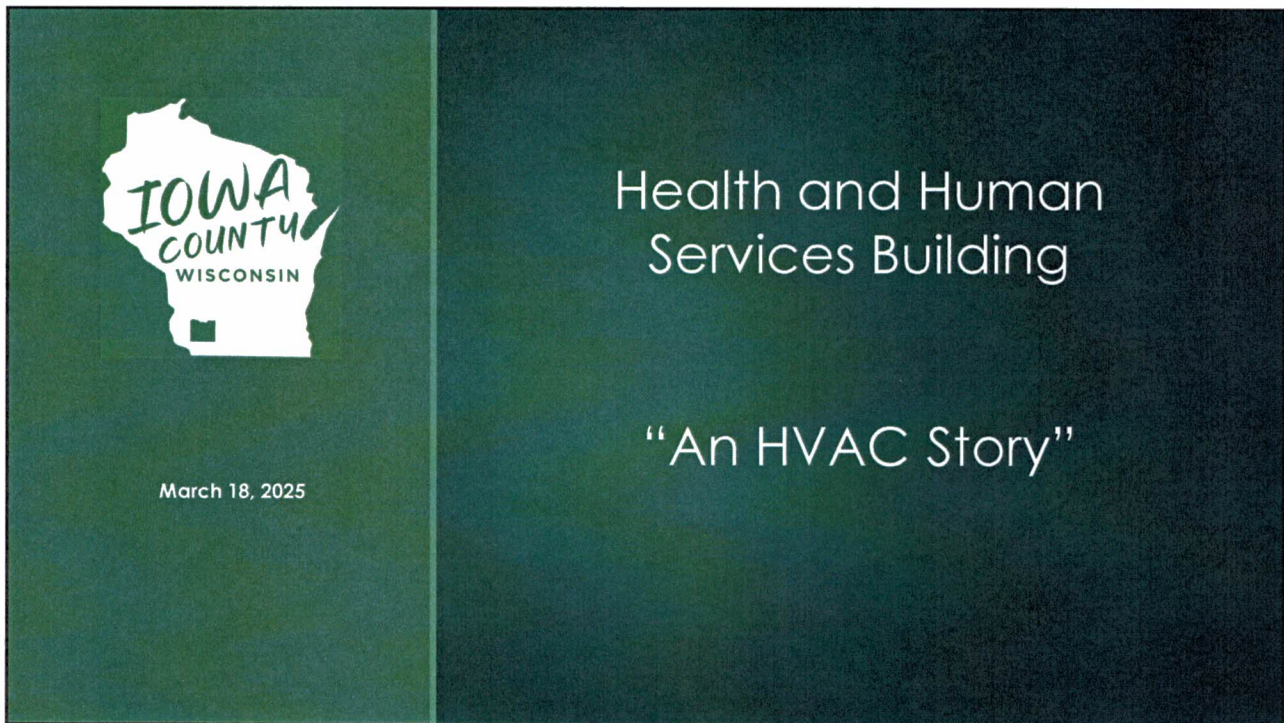




1

Background

In 2007, Iowa County hired Strang to design and build the Iowa County Health and Human Services Center building.

On 11/30/2011 Strang, Findorff and Iowa County signed a change order for several items that were needed for the roof that were left out of the bidding documents. They were “missed” in the scope.

The building was “substantially complete” in 2012.

2

Background

- The HHS Building has 4 separate VRV Condensers and piping systems in operation in the building. There are 2 penthouses in the building and the condensers are located there. Each penthouse has two large gas fired unit heaters installed which discharge air from the unit heaters directed down toward the VRV Condensers.
- Iowa County had a few initial problems with the heating and cooling system early on and then those problems developed into more of a maintenance issue.
- In 2022, Iowa County hired Kraus-Anderson to provide a review of the HVAC issues within the HHS Building.

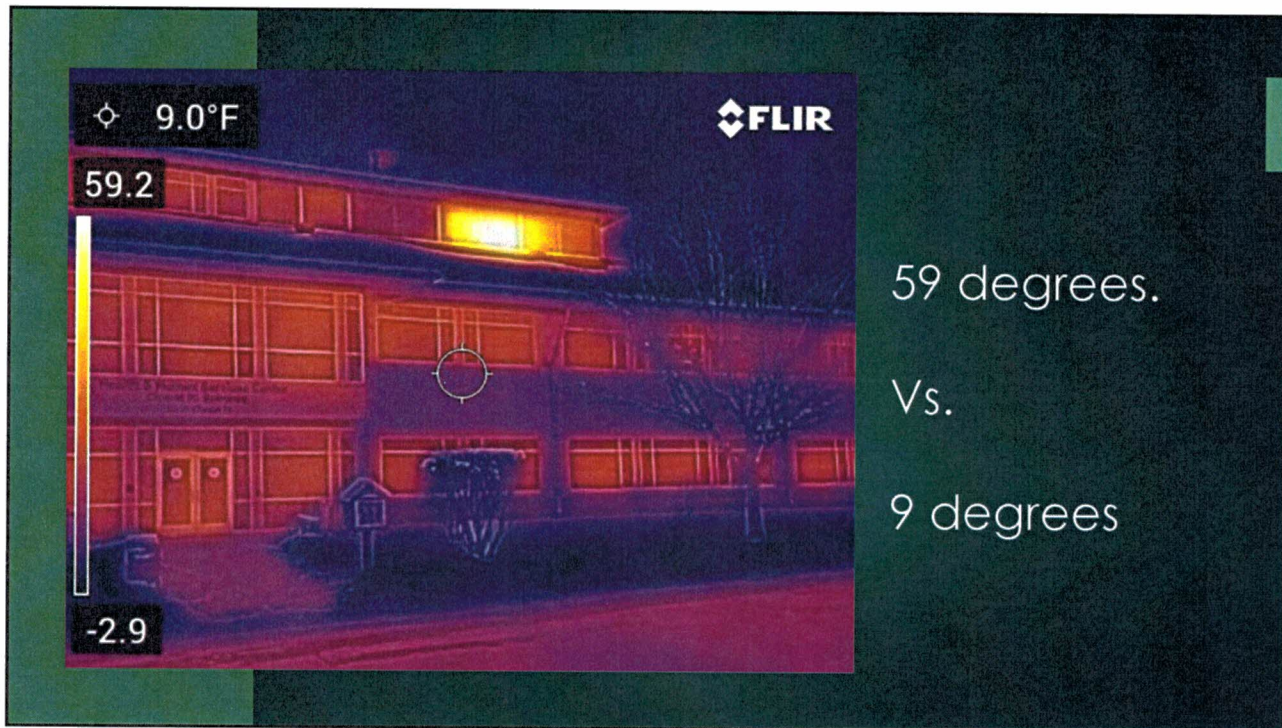
3

Kraus-Anderson

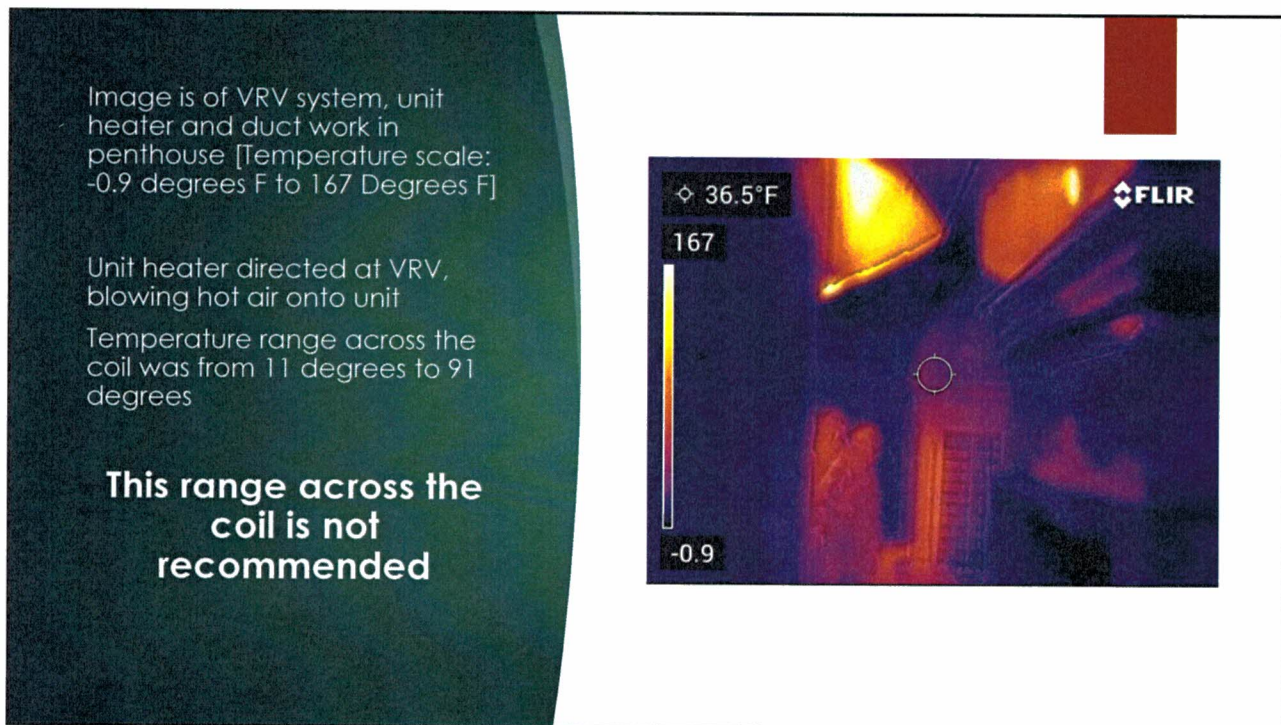
In January 2023, Iowa County received their report concluding that the current system configuration of penthouse is most likely the cause of VRV Compressor failure, as well as causing the building to operate inefficiently during winter.

The HVAC system of the building is highly unstable. Kraus-Anderson provided various options to cure the defective system (6 options) the costs of which varied from \$62,000 to \$2,880,000.

4



5



6

Kraus-Anderson Conclusion

- ▶ The design of the VRV system is highly dependent on an ambient condition of 20 degrees F or higher (40 Degrees F is ideal). Based upon the conditions in the penthouse, this type of condition is not feasible once the outside temperatures are 20 degrees or lower.
- ▶ The configuration of the Unit Heater pointed directly at the VRV system is not a recommended way to maintain temperature for the HVAC system for the facility. This type of configuration can lead to false load signals.
- ▶ The variation of temperature in the penthouse and across the VRV coils is most likely impacting operation and possibly maintenance issues for the systems.



7

RECOMMENDATIONS

Improve exhaust ductwork configuration

Install motorized dampers to control outside air

Discharge of unit heaters should not be directly onto VRV

- *False load*
- *Compressor failure*



8

Strang

Iowa County provided a copy of the report to Strang.

Strang agreed that the current method of controlling temperature inside the HVAC penthouse is the main driver for poor cold weather heating performance of the VRF system.

Strang agreed with Kraus Andersons recommended modifications to the penthouse louvers and discharge of the unit heaters are the most straightforward and least costly path.

Strang further admitted that the system designed in 2010 had not been altered. By October 2023 Strang had designed drawings for manually operated louvers to be applied to the existing penthouse. Iowa County bid out the work using Strang drawings.

9

Strang

In January 2024, Iowa County received two bids for the work, with the lowest bid from Helm Services for \$216,142.

10

Long Range Planning & Executive Committees

Through various meetings in 2023 and 2024, staff communicated with both the Long Range Planning Committee and the Executive Committee of Iowa County.

Iowa County hired special legal counsel to seek advice and explore options in an effort to persuade Strang to assist with the costs of repairs.

Strang is now unresponsive to our requests and we no longer have legal grounds to pursue their support.

Here is what our Attorney had to say...

11

Attorney Palmersheim:

concluded there was a strong likelihood that a judge or arbitrator would conclude that the design and engineering of the HVAC system was defective. Strang essentially admitted this fact in a July 31, 2023, email that acknowledged that the current method of controlling the temperature inside the HVAC penthouse was the main cause of the poor cold weather heating performance of the system.

12

Furthermore,

Strang acknowledged in August of 2023 that its 2010 design for the system had not been altered – meaning that any design or method for controlling the temperature was due to Strang's defective design and engineering of the system, and not some other designer's fault.

13

Strang's defective services does not automatically give the county the right to legal remedy against Strang.

In Wisconsin, there is a strict time limit for bringing construction related lawsuits, including against an architectural firm for its design and engineering services. That time limit is seven years from the date of substantial completion, meaning a claim would have been required to be filed against Strang no later than 2019.

14

It wasn't possible to bring a claim against Strang by 2019 because the county had no proof by that point of damages or of Strang's defective design.

Even though Strang itself contributed to this problem by delaying in acknowledging its responsibility, that does not extend the county's time limit for bringing a lawsuit. It was not until 2022 that the county first had any real evidence of Strang's conduct having a direct impact on the heating problems, which was already after the time limit for the county to bring any lawsuit had expired.

15

Because Strang had acknowledged its contributions to the heating problems, the county asked Strang to sit down to discuss how Strang could help remedy these problems.

Strang initially declined to respond to the county's request to meet. The only initial response from Strang was to state that it was forwarding the county's request to its insurer.

When Strang was finally threatened with enforcement of the contractual requirement to engage in mediation with the county, Strang's insurance carrier hired a lawyer to respond.

16

On November 14, 2024, Strang's lawyer responded that Strang would not agree to mediate or sit down at all and discuss the issues with the county, because the seven-year time period for bringing a lawsuit against Strang for its design services expired in 2019, and Strang no longer had any obligation under the contract with Iowa County.

Palmersheim's legal advice to Iowa County is that there is a high risk that any lawsuit the county would pursue against Strang would be dismissed based on the time limitations.

17

Although there are certain circumstances of fraud that permit a lawsuit beyond the strict seven-year time limitation, those fraud claims are extremely difficult to prove.

In spite of Strang's conduct, the advice was that the county should not risk further expenditures on legal fees because it would likely result in throwing good money after bad.

18

There is a strong likelihood that Strang's design would be found to be defective, that Strang breached its contract, and that Strang was negligent in the design of the HVAC system. However, the seven-year time period for bringing lawsuits means that a court or arbitrator would likely not agree to hear those claims and would dismiss the county's lawsuit, leaving the county without a good legal remedy.