

MAGUIRE & SCHNEIDER ATTORNEYS AT LAW

580 SOUTH HIGH STREET, STE 330 COLUMBUS, OHIO 43215 (614) 221-4479 FAX (614) 221-2033

Brian E. Dickerson

September 15, 1998

Via Facsimile

419-599-8393

City of Napoleon
Attn: Brent N. Damman
Building and Zoning Administrator
255 W. Riverview, PO Box 151
Napoleon, OH 43545

Concrete Specialist
ATTN: John Schink
5-943 State Route 110
Napoleon, Ohio 43545

Re: Our Client: Miguel Gonzalez; 622 Jahns Rd., Napoleon, Ohio 43545
Our File No.: 91449

Dear Sir or Madam:

I have been contacted by Mr. Gonzalez regarding the faulty repair and remodeling work that was performed at the aforementioned address.

Since the completion of the work, Mr. Gonzalez' house has fallen 3/4 of an inch on the west side, 1/2 of an inch in the center and 3/8 of an inch on the east side. The house is now severely leaning towards the north. In the 35 years before the current repair and remodeling work, the house only settled 7 inches. However, at the current pace the house is falling, the house will fall 1 1/2 inches in one year.

The dramatic collapsing of this house needs immediate attention by both parties. The City of Napoleon performed the soil testing and provided Concrete Specialist with the codes and guidelines to repair and remodel the house. Concrete Specialist had the responsibility to follow the City's direction in repairing Mr. Gonzalez' house. From the current condition of the house, either the soil testing, guidelines for repair or the manner in which the house was repaired was incorrect. Therefore, there is an immediate duty by both parties to determine and repair the damages that have been caused to Mr. Gonzalez' house and foundation.

Mr. Gonzalez has made numerous attempts on his own to have the City and Concrete Specialist review and repair the construction work. Unfortunately, Mr. Gonzalez has not been taken seriously and I now have to intervene. At this time, Mr. Gonzalez is demanding that the City of Napoleon and Concrete Specialist take immediate action and use all available measures to remedy the current problems with his house. If there is no action within the next seven (7) days, Mr. Gonzalez will have no other available alternative except to initiate immediate legal action.

Please contact Mr. Gonzalez immediately in arranging the inspection and repair of his home. Mr. Gonzalez can be reached at 419-599-5944.

If you have any questions or concerns, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink that reads "Brian E. Dickerson" with a horizontal line extending from the end of the name.

Brian E. Dickerson
Attorney at Law

BED/vh

cc: Miguel Gonzalez



City of NAPOLEON, OHIO

255 WEST RIVERVIEW AVENUE, P.O. BOX 151
NAPOLEON, OHIO 43545-0151
(419) 592-4010
FAX (419) 599-8393

Fax Transmission

To: Brian Dickerson

Fax Number: 614 224-1236

Number Of Pages, Including Cover Page: 3

From: Brent D. Damman

Date: 9-15-98 Time: 4:17 PM

Operator: _____

Comments: _____

Please call (419) 592-4010 if you have any trouble receiving this Transmission or you did not receive the number of pages shown above.

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City Engineer
Adam C. Hoff, P.E.



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Mr. Brian Dickerson
Maguire & Schneider
580 South High St. Suite 330
Columbus, Ohio 43215

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Re. Miguel Gonzalez 622 Jahns Rd. Napoleon, Ohio

Dear Mr. Dickerson

I received your letter today via fax. There are many discrepancies, I will attempt to set the record straight.

First and foremost the City of Napoleon or its representatives DID NOT perform soil testing at your clients site, nor did they design any part of the reconstruction of the damaged areas. The City of Napoleon did not lay down any guidelines for reconstruction. The City of Napoleon DID provide code information to Concrete Specialists. It was up to the Concrete Specialists to determine the extent of repairs necessary to restore your clients foundation and footing so that it would not settle in the future.

Please note the attached report from PSI. Concrete Specialists constructed the new footing and foundation based on the soil penetrometer test results. It was the choice of your client and Concrete Specialists not to perform additional tests of the soil conditions. City building code does not require soil boring or testing, but it was suggested in this case due to previous problems with the foundation structure.

It is my belief that the City of Napoleon has no obligation to repair or restore your clients footing and foundation. It is just so easy to blame "THE CITY".

Please in the future make a better effort to be more factual before the accusations fly.

Sincerely

Brent N. Damman
Zoning Administrator

REPORT OF FIELD INSPECTION

ESTED FOR: HUGH SCHINK PROJECT: RESIDENTIAL DWELLING
CONCRETE SPECIALIST CO., LTD. 622 JAHNS RD., NAPOLEON, OHIO
5-943 ST. RT. 110
NAPOLEON, OH 43545

DATE: December 04, 1997 OUR REPORT NO.: 125-70192-1

REMARKS:

A PSI senior technician reported to the above-referenced project site as requested by Mr. Hugh Schink of Concrete Specialist Company, Ltd., to determine the results of a penetrometer test on the east footing.

The testing was conducted with a spring loaded, calibrated hand penetrometer at the bottom (presumed footing bearing surface) of three (3) excavations.

The excavations, identified for reporting purposes as, north, middle and south, were founded into a brown to reddish brown streaked with gray, silty clay/clayey silt.

The individual penetrometer test results (tsf) attained were as follows:

North	Middle	South
6.0+ (x8)	6.0+ (x8)	6.0+ (x7)
3.0	5.5	

It must be recognized that the results listed above were taken on the surface of the proposed footing elevations. PSI assumes no responsibility for interpretations made by others. Such services can be provided upon request.

If further analysis or engineering involvement is required, please contact our office at your convenience.

Respectfully submitted,

PROFESSIONAL SERVICE INDUSTRIES, INC.

580 S. High Street, Suite 330
Columbus, OH 43215
Phone: 614-224-1222
Fax: 614-224-1236

Maguire & Schneider

Fax

To: City of Napoleon---Brent N. Damman **From:** Brian E. Dickerson
Fax: (419) 599-8393 **Date:** September 15, 1998
Phone: **Pages:** 2
Re: Our Client: Miguel Gonzalez **CC:**

Urgent **For Review** **Please Comment** **Please Reply** **Please Recycle**

•Comments: Please see our attached letter.

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Our File No.: 91449

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Brian E. Dickerson
Attorney at Law

BED/vh
cc: Miguel Gonzalez