

IN THE CIRCUIT COURT OF GARLAND COUNTY, ARKANSAS
CIVIL DIVISION

FILED

CITY OF HOT SPRINGS, ARKANSAS

2007 MAY 16 PM 1 40
PLAINTIFF

VS

NO. CV 2007-537
III

BRYAN NEBEL and the OWNER(S) and/or
OCCUPANT(S) OF 735 QUAPAW AVENUE,
HOT SPRINGS, ARKANSAS

DEFENDANTS

COMPLAINT FOR INJUNCTIVE RELIEF AND ORDER OF ABATEMENT

Comes now the Plaintiff, the City of Hot Springs, Arkansas, by and through the City Attorney, Brian W. Albright, and for its Complaint for Injunctive Relief and Order of Abatement against the Defendant, states as follows:

1. The Plaintiff is a municipal organization incorporated under and by virtue of the laws of the State of Arkansas and is located in Garland County, Arkansas.
2. The Plaintiff is a city of the first class pursuant to A.C.A. § 14-37-104.
3. The Defendants are residents of the City of Hot Springs, Garland County, Arkansas, and either own, occupy, or have an interest in property described as follows:

PART OF LOT 14, BLOCK 92 OF THE HOT SPRINGS RESERVATION, AS SURVEYED, MAPPED, AND PLATTED BY THE U.S. HOT SPRINGS COMMISSIONERS, DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF LOT 14 ON QUAPAW AVENUE, WHICH IS THE COMMON CORNER OF LOTS 13 AND 14; RUNNING THENCE IN A SOUTHERLY DIRECTION ALONG THE BOUNDARY LINE OF LOTS 13 AND 14 FOR 256 FEET TO THE SOUTHWEST CORNER OF SAID LOT 14; THENCE IN AN EASTERLY DIRECTION AND ALONG THE SOUTH LINE OF SAID LOT 14 WHICH IS THE DIVIDING LINE BETWEEN LOTS 5 AND 14 FOR 53 FEET MORE OR LESS TO THE LINE OF THE PROPERTY HERETOFORE CONVEYED TO MARY E. PROCTOR BY GEORGIA STATE SAVINGS ASSOCIATION; THENCE IN A NORTHERLY DIRECTION 255 FEET MORE OR LESS TO A POINT ON QUAPAW AVENUE 50.5 FEET FROM THE PLACE OF BEGINNING; RUNNING THENCE IN A WESTERLY DIRECTION ALONG THE NORTH LINE OF LOT 14 AND THE LINE OF QUAPAW AVENUE 50.5 FEET TO THE POINT OF BEGINNING. ALSO: PART OF LOT 13, BLOCK 92 OF THE HOT SPRINGS RESERVATION, CONSISTING OF A STRIP OF LAND 6 FEET MORE OR LESS, WIDE,

EXTENDING FROM THE CURB ON THE SOUTHEAST SIDE OF QUAPAW AVENUE BACK TOWARDS THE REAR LOT IN A SOUTHEASTERLY DIRECTION APPROXIMATELY 150 FEET TAKING IN THAT PART OF LOT 13 DESCRIBED AS FOLLOWS: BEGIN AT THE COMMON CORNER OF LOTS 13 AND 14 OF BLOCK 92 ON QUAPAW AVENUE ON THE SOUTHEASTERLY SIDE THEREOF; THENCE RUN 150 FEET IN A SOUTHEASTERLY DIRECTION ALONG THE LINE OF LOTS 13 AND 14; THENCE RUN SOUTHWESTERLY FOR 6 FEET; RUN THENCE NORTHWESTERLY WITH THE DIVIDING LINE OF LOTS 13 AND 14 FOR 150 FEET TO THE SOUTHEASTERLY CURB OF QUAPAW AVENUE; THENCE RUN 6 FEET NORTHEASTERLY TO THE PLACE OF BEGINNING, A/K/A 735 QUAPAW AVENUE, HOT SPRINGS, GARLAND COUNTY, ARKANSAS.

4. This Court has jurisdiction over both the subject matter and parties in this matter pursuant to A.C.A. § 5-74-109(f) and A.C.A. § 14-54-1503. Further, due to the location of the real property subject to this cause of action and due to the location of the acts that give rise to this cause of action, venue is properly before this Court pursuant to A.C.A. §§ 16-60-101, *et. seq.*
5. The property described in paragraph 3 has been used for the purpose of facilitating the commission of a continuing series of three (3) or more criminal violations of Arkansas law in violation of A.C.A. § 5-74-109 (1987), including 55 police calls for service over the past twelve (12) months, resulting in six (6) separate arrests. Additionally, the Defendant, BRYAN NEBEL, has been issued citations for thirty-nine (39) counts of Health and Safety Code violations, resulting in eleven (11) convictions on April 18, 2007, which constitutes a common nuisance pursuant to A.C.A. § 14-54-1502.
6. Under the present circumstances, the property is a threat to the health, safety, and welfare of the citizens and residents of the City of Hot Springs, Arkansas.
7. The premises stated in paragraph 3 above have been used for the purpose of committing a continuing series of violations of Arkansas law in violation of A.C.A. § 5-74-109, and continues to pose a threat to the health, safety, and welfare of the occupants and the citizens of Hot Springs, Arkansas. Such activity contributes to the lawlessness and deterioration of the neighborhood in and around these premises and adversely affects the use and enjoyment of the surrounding property by the adjacent neighbors and property owners. There is a substantial probability that the City will prevail on the merits at trial. The City will suffer

irreparable harm if relief is not granted. The balance between the harm to the City and the surrounding neighbors and landowners if the relief requested is denied weighs in favor of the City, and the public interest favors the issuance of injunctions.

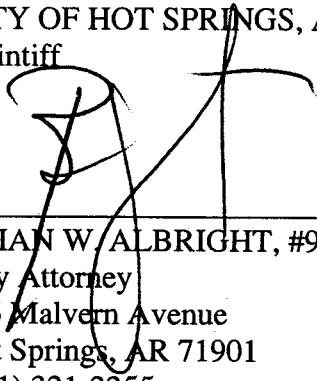
WHEREFORE, pursuant to A.C.A. § 5-74-109, § 14-54-1501, *et.seq.*, and established common law, the City prays that this Court:

1. Declare that the premises described in paragraph 3 above are detrimental to the health, safety, and welfare of the community and are a common nuisance as defined by A.C.A. § 5-74-109, § 14-54-1502, and by common law.
2. Temporarily and permanently enjoin the persons conducting or maintaining the nuisance, and the owner, lessee, or agent of the building or place, in or upon which the nuisance exists from directly or indirectly maintaining or permitting the nuisance by ordering such remedies as the Court may deem necessary and appropriate, including, but not limited to:
 - a. Removal and sale of all property used in conducting, maintaining, aiding, or abetting the nuisance;
 - b. Provide for the effectual closing of the building or place for a period of time to be determined by the Court; and/or
 - c. Require payment of damages in an amount equal to the fair market rental value for such period of time as determined appropriate by the Court.
3. In addition to the remedies ordered by the Court to enjoin and abate said nuisance, the City should be granted its costs, attorney fees, and all other equitable relief to which it may be entitled.

Respectfully submitted,

CITY OF HOT SPRINGS, ARKANSAS
Plaintiff

By:

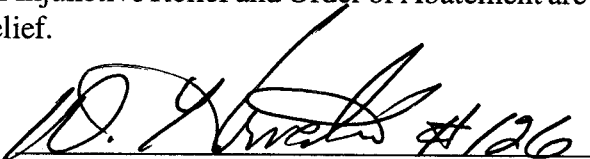


BRIAN W. ALBRIGHT, #93102
City Attorney
626 Malvern Avenue
Hot Springs, AR 71901
(501) 321-2255
(501) 624-7486 FAX

STATE OF ARKANSAS)
)SS
COUNTY OF GARLAND)


VERIFICATION

I, Detective William Hrvatin, Hot Springs Police Department, state on oath that facts contained within the foregoing Complaint for Injunctive Relief and Order of Abatement are true and correct to the best of my information and belief.



WILLIAM HRVATIN

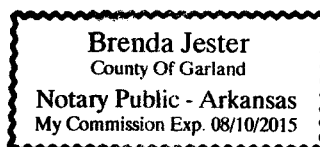
Subscribed and sworn to before me this 16th day of May, 2007.



NOTARY PUBLIC

My Commission Expires:

8/10/15



IN THE CIRCUIT COURT OF GARLAND COUNTY, ARKANSAS
CIVIL DIVISION

FILED

CITY OF HOT SPRINGS, ARKANSAS

2007 MAY 17 PM 2 37
PLAINTIFF

VS

NO. CV 2007-537-III

GARLAND COUNTY CLERK

BY Bryan NebelBRYAN NEBEL and the OWNER(S) and/or
OCCUPANT(S) OF 735 QUAPAW AVENUE,
HOT SPRINGS, ARKANSAS

DEFENDANTS

TEMPORARY RESTRAINING ORDER

On this day this matter comes before the Court on the Plaintiff's Complaint for Injunctive Relief and Order of Abatement. The Court, having reviewed the verified Complaint and having been well advised of all matters of fact and law, finds that the Plaintiff, City of Hot Springs, Arkansas, has met its burden of proving that the property located at 735 Quapaw Avenue, Hot Springs, Garland County, Arkansas, which is owned by BRYAN NEBEL, is a common nuisance as defined by state law under A.C.A. § 5-74-109, A.C.A. § 14-54-1502, and the common law of this State.

THEREFORE, IT IS HEREBY ORDERED by this Court that:

1. The property located at 735 Quapaw Avenue, Hot Springs, Garland County, Arkansas, is hereby declared to be a common nuisance as defined by A.C.A. § 5-74-109 and A.C.A. § 14-54-1502 and is hereby ordered abated;
2. An injunction is hereby entered against the Defendant from maintaining a common nuisance as defined by A.C.A. § 5-74-109 and A.C.A. § 14-54-1502 at the property located at 735 Quapaw Avenue, Hot Springs, Garland County, Arkansas;
3. The property located at 735 Quapaw Avenue, Hot Springs, Garland County, Arkansas, is hereby ordered closed until such time as an evidentiary hearing is conducted before this Court;
4. The Hot Springs Police Department is hereby ordered to post a copy of this order upon the property located at 735 Quapaw Avenue, Hot Springs, Garland County, Arkansas, in a conspicuous place;

Temporary Restraining Order
Page 2

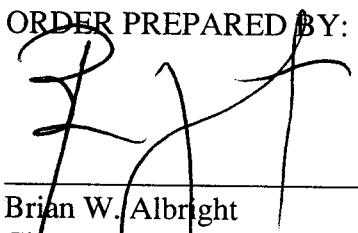
5. The Hot Springs Police Department is ordered to remove all fixtures and other movable property used in conducting, maintaining, aiding, or abetting the nuisance at the property located at 735 Quapaw Avenue, Hot Springs, Garland County, Arkansas, and is further ordered to close and secure said property by boarding its doors and windows.

IT IS SO ORDERED ON THIS DATE.


GARLAND COUNTY CIRCUIT JUDGE

DATE: MAY 16 2007

ORDER PREPARED BY:



Brian W. Albright
City Attorney
626 Malvern Avenue
Hot Springs, AR 71901
(501) 321-2255
(501) 624-7486 FAX

IN THE CIRCUIT COURT OF GARLAND COUNTY, ARKANSAS
CIVIL DIVISION

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CITY OF HOT SPRINGS, ARKANSAS

2007 MAY 17 PM 2 37

VS

NO. CV 2007- 537 III

BRYAN NEBEL and the OWNER(S) and/or
OCCUPANT(S) OF 735 QUAPAW AVENUE,
HOT SPRINGS, ARKANSAS

GARLAND COUNTY CLERK

BY Sam Moore

DEFENDANTS

ORDER FOR HEARING

On this day this matter comes before the Court on the Plaintiff's Complaint for Injunctive Relief and Order of Abatement. The Court, having reviewed the verified Complaint and having been well advised of all matters of fact and law, finds that the Plaintiff, City of Hot Springs, Arkansas, has met its burden of proving that the property located at 735 Quapaw Avenue, Hot Springs, Garland County, Arkansas, which is owned by BRYAN NEBEL, is a common nuisance as defined by state law under A.C.A. § 5-74-109, A.C.A. § 14-54-1502, and the common law of this State.

The Court, having entered its Temporary Restraining Order, hereby directs the parties to appear before this Court on July 3, 2007, at 3:30 P.m., for the purpose of conducting an evidentiary hearing to determine whether or not said Temporary Restraining Order should be continued, dissolved or made permanent.

IT IS SO ORDERED.

David B. Smith
GARLAND COUNTY CIRCUIT JUDGE

DATE: MAY 16 2007

ORDER PREPARED BY:

Brian W. Albright
City Attorney
626 Malvern Avenue
Hot Springs, AR 71901
(501) 623-4023

IN THE CIRCUIT COURT OF GARLAND COUNTY, ARKANSAS
CIVIL DIVISION

CITY OF HOT SPRINGS, ARKANSAS

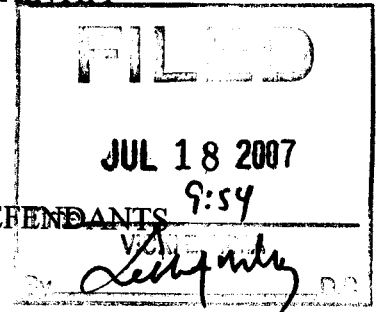
PLAINTIFF

VS

NO. CV 2007-537-III

BRYAN NEBEL and the OWNER(S) and/or
OCCUPANT(S) OF 735 QUAPAW AVENUE,
HOT SPRINGS, ARKANSAS

DEFENDANTS

**ORDER ABATING NUISANCE**

On July 3, 2007, this matter came before the Court for hearing on the Plaintiff's Complaint for Injunctive Relief and Order of Abatement. The Plaintiff, City of Hot Springs, Arkansas, appeared by and through City Attorney, Brian W. Albright. The Defendant, and owner of the subject property, Bryan Nebel, appeared in person, *pro se*. After hearing all of the testimony from the various witnesses, and a review of all exhibits and other evidence introduced at trial, the Court finds as follows:

1. The Defendant, Bryan Nebel, is the record title holder of the following lands situated in Garland County, State of Arkansas:

PART OF LOT 14, BLOCK 92 OF THE HOT SPRINGS RESERVATION, AS SURVEYED, MAPPED, AND PLATTED BY THE U.S. HOT SPRINGS COMMISSIONERS, DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF LOT 14 ON QUAPAW AVENUE, WHICH IS THE COMMON CORNER OF LOTS 13 AND 14; RUNNING THENCE IN A SOUTHERLY DIRECTION ALONG THE BOUNDARY LINE OF LOTS 13 AND 14 FOR 256 FEET TO THE SOUTHWEST CORNER OF SAID LOT 14; THENCE IN AN EASTERLY DIRECTION AND ALONG THE SOUTH LINE OF SAID LOT 14 WHICH IS THE DIVIDING LINE BETWEEN LOTS 5 AND 14 FOR 53 FEET MORE OR LESS TO THE LINE OF THE PROPERTY HERETOFORE CONVEYED TO MARY E. PROCTOR BY GEORGIA STATE SAVINGS ASSOCIATION; THENCE IN A NORTHERLY DIRECTION 255 FEET MORE OR LESS TO A POINT ON QUAPAW AVENUE 50.5 FEET FROM THE PLACE OF BEGINNING; RUNNING THENCE IN A WESTERLY DIRECTION ALONG THE NORTH LINE OF LOT 14 AND THE LINE OF QUAPAW AVENUE 50.5 FEET TO THE POINT OF BEGINNING. ALSO: PART OF LOT 13, BLOCK 92 OF THE HOT SPRINGS RESERVATION,

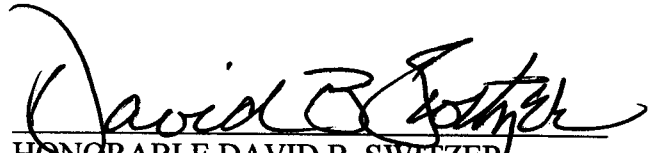
CONSISTING OF A STRIP OF LAND 6 FEET MORE OR LESS, WIDE, EXTENDING FROM THE CURB ON THE SOUTHEAST SIDE OF QUAPAW AVENUE BACK TOWARDS THE REAR LOT IN A SOUTHEASTERLY DIRECTION APPROXIMATELY 150 FEET TAKING IN THAT PART OF LOT 13 DESCRIBED AS FOLLOWS: BEGIN AT THE COMMON CORNER OF LOTS 13 AND 14 OF BLOCK 92 ON QUAPAW AVENUE ON THE SOUTHEASTERLY SIDE THEREOF; THENCE RUN 150 FEET IN A SOUTHEASTERLY DIRECTION ALONG THE LINE OF LOTS 13 AND 14; THENCE RUN SOUTHWESTERLY FOR 6 FEET; RUN THENCE NORTHWESTERLY WITH THE DIVIDING LINE OF LOTS 13 AND 14 FOR 150 FEET TO THE SOUTHEASTERLY CURB OF QUAPAW AVENUE; THENCE RUN 6 FEET NORTHEASTERLY TO THE PLACE OF BEGINNING, A/K/A 735 QUAPAW AVENUE, HOT SPRINGS, GARLAND COUNTY, ARKANSAS.

2. This Court has subject matter jurisdiction over said property, and has personal jurisdiction over the parties hereto. In addition, venue is properly placed in this Court.
3. The subject property constitutes a common nuisance pursuant to *A.C.A. § 5-74-109* and *A.C.A. § 14-54-1502*.
4. The present condition of the property is a threat to the health, safety, and welfare of any occupant thereof and the nearby residents, as well as the citizens of the City of Hot Springs, Arkansas.
5. As such, the Court finds that said nuisance should be, and hereby is, abated as follows:
 - A. The Court hereby appoints the Clerk of the Court to serve as Commissioner for the purpose of conducting a Commissioner's Sale of the subject property to be held on Tuesday, September 4, 2007, at 9:00 a.m. The Clerk of the Court, as Commissioner, is directed to provide notice as required by law. In addition, counsel for the Plaintiff shall provide notice to any lien holder of record.
 - B. In the event that the subject property is not sold on or before September 4, 2007, the Plaintiff is hereby ordered to raze the structures occupying the subject property, and shall thereupon be entitled to place a lien for the cost incurred for same.

IT IS, THEREFORE, CONSIDERED, ORDERED, AND ADJUDGED that the property described herein above is a common nuisance pursuant to *A.C.A. § 5-74-109* and *A.C.A. § 143-54-*

1502, and that said nuisance should be abated in accordance with the provisions of this Order.

IT IS SO ORDERED.


HONORABLE DAVID B. SWITZER
GARLAND COUNTY CIRCUIT JUDGE

DATE: JUL 17 2007

DISTRIBUTION TO:

Brian W. Albright
City Attorney
626 Malvern Avenue
Hot Springs, AR 71901
(501) 623-4023

Mr. Bryan Nebel
373 Whittington Avenue
Hot Springs, AR 71901

City of Hot Springs, ArkansasPLAINTIFF
FILED

NO. 2007-537-III

2007 NOV 21 AM 9 39

Bryan Nebel and the Owner(s) and/or
Occupant(s) of 735 Quapaw Avenue,
Hot Springs, Arkansas

REPORT OF SALE

DEFENDANT
GARLAND CO. CIRCUIT CLERK
BY Vicki RemaTO THE HONORABLE David Switzer,

The Subscriber respectfully reports, that in pursuance of the authority and directions contained in the decretal order of this Honorable Court, made and rendered in the above entitled cause on the 17th day of July A.D., 20 07, she gave notice of the time, place and terms for the sale of the land and premises therein described, to-wit:

PART OF LOT 14, BLOCK 92 OF THE HOT SPRINGS RESERVATION, AS SURVEYED, MAPPED, AND PLATTED BY THE U.S. HOT SPRINGS COMMISSIONERS, DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF LOT 14 ON QUAPAW AVENUE, WHICH IS THE COMMON CORNER OF LOTS 13 AND 14; RUNNING THENCE IN A SOUTHERLY DIRECTION ALONG THE BOUNDARY LINE OF LOTS 13 AND 14 FOR 256 FEET TO THE SOUTHWEST CORNER OF SAID LOT 14; THENCE IN AN EASTERLY DIRECTION AND ALONG THE SOUTH LINE OF SAID LOT 14 WHICH IS THE DIVIDING LINE BETWEEN LOTS 5 AND 14 FOR 53 FEET MORE OR LESS TO THE LINE OF THE PROPERTY HERETOFORE CONVEYED TO MARY E. PROCTOR BY GEORGIA STATE SAVINGS ASSOCIATION; THENCE IN A NORTHERLY DIRECTION 255 FEET MORE OR LESS TO A POINT ON QUAPAW AVENUE 50.5 FEET FROM THE PLACE OF BEGINNING; RUNNING THENCE IN A WESTERLY DIRECTION ALONG THE NORTH LINE OF LOT 14 AND THE LINE OF QUAPAW AVENUE 50.5 FEET TO THE POINT OF BEGINNING. ALSO: PART OF LOT 13, BLOCK 92 OF THE HOT SPRINGS RESERVATION,

CONSISTING OF A STRIP OF LAND 6 FEET MORE OR LESS, WIDE, EXTENDING FROM THE CURB ON THE SOUTHEAST SIDE OF QUAPAW AVENUE BACK TOWARDS THE REAR LOT IN A SOUTHEASTERLY DIRECTION APPROXIMATELY 150 FEET TAKING IN THAT PART OF LOT 13 DESCRIBED AS FOLLOWS: BEGIN AT THE COMMON CORNER OF LOTS 13 AND 14 OF BLOCK 92 ON QUAPAW AVENUE ON THE SOUTHEASTERLY SIDE THEREOF; THENCE RUN 150 FEET IN A SOUTHEASTERLY DIRECTION ALONG THE LINE OF LOTS 13 AND 14; THENCE RUN SOUTHWESTERLY FOR 6 FEET; RUN THENCE NORTHWESTERLY WITH THE DIVIDING LINE OF LOTS 13 AND 14 FOR 150 FEET TO THE SOUTHEASTERLY CURB OF QUAPAW AVENUE; THENCE RUN 6 FEET NORTHEASTERLY TO THE PLACE OF BEGINNING, A/K/A 735 QUAPAW AVENUE, HOT SPRINGS, GARLAND COUNTY, ARKANSAS.

situated in Garland County, Arkansas, by publication in the matter and for the time prescribed by law and said decree, and on the day fixed for the sale viz: the 14th day of November A.D., 20 07, she did offer said land and premises for sale to the highest bidder, on a credit of three months, at the front door of the Garland County Courthouse in the City of Hot Springs, Arkansas, the place designated by said decree for the sale thereof, and named in the notice, and at such sale so made and had by her, City of Hot Springs, Arkansas bid and offered the sum of \$ 85,000.00 for said land and premises, and that being the highest bid, the same was struck off and sold to them for that sum.

And the said subscriber respectfully asks that she be allowed the sum of \$ 85.00 for her services as Commissioner herein.

All of which is respectfully submitted.

Vicki Rema

COMMISSIONER

IN THE CIRCUIT COURT OF GARLAND COUNTY, ARKANSAS

FILED

City of Hot Springs, Arkansas

PLAINTIFF 2007 NOV 26 PM 3 44

NO. 2007-537-IIIVICKI E. RIMA
GARLAND CO. CIRCUIT CLERKBryan Nebel and the Owner(s) and/or
Occupant(s) of 735 Quapaw Avenue,
Hot Springs, ArkansasBY *Jelly Kasz*
DEFENDANT

ORDER OF CONFIRMATION

On this day comes on for consideration and order of Court the report of sale made by Vicki E. Rima, Commissioner appointed to execute the decree entered in above entitled cause on the 17th day of July, 20 07. The report is in the words and figures as set forth in the attached instrument.

Being well and sufficiently advised in the premises, the Court doth order and adjudge that said report and sale be, and the same are hereby, in all things approved and confirmed; that said Commissioner to be, Vicki E. Rima, and she is, allowed the sum of \$ 85.00 for her services herein; that she make Certificate of Purchase and execute a Commissioner's Deed to the purchaser named in said report upon compliance with the terms of the contract of purchase.

David B. Foster
CIRCUIT JUDGE

NOV 26 2007

DATE