

IN THE COURT OF COMMON PLEAS
SUMMIT COUNTY, OHIO

CITY OF AKRON, OHIO, et al.	)	CASE NO. CV-2022-06-1846
Plaintiffs,	)	JUDGE ALISON BREAUX
V.	)	REFERRED TO MAGISTRATE KANDI O’CONNOR
HOUSELESS MOVEMENT, et al.	)	
Defendants	)	ORDER OF PRELIMINARY INJUNCTION

Plaintiffs, the City of Akron, Ohio (the “City”), and State of Ohio, ex rel. Eve V. Belfance, City of Akron Director of Law (the “Director of Law”), collectively, the “Plaintiffs”), and Defendants, the Houseless Movement, the Church of the Nomadic Spirit, and Sage Lewis (collectively, the “Defendants”) agree that an adequate basis exists for the Court to approve and issue this Order of Preliminary Injunction. The instant action was filed on June 3, 2022, with a First Amended Verified Complaint filed on June 17, 2022, for a Declaratory Judgment, and Preliminary and Permanent Injunctive Relief. Plaintiffs have moved the Court for a preliminary injunction. Based upon the agreement of the Parties, the Court hereby grants the Preliminary Injunction via Civ. R. 65.

JURISDICTION

Akron is a duly organized municipal corporation established and governed by the laws of the State of Ohio. The Director of Law is a party charged at both common law and by RC 3767.03 with the prevention, prosecution, and abatement of any public

nuisance within the City. This Court has jurisdiction to issue injunctive relief by Ohio Revised Code 713.13, 715.30, and 715.44, Chapter 2721, 3767.03, other code provisions, and common law.

Defendants own or owned, or were in charge, care, or control of, property in the City of Akron in the vicinity of Broad Street, Kent Place, and Kent Street, more particularly described below, that has been maintained and utilized in violation of law, including the following portions of the Codified Ordinances of the City of Akron: Chapter 94, Health, Safety and Sanitation Code; Chapter 95, Littering Code; Chapter 150, Environmental Health Housing Code; and Chapter 153, Zoning Code (collectively, the “City Code”).

FACTS

Defendant Houseless Movement was the owner of 85 Kent Place, Akron, Ohio, parcel number: 6800124, and maintained and utilized 85 Kent Place in violation of the City Code, including electrical wiring that is unapproved and/or not maintained in good and satisfactory condition, outdoor use of a refrigerator, a pit for open burning, and shelters provided by tents and/or other non-dwelling units on 85 Kent Place, or allowed or permitted 85 Kent Place to be maintained and utilized as such.

Defendant Houseless Movement was the owner of vacant land on Kent Place, Akron, Ohio, parcel number: 6716245, and maintained and utilized its vacant land on Kent Place in violation of the City Code, including maintaining shelters provided by tents and/or other non-dwelling units, a collection of trash and litter, or allowed or permitted its vacant land on Kent Place to be maintained and utilized as such.

On May 18, 2022, Defendant Houseless Movement transferred ownership of 85 Kent Place, Akron, Ohio, parcel number: 6800124 (“85 Kent Place”), and vacant land on Kent Place, Akron, Ohio, parcel number: 6716245, also known as 95 Kent Place (“95 Kent Place”), to Defendant Church of the Nomadic Spirit, the present owner of the two parcels (collectively, the “Property”).

Defendant Church of the Nomadic Spirit has been maintained and utilized the Property in violation of the City Code, including electrical wiring that was unapproved and/or not maintained in good and satisfactory condition, shelters provided by tents and/or other non-dwelling units, and a collection of trash and litter on the Property, or allowed or permitted the Property to be maintained and utilized as such.

During all relevant times, Defendant Sage Lewis, in his individual capacity or on behalf of Defendant Houseless Movement and/or Defendant Church of the Nomadic Spirit, is and was in charge, care, or control of the Property, and has maintained or utilized the Property, or has allowed the Property to be used, in violation of the City Code.

The portions the Property upon which offending conditions have been maintained are zoned Residence Use District under the Zoning Code of the City of Akron. Shelters provided by tents, sheds, campers, tarps, and other non-dwelling units are not permitted for purposes of living in a Residence Use District, as they are not dwellings or dwelling units as defined by the Zoning Code.

As of _____, 2022, Defendants had abated the offending conditions from the Property.

FINDINGS

Upon agreement of the Parties, the Court finds the following:

- (1) That a real controversy exists for which Plaintiffs have no adequate remedy at law, and the Plaintiffs are entitled, pursuant to R.C. 715.30, O.R.C. 715.44, and the City Code, to a Declaratory Judgment to resolve the dispute;
- (2) That the conditions of the Property violate the City Code;
- (3) That the Defendants use of the Property in violation of the City Code constitutes an absolute public nuisance;
- (4) That Plaintiffs are entitled to an equitable preliminary injunction; and
- (5) That Plaintiffs are entitled to a statutory preliminary injunction.

ORDERS

- a. It is hereby ordered that Defendants the Houseless Movement, the Church of the Nomadic Spirit, and Sage Lewis, maintain the Property in compliance with the following Chapters of the Codified Ordinances of the City of Akron:
 - (1) Chapter 94, Health, Safety and Sanitation Code;
 - (2) Chapter 95, Littering Code;
 - (3) Chapter 150, Environmental Health Housing Code; and
 - (4) Chapter 153, Zoning Code;
- b. It is hereby ordered that Defendants are prohibited from maintaining conditions at the Property in violation of law and/or the City Code, including but not limited to, tents, sheds, campers, tarps and/or other non-dwelling units, electrical wiring that is unapproved and/or not maintained in good and satisfactory condition, outdoor use of refrigerators or other electrical

- appliance not designed for outdoor use, litter, trash, open pits for burning, scrap materials, and any other items listed in Chapters 94, 95, 150, and 153 of the City Code;
- c. It is hereby ordered that Defendants are prohibited from maintaining conditions at any property, land, or parcel within the City of Akron zoned Residential Use District under the Zoning Code of the City of Akron, and from maintaining any such property, land, or parcel in violation of law and/or the City Code, including but not limited to, tents, sheds, campers, tarps and/or other non-dwelling units, electrical wiring that is unapproved and/or not maintained in good and satisfactory condition, outdoor use of refrigerators or other electrical appliance not designed for outdoor use, litter, trash, open pits for burning, scrap materials, and any other items listed in Chapters, 94, 95, 150 and 153 of the City Code;
 - d. It is hereby ordered that Defendants, their officers, agents, servants, employees, attorneys, and those persons in active concert or participation with them who receive actual notice of this Order whether by personal service or otherwise.
 - e. It is hereby ordered that this Order of Preliminary Injunction shall run with the land. Defendants shall provide written notice to any buyer or transferee prior to sale or transfer of the Property.
 - f. Violation of this Order of Preliminary Injunction shall be punishable in contempt.

g. This Order of Preliminary Injunction shall remain valid and enforceable until it is dissolved or becomes, or is superseded by, an Order of Permanent Injunction.

IT IS SO ORDERED.

MAGISTRATE KANDI O'CONNOR

APPROVED:

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Vonsheay V. Brown – Reg. No. 0096046
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