From: **Kyle Moring** [redacted]
Subject: Request for Commissioner Oversight — Walmart #131 (Mount Pleasant): Retail-Food Action, Plan/POC & Timeline
Date: October 22, 2025 at 6:55 AM
To: jennifer.shuford@dshs.texas.gov
Cc: imelda.garcia@dshs.texas.gov, Stifflemire,Sofia (DSHS) Sofia.Stifflemire@dshs.texas.gov, Lori.Woznicki@dshs.texas.gov, Williams,Joe (DSHS) Joe.Williams@dshs.texas.gov, foodestablishments@dshs.texas.gov

KM

Good morning,

I respectfully request your oversight and direction to the Consumer Protection Division regarding continued retail food hazards and documentation deficiencies at **Walmart Supercenter #131, 2311 S. Jefferson Ave., Mount Pleasant, TX. Additionally**, I seek assurance of appropriate action following **DSHS substantiated asbestos non-compliance** at this same facility in July 2025.

Why this requires executive attention

- **DSHS verified asbestos non-compliance (roof project):** On **July 01, 2025**, a DSHS inspector documented the site **"Not in compliance,"** noting **no thorough asbestos survey** and **no required notification** under TAHPR 25 TAC §296.191(e) / 40 CFR 61.145(a) and §296.251(a) / 40 CFR 61.145(b)(1). After DSHS arrived, the contractor paused work, filed notification, and obtained a survey; lab results shortly thereafter confirmed **asbestos-containing roof mastic (3–5% chrysotile)**, with abatement scheduled for a later date.
    - See **DSHS Mobile Inspection Report No. 56114—**narrative **(page 1)**, violation codes **(pages 93–94)**, and ERI lab findings **(pages 83–84)**.
- **Retail food hazards persist despite "no violations" letters:** Since September I have documented: (1) **dented infant formula** cans (rim/seam); (2) **refrigeration and drainage problems** (pooling at case bases, absorbent socks, open floor openings/penetrations); (3) **monitoring failure** on a refrigerated TCS case displaying a **PRF communications alarm** continuously since **August 31, 2025** (customer-facing temperature/alarm disabled for 42+ days); (4) **open refuse/returns commingled** near food totes at the Service Desk area; and (5) **food–toxic co-merchandising** (spices/seasonings among pesticides/larvicides in the open-air Garden Center).
- **Documentation deficiencies:** City letters closing complaint-driven visits as "no violations" lack **numeric product/case temperatures, thermometer-calibration verification, field notes**, or native photos with metadata. The **September 16, 2025** follow-up was reported closed **the same day** without the temperature evidence that the City supervisor had directed the inspector to collect.

Requested actions

1. **Direct a DSHS-led, unannounced retail food re-inspection** at Walmart #131 within **five business days**, focused on:
    - **Cold holding (TCS):** numeric product and case temperatures; document thermometer **calibration** used for those measurements.
    - **Infant formula integrity:** immediate embargo/shelf-wide audit for dented/rim-seam damage; disposition and re-training records.
    - **Refrigeration/drainage/sanitation:** repair/cover drains and penetrations; remove absorbents; deep clean; verify no active leaks.
    - **PRF case monitoring failure:** repair the display/controller link or install an interim, affixed thermometer/data logger; produce trend logs (EMS/BMS/KE2 or manual) showing continuous control or **hold/discard** where control cannot be demonstrated.
2. **Require record supplementation and firm-file correction:**
    - Obtain from the City **numeric temperatures, calibration checks, field notes, and native photos (original resolution/metadata)** for the **September 16, 2025** visit; if such records **do not exist**, direct the City to **certify non-existence** and annotate the DSHS firm file so the prior **"no violations"** conclusion is **not treated as verified** absent evidence.
    - Provide me (and place in the firm file) a **written rationale and criteria** DSHS applied to keep Complaint **#1524250148** closed, given ongoing evidence of **non-abatement**.
3. **Assign a single DSHS point-of-contact and timeline** (inspection date window, expected completion, and when supplemented records/firm-file annotations will be produced). Please reply within **five (5) business days** with your plan.

Context for coordination (no conflict with federal matters)

There is an **active OSHA enforcement inspection** and an **11(c)/FSMA whistleblower case** involving workplace safety/retaliation. Those matters are distinct from retail food compliance, which remains the State's responsibility; indeed, DSHS originally directed the City's September 16, 2025, visit after a USDA/FSIS referral. Proceeding with state retail food enforcement will not impede OSHA/FSMA.

I will furnish original photo/video files (with metadata) on request and will fully cooperate with any inspection.

Thank you for your attention to these public health issues and for ensuring that DSHS decisions reflect the evidence already in the Department's files as well as current, on-the-ground conditions.

Respectfully submitted in good faith,

/s/ Kyle Douglas Moring

Kyle Douglas Moring, M.S., LPC-Associate

Former Asset Protection Investigator — Walmart Store #131

Designated Representative for Current Employees of Walmart Store #131 (authorizations on file)

([redacted] • [redacted]

2025-10-22 - DSHS - Evidence Binder.pdf
6 MB

Exhibits for Commissioner Review — Walmart #131 - (single, bookmarked PDF binder)

Exhibit A — DSHS Asbestos Inspection #56114 (7/1/2025)

Finding: **Not in compliance** — no thorough survey; no required notification. *Citations:* **TAHPR §296.191(e)**; **§296.251(a)** / **40 CFR 61.145**. *Why relevant:* Demonstrates DSHS has already found project-related violations at this site and can act on the State's authority. *(File: "MobileInspRpt 56114_Redacted.pdf", narrative & notice pages)*

Exhibit B — DSHS Food Complaint Inspection #308620 (7/28/2025)

Finding: **Complaint Substantiated.** *Why relevant:* Confirms retail-food hazards were verified by DSHS prior to later "no violations" letters. *(File: "2025-07-28 - DSHS - Inspection Report No. 308620.pdf")*

Exhibit C — Escalation to DSHS (8/25/2025)

Content: Request for state-led re-inspection/enforcement; confidentiality concerns. *(File: "2025-08-25 - DSHS - Escalation Email.pdf")*

Exhibit D — DSHS Leadership Emails (10/13 & 10/14/2025)

Content: Keeps complaint **closed** pending federal agencies; re-routes enforcement questions to **Open Records** without addressing re-inspection/new cases. *(Files: "2025-10-13/14 - DSHS - Stifflemire Response/Follow-up.pdf")*

Exhibit E — TDA Non-Compliance (10/15/2025)

Finding: **Non-compliant** complaint inspection. *Why relevant:* Independent, recent State finding that hazards persist. *(File: "2025-10-15 - TDA - Non-Compliance Substantiated.pdf")*

Evidence link (photos/video/notes, September 16–October 9, 2025):





Adobe Acrobat - Store 131 - Continued Non-Abatement (Sept 17-Oct 09).pdf
acrobat.adobe.com