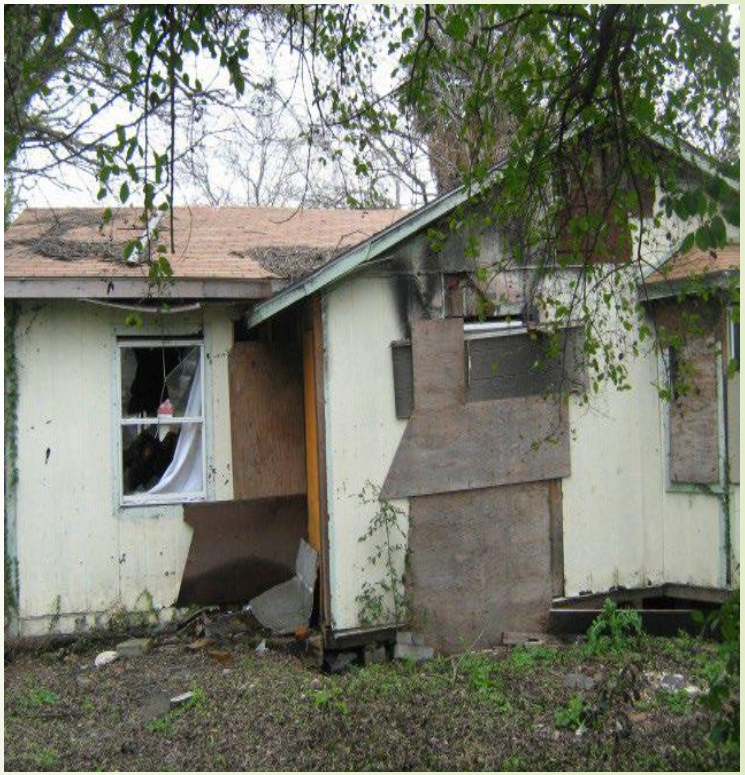


Vikini Car Wash



“Historic” Gang House





Happier Neighborhood



9500 Blk Bareback






6/30/2011 16:48


Petmate
Petmate
06/30/2011


pepsi
06/30/2011


6/30/2011 17:19

AFTER…



9558 Bare Back Trail
Action:21995556
DMC 3-16-2012

TRASH HOARDERS


01/23/2013 10:02


01/23/2013 10:03


01/23/2013 10:04


01/23/2013 10:03


01/23/2013 10:08


01/23/2013 10:05


02/27/2013 10:06


02/27/2013 10:07


02/27/2013 10:07


02/27/2013 10:09

Cooking meth …





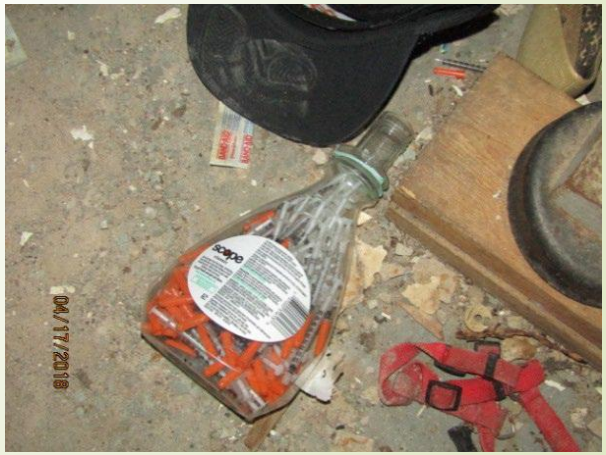




900 Block of W. Houston








05/02/2018

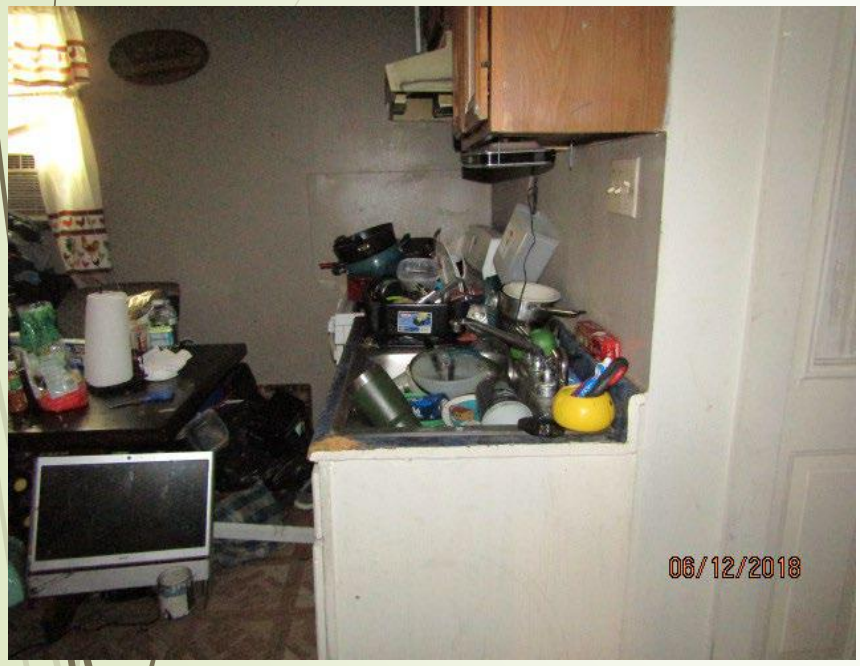
1300 Block of SW 24th






10/30/2019 09:00

2300 Block of El Paso






03/06/2019

9700 Block of Heidelberg






03/01/2019


06/01/21 11:28 AM

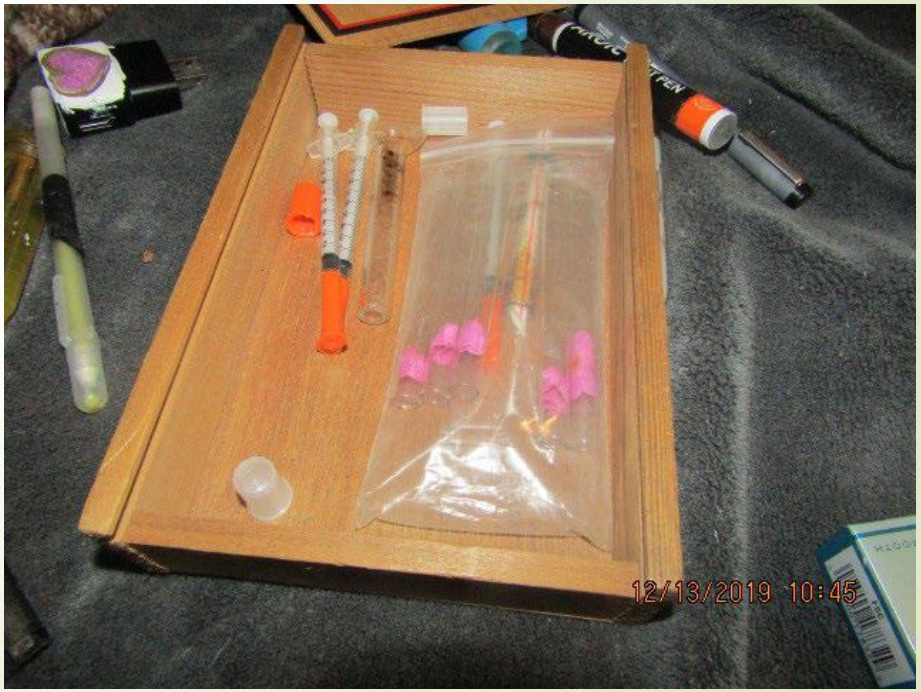

06/01/21 11:23 AM

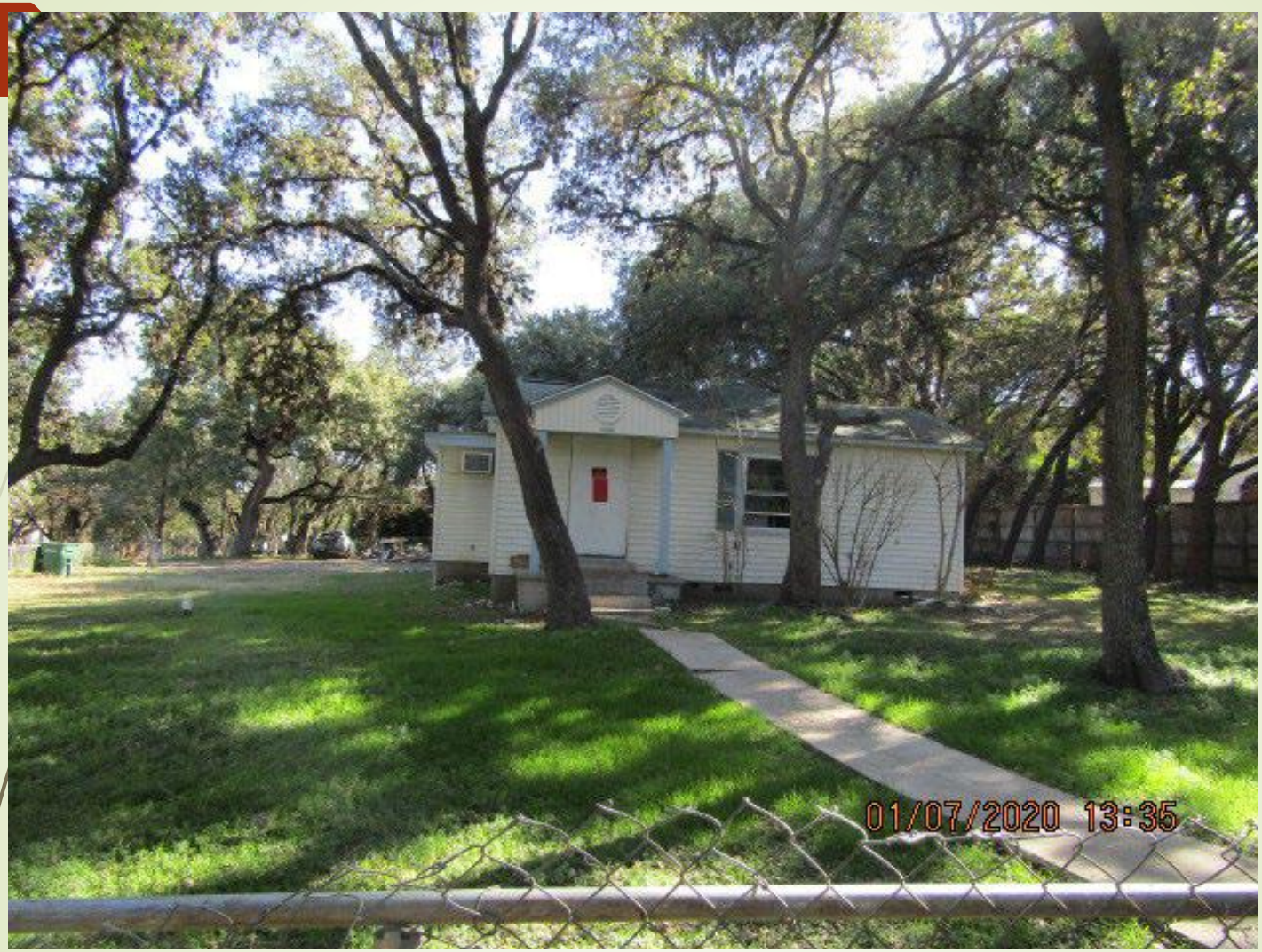

09/02/2021 09:37


03/04/2022 16:06

12000 Block of Rustic Ln



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One last look….


Fancy Feast

ETHICS OF DART

REACTION

- DEMAND FOR ACTION VERSUS OPPOSITION
- HISTORIC VERSUS POLICE/CODE
- HOUSES DON'T COMMIT CRIMES VS BROKEN WINDOWS THEORY

INFLUENCE

- CONTACT WITH COUNCIL
- OFFERS TO ATTORNEYS, INVESTIGATORS

RIGHT THING TO DO?

- REMOVING ELDERLY/CHILDREN
- REMOVING ANIMALS

Questions?