

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
HOUSELESS MOVEMENT, et al.) KANDI O’CONNOR
Defendants) AGREED ORDER OF PERMANENT
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 convert the Order of Preliminary Injunction, issued October 27, 2022, to an Order of Permanent 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. Based upon the agreement of the Parties, the Court hereby grants the Permanent 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, 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 City of Akron Code of Ordinances: 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 property located at 85 Kent Place, Akron, Ohio, and identified as Summit County parcel number: 6800124 (“85 Kent Place”). The Houseless Movement 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 located at 95 Kent Place, Akron, Ohio, and identified as Summit County parcel number: 6716245 (“95 Kent Place”). The Houseless Movement maintained and utilized 95 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 and 95 Kent Place (collectively, the “Property”) to Defendant Church of the Nomadic Spirit, the present owner of the Property.

Defendant Church of the Nomadic Spirit has 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 August 9, 2022, Defendants had abated the offending conditions from the Property with the exception of confirming with the Building Inspection Division of Summit County that the current state of the electrical modification at 85 Kent Place is satisfactory. Subsequently, examination of Summit County records confirmed that the electrical permit obtained by Church of the Nomadic Spirit on July 22, 2022, was approved by the County Building Inspection Division on September 15, 2022.

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 Plaintiffs are entitled to an equitable permanent injunction; and
- (4) That Plaintiffs are entitled to a statutory permanent 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, 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 are bound by this Order.

- d. Violation of this Order of Permanent Injunction shall be punishable in contempt.
- e. This Order of Permanent Injunction shall remain valid and enforceable until it is superseded by a subsequent order of this Court.
- f. If existing law changes with respect to permissible conditions on the Property, either or both of the parties may seek modification of this Order.
- g. This Order of Permanent Injunction shall run with the land. In order to place future owners or other interested parties on notice, Plaintiffs may record an affidavit accompanied by this Order at the Fiscal Office of Summit County, Ohio, pursuant to RC 5301.252 and/or 5301.253.
- h. All costs shall be taxed to Defendants, the Houseless Movement, the Church of the Nomadic Spirit, and Sage Lewis.

IT IS SO ORDERED.

MAGISTRATE KANDI O'CONNOR

JUDGE ALISON BREAUX

APPROVED:

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