

IN THE PROBATE COURT OF JEFFERSON COUNTY, ALABAMA

CITY OF VESTAVIA HILLS, ALABAMA)
)
v.)
)
DAVID BUNCH;)
JEFFERSON COUNTY ENVIRONMENTAL)
SERVICES DEPARTMENT;)
BIRMINGHAM WATER WORKS;)
VESTAVIA HILLS FIRE DEPARTMENT;)
)
See legal description below.)

FINDING OF PUBLIC NUISANCE, NOTICE AND ORDER TO REMEDY,
AND NOTICE OF *LIS PENDENS*

TAKE NOTICE that:

COMES NOW, City of Vestavia Hills, Alabama (“the City”), by and through its Appropriate Municipal Official, its Clerk, and its Attorney to provide notice pursuant to the City’s Ordinance No. 2382 (“the Ordinance”) that the Appropriate Municipal Official has made a finding that a building located within the City is a dangerous building because it is unsafe to the extent that it is a public nuisance and subject to demolition. The building is located on the following described property, to wit, which will be described hereafter as “the Subject Property”:

STREET ADDRESS:

2750 Smyer Road, Vestavia Hills, AL 35216

LEGAL DESCRIPTION:

Lot 7-A, according to the Resurvey of Lot 7, First Addition to Mount Royal, as recorded in Map Book 52, Page 29, in the Office of the Judge of Probate of Jefferson County, Alabama.

PARCEL IDENTIFICATION NUMBER:

28-00-17-4-002-022.000

The City provides further notice as follows:

1. In *Ellis v. City of Montgomery*, the United States District Court for the Middle District of Alabama stated that, in cases such as this where a municipality seeks the demolition of building by use of its police powers, “A simple *lis pendens* filing after sending notice to the current owner of a property would place subsequent purchasers on record notice that demolition could occur.” *Ellis v. City of Montgomery*, 460 F.Supp.2d 1301, 1307 (M.D. Ala. 2006). Here, the City is invoking the procedure recommended by the District Court.

2. By the filing of this Notice, the City is not claiming any right, title, or interest in the Subject Property. Rather, the purpose of this Notice is to put all interested parties on notice of the City’s intent to exercise its authority provided by law and specifically by the City’s ordinances.

3. The Ordinance is “An Ordinance Concerning Unsafe Structures and Dangerous Buildings.” The below-signed Appropriate Municipal Official is the person designated to exercise the authority and perform the duties delegated by the Ordinance.

4. The Appropriate Municipal Official finds that the building located on the Subject Property is a “dangerous building” within the meaning of the Ordinance because of the following defects:

- (1) The interior walls or other vertical structure members list, lean, or buckle to such an extent that a plumb line passing through the center of gravity falls outside of the middle third of its base;
- (2) Exclusive of the foundation, the building shows thirty-three (33) percent, or more, of damage or deterioration of one (1) or more supporting members, or fifty (50) percent of damage or deterioration of the non-supporting enclosing or outside walls or covering;
- (3) The building has been damaged by fire, wind, earthquake, flood, sinkhole, deterioration, neglect, abandonment, vandalism, or any other cause so as to have become

dangerous to life, health, property, morals, safety, or general welfare of the public or the occupants;

- (4) The building has become or is so damaged, dilapidated, decayed, unsafe, unsanitary, lacking in maintenance, vermin or rat infested, containing filth or contamination, lacking proper ventilation, lacking sufficient illumination, or so utterly fails to provide the amenities essential to decent living that it is unfit for human habitation, or is likely to cause sickness or disease, so as to work injury to the life, health, property, morals, safety, or general welfare of the public or the occupants;
- (5) The building is so damaged, decayed, dilapidated, structurally unsafe, or of such fault construction or unstable foundation that partial or complete collapse is possible;
- (6) The building has parts thereof which are so attached that they may fall and damage property or injure the public or the occupants;
- (7) The building, or any portion thereof, is clearly unsafe for its use or occupancy;
- (8) The building is neglected, damaged, dilapidated, unsecured, or abandoned so as to become an attractive nuisance to children who might play in or on the building, structure, part of building or structure, party wall, or foundation to their danger, has become a harbor for vagrants, criminals, or immoral persons, or enables persons to resort to the building, structure, part of building or structure, party wall, or foundation for committing a nuisance or an unlawful act;
- (9) The building is, because of its condition, unsafe, unsanitary, or dangerous to the life, health, property, morals, safety, or general welfare of the public or the occupants; and
- (10) The building has a condition or conditions that violate the City's technical codes adopted from time to time if such violation(s) are unsafe to the extent of becoming a public nuisance.

5. The Appropriate Municipal Official finds that the building on the Subject Property is substantially damaged or decayed or deteriorated from its original value or structure (not including the value of the land).

6. For purposes of this Notice, the term “building” is deemed to include all structures, appurtenances, improvements, and items on the property, whether or not attached to or a part of the main structure, including, but not limited to, houses, mobile or manufactured homes, trailers, garages, sheds, carports, other accessory structures, pools, as well as any items located therein or on the Subject Property, including, junk, rubbish, trash, litter, grass and weeds as defined by the City’s grass and weed abatement ordinance, junked motor vehicles, and/or any other matter declared a nuisance under existing law. For further particulars of what the “building” on the Subject Property includes, please contact the Appropriate Municipal Official.

7. Notice is hereby given to remedy the unsafe or dangerous condition by demolition of the building on the Subject Property within forty-five (45) days of the date of this Notice to the Appropriate Municipal Official’s satisfaction. In the event the owner does not comply within the time specified herein to the Appropriate Municipal Official’s satisfaction, the demolition shall be accomplished by the City and the cost thereof assessed against the Subject Property and such cost shall constitute a lien against the Subject Property.

8. The Appropriate Municipal Official finds that the building on the Subject Property is in such condition as to make it dangerous to the life, health, property, morals, safety, or general welfare of the public or the occupants. Therefore, the Appropriate Municipal Official orders that the building on the Subject Property and/or the entirety or other portion of the premises upon which it is located be and remain vacated until demolished.

9. A public hearing as provided for by Section 5-146(a) set forth in the Ordinance shall be held on the finding of the Appropriate Municipal Official in the Council Chambers at the Vestavia City Hall, 1032 Montgomery Highway, Vestavia Hills, Alabama 35216, on the **12th day January 2025, at 6:00 p.m.** At that time, the City Council shall hold a public hearing to receive any objections to the finding by the Appropriate Municipal Official that the building or structure is unsafe to the extent of becoming a public nuisance. A written request for a public hearing is not necessary. At the public hearing, the Council shall also receive any written objections to the finding by the Appropriate Municipal Official. Any such written objection must be submitted to the City Clerk prior to the start of the Council meeting at which the public hearing is held. No action shall be taken on the finding of the Appropriate Municipal Official until determination thereon is made by the Council. Upon holding the hearing, the Council shall determine whether or not the building or structure is unsafe to the extent that it is a public nuisance. If it is determined by the Council that the building or structure is unsafe to the extent that it is a public nuisance, the Council shall order demolition of the building at the expense of the City and assess the expenses of the move or demolition on the land on which the building stands or to which it is attached. Any person aggrieved by the decision of the Council at the hearing may, within ten (10) days thereafter, appeal to the Circuit Court of Jefferson County, Alabama, upon filing with the Clerk of the Circuit Court of Jefferson County, Alabama, notice of the appeal and bond for security of costs in the form and amount to be approved by the Circuit Clerk. For further particulars, see the Ordinance.

10. A failure by the Council to act on the findings of the Appropriate Municipal Official within one hundred twenty (120) days from the date of this “Finding of Public Nuisance, Notice and Order to Remedy, and Notice of *Lis Pendens*” shall constitute an abdication of the Appropriate Municipal Official’s findings. However, this shall in no way prevent the City from reinitiating the proceedings

authorized by the Ordinance at any time so long as all the requirements of the Ordinance are satisfied anew. Furthermore, this does not require that the ordered demolition take place within one hundred twenty (120) days from the date of this “Finding of Public Nuisance, Notice and Order to Remedy, and Notice of *Lis Pendens*.” A failure by the City to accomplish the demolition of the building within one hundred eighty (180) days of the passage of the resolution by the Council ordering the same shall constitute an abdication of the Council’s order unless certain conditions further explained in the Ordinance are satisfied. For further particulars, see the Ordinance. Anyone interested in the status of these proceedings should inquire with Vestavia Hills City Clerk at (205) 978-0131 or at 1032 Montgomery Highway, Vestavia Hills, Alabama.

11. It is unlawful for any person, or for any agent, servant or employee of such person, to obstruct or interfere with the Appropriate Municipal Official in carrying out the purposes of the Ordinance.

12. It is unlawful for any person, or for any agent, servant or employee of such person, to mutilate, destroy, tamper with this “Finding of Public Nuisance, Notice and Order to Remedy, and Notice of *Lis Pendens*.”

13. It is unlawful for any person to enter, access, or be upon the Subject Property that the Appropriate Municipal Official has ordered to be vacated pursuant to this “Finding of Public Nuisance, Notice and Order to Remedy, and Notice of *Lis Pendens*” except for the purposes of demolishing the same.

14. It is unlawful for any person who has received this “Finding of Public Nuisance, Notice and Order to Remedy, and Notice of *Lis Pendens*” to sell, transfer, mortgage, lease, encumber, or otherwise dispose of the building that is the subject of the same to another until such person shall first

furnish the grantee, transferee, mortgagee, or lessee a true copy of this “Finding of Public Nuisance, Notice and Order to Remedy, and Notice of *Lis Pendens*” and shall furnish to the Appropriate Municipal Official a signed and notarized statement from the grantee, transferee, mortgagee, or lessee acknowledging the receipt of this “Finding of Public Nuisance, Notice and Order to Remedy, and Notice of *Lis Pendens*” and fully accepting the responsibility without condition for making the corrections or repairs required by this “Finding of Public Nuisance, Notice and Order to Remedy, and Notice of *Lis Pendens*.”

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SIGNATURE APPEARS ON THE FOLLOWING PAGE.]



Benjamin S. Goldman, Attorney

OF COUNSEL:

Benjamin S. Goldman
HAND ARENDALL HARRISON SALE LLC
1801 Fifth Avenue North, Suite 400
Birmingham, Alabama 35203
Phone: (205) 502-0142

VERIFICATION OF THE APPROPRIATE MUNICIPAL OFFICIAL

I, the undersigned, Keith Blanton, state as follows: I am the Building Official, for the City of Vestavia Hills, Alabama, and for purposes of administering the City's Ordinance, I am the "Appropriate Municipal Official." I hereby offer the findings made in this "Finding of Public Nuisance, Notice and Order to Remedy, and Notice of *Lis Pendens*," make such orders as are offered herein, and provide such notice as is specified herein.

DONE this the 17 day of Nov, 2025.



Keith Blanton, City of Vestavia Hills Building Official and
Appropriate Municipal Official for Purposes of
Administering Ordinance No. 2382

This Instrument Prepared By:

Benjamin S. Goldman
HAND ARENDALL HARRISON SALE LLC
1801 Fifth Avenue North, Suite 400
Birmingham, Alabama 35203
Phone: (205) 502-0142

CERTIFICATE OF SERVICE

Contemporaneously with the filing of this “Finding of Public Nuisance, Notice and Order to Remedy, and Notice of *Lis Pendens*,” a copy of the same has been sent via certified mail, properly addressed and postage prepaid to all of the following persons on this the ____ day of _____, 2025:

A. The person or persons, firm, association, or corporation last assessing the Subject Property for state taxes to the address on file in the Jefferson County Tax Collector’s Office:

David Bunch
2750 Smyer Road
Vestavia Hills, AL 35216

B. The record property owner or owners (including any owner or owners of an interest in the Subject Property) as shown from a search of the records of the office of the Judge of Probate of Jefferson County, Alabama, at the owner or owners’ last known address and at the address of the Subject Property:

David Bunch
2750 Smyer Road
Vestavia Hills, AL 35216

David Bunch
3825 E. Marble Valley Road
Sylacauga, AL 35151

C. All mortgagees of record as shown from a search of the records of the office of the Judge of Probate of Jefferson County, Alabama, to the address set forth in the mortgage or, if no address for the mortgagee is set forth in the mortgage, to the address determined to be the correct address by the Appropriate Municipal Official:

None.

D. All lien holders of record as shown from a search of the records of the office of the Judge of Probate of Jefferson County, Alabama to the address set forth in the statement of lien or, if no address for the lien holder is set forth in the statement of lien, to the address determined to be the correct address by the Appropriate Municipal Official:

None.

E. Such other persons who are otherwise known to the Clerk or to the Appropriate Municipal Official who could have an interest in the Subject Property:

Jefferson County Environmental Services Department
Room 800
Jefferson County Courthouse
716 Richard Arrington Blvd. North
Birmingham, AL 35203

Birmingham Water Works
3600 First Avenue North
Birmingham, AL 35233

Vestavia Hills Fire Department
1032 Montgomery Hwy.
Vestavia Hills, AL 35216

No other person is otherwise known to the Clerk or to the Appropriate Municipal Official to have an interest in the Subject Property.

Contemporaneously with the filing of this "Finding of Public Nuisance, Notice and Order to Remedy, and Notice of *Lis Pendens*," a copy of the same has been posted at or within three feet of an entrance to the building on the Subject Property.

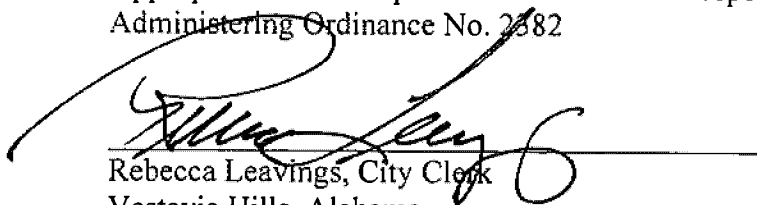
Contemporaneously with the filing of this "Finding of Public Nuisance, Notice and Order to Remedy, and Notice of *Lis Pendens*," a copy of the same has been posted in three public places located

within the City: Vestavia Hills City Hall, Vestavia Hills Library in the Forest, Vestavia Hills Civic Center.

Notice that the Appropriate Municipal Official has made a finding that the Subject Property is a dangerous building because it is unsafe to the extent that it is a public nuisance and is subject to demolition and that a public hearing will be held on the date assigned herein will also be given to all interested parties and to the public at large by publication in the *Alabama Messenger*.



Keith Blanton, City of Vestavia Hills Building Official and
Appropriate Municipal Official for Purposes of
Administering Ordinance No. 2582



Rebecca Leavings, City Clerk
Vestavia Hills, Alabama