

Return Date: December 3, 2012

LISA F. DZIS : SUPERIOR COURT

V : HARTFORD/NEW BRITAIN

CITY OF HARTFORD : October 24, 2012

COMPLAINT

Count One (Diminished Value)

1. At all times relevant hereto, the plaintiff Lisa F. Dzis, resided at and owned premises known as 541-543 Maple Avenue (541 Maple Avenue), Hartford, Connecticut, a three-story, three-family wood-frame house.
2. The defendant City of Hartford (City) is a municipal corporation chartered under the laws of the State of Connecticut and has been duly notified of this action pursuant to Section 7-101a of the Connecticut General Statutes.
3. At all times relevant hereto, the defendant Pedro E. Segarra (Segarra) was Mayor of the defendant City.
4. At all times relevant hereto, the defendant Saundra Kee Borges (Borges) was Corporation Counsel of the defendant City.
5. At all times relevant hereto up to and including September 14, 2012, the defendant David Panagore (Panagore) was Chief Operating Officer of the defendant City.
6. Since September 14, 2012, the defendant Borges has served as Acting Chief Operating Officer of the defendant City.
7. At all times relevant hereto, the defendant Michael Landry (Landry) was an LSNI inspector for the defendant City.

8. At all times relevant hereto, the defendant Matthew Julian Forrest (Forrest) performed the functions of citations hearing officer for the defendant City.
9. In June 2011, the defendants Segarra, Borges and Panagore, as individuals and in their official capacities, jointly and severally caused the defendant City to adopt the Livable and Sustainable Neighborhoods Initiative (LSNI) and jointly and severally exercised plenary authority over its implementation.
10. As part of LSNI, the defendants caused 20,000 properties to be inspected, identifying 771 as potentially blighted.
11. In May 2012, as part of LSNI, the defendants identified 703 vacant properties, some but not all of which were also identified as potentially blighted.
12. As part of LSNI, the defendants adopted a strategy of targeted enforcement of Chapter 9, Article V of the Hartford Municipal Code, the so-called "Anti-blight Ordinance." (the Ordinance).
13. As part of LSNI, the defendants announced an intention to effect widespread compliance by targeting a sub-group of potentially blighted properties for aggressive enforcement.
14. As part of LSNI, the defendants implemented the following aggressive enforcement measures:
 - a. The assessment of fines of \$200 per day or more for noncompliance, secured by liens in favor of the City;
 - b. Notifications to mortgagees and other lien-holders of instances of alleged noncompliance;
 - c. No formal procedure for inspections and reinspections;

- d. Appeals to a hearing officer employed by and serving at the pleasure of the defendant Borges;
 - e. Intentional accumulation of liens to facilitate foreclosure;
 - f. Intentional displacement of long-term residents by developers and redevelopers.
15. On February 21, 2012, as part of LSNI, the defendants, acting through the defendant Landry, cited the plaintiff's residence as blighted property, one of the first 41 properties to be so cited, charging her with three violations of the Ordinance, to wit:
- a. Exterior walls, roof, stairs, porches, floors or chimneys are damaged, collapsing or deteriorating or permit the interior of the building to be open to the weather;
The deteriorated or rotten components of the second floor front porch on the Eastern side of the building need to be repaired and or replaced, The trim on the Eastern side of the building third floor left window needs to be repaired and or replaced.
The deteriorating siding on the Northern side of the building needs to be repaired and or replaced.
 - b. The property is a factor creating substantial and unreasonable interference with the reasonable and lawful use and enjoyment of other space within the building or premises or within the neighborhood as documented and reported to the Licenses and Inspections by neighborhood complaints;
The Department of Licenses and Inspections has a history of complaints related to the above referenced property documented and recorded in their Munis computer software system. To correct this violation incoming new complaints must cease.
 - c. Other conditions exist that reflect a level of maintenance which is not in the (sic) keeping with community standards including, but not limited to, graffiti that is

clearly visible from the street;

The overall condition of the property (paint, lack of maintenance) is not in keeping with the community standards. Abating all other violations of the Hartford

Municipal Code Anti-Blight Section will, in turn, abate this violation.

16. An owner must be in violation of at least two sections of the Ordinance to be subject to fines.
17. Fines accrue at the rate of \$100 per day per violation.
18. On March 3, 2012, the defendants notified the plaintiff by mail of the three notices of violation, allowing her 30 days from receipt of the notices to abate the violations.
19. On and after March 3, 2012, the defendants referred to 541 Maple Avenue as blighted property.
20. On March 5, 2012, before the expiration of 30 days as provided in the notices for abatement, the defendants caused the three notices to be recorded in the Hartford Land Records.
21. The recording of the notices amounted to publication of the charge that the plaintiff was the owner of blighted property.
22. The three notices were intended to operate and did operate as liens against 541 Maple Avenue to secure the imposition of such fines as might in the future be imposed on the plaintiff under the Ordinance.
23. The recording of the notices created by the defendants to encumber 541 Maple Avenue and to encumber the equity of the plaintiff in those premises was not authorized by any Connecticut statute and was contrary to law.
24. The three notices of violation were vague and imprecise, lacking specific factual

allegations or any guidance or instruction on the measures that might be taken to abate the violations.

25. Notwithstanding the property's state of compliance with applicable laws and regulations and notwithstanding defects in the notices, the plaintiff attempted to abate and did abate the conditions cited in the notice sufficiently to cure any alleged violation of the Ordinance.
26. On or about April 17, 2012, the defendants, acting through the defendant Landry, circulated a bar graph to the plaintiff illustrating the accrual of fines over various periods.
27. On April 17, 2012, the defendant Landry offered the plaintiff the services of a crew of immigrants employed by a neighboring property owner to abate the conditions cited in the three notices, advising the plaintiff that the work could be done in a weekend for \$2,000.
28. The conditions on the plaintiff's property were at no time out of compliance with the Ordinance or any other applicable law or regulation, and the notices of violation were without foundation.
29. At no time did conditions on the plaintiff's property amount to blight or a blighted condition.
30. On April 17, 2012, fines began accruing on 541 Maple Avenue at the rate of \$100 per day per violation, for violations of subsection 2 and subsection 7 of the Ordinance.
31. On April 23, 2012, 541 Maple Avenue was cited for violations of subsection 2 and subsection 7 of the Ordinance, one of the first 41 properties to be cited for daily fines.
32. On May 4, 2012, the petitioner appealed the assessment of fines.

33. On July 12, 2012, the petitioner's appeal was heard by the defendant Forrest.

34. The defendant Forrest made the following finding:

The City provides proper evidence that there was violation of 9-81(7) and 9-81(2).

The evidence shows rot and deterioration in violation of 9-91(2). They also show substantial painting which has pealed (sic) and been removed in violation of 9-91(7).

I therefore find the defendant in violation of these two code sections. I consider a house to be properly painted or sided as a community standard. Evidence did not prove violation of 9-91(10) . . . The defendant is therefore liable for fines accruing at 100/day/violation, starting on July 13, 2012. I find the defendant in violation of two code sections and therefore will be fined 200 per day until both violations are abated.

35. On August 24, 2012, the plaintiff appealed the decision of the defendant Forrest by way of a petition to the Superior Court.

36. As of September 10, 2012, fines levied against 541 Maple Avenue totaled over \$25,000.

37. As of October 12, 2012, fines continued to accrue against 541 Maple Avenue.

38. On October 16, 2012, defendants caused an inspection to be made of 541 Maple Avenue and made the following finding: "It appears that the owner has abated violations by painting the first floor of the property and by encasing the porch on the second floor with vinyl siding among other items. Since it appears that progress has been made at the property. I am recommending that the City release its Notices of Violations from the land records and waive its fines. The City does not want to interfere with the scheduled sale of the property and appreciates the work that has been performed. "

39. On October 22, 2012, the plaintiff and the City consented to a stipulated judgment on the appeal of the assessment as set forth in paragraph 35, in which the plaintiff referred to a contract to sell her house, and the City agreed to waive all fines and release all liens and notices encumbering 541 Maple Avenue.
40. The sale referred to in the stipulation provides for a purchase price of \$72,000.
41. As of September 10, 2012 , the City's estimate of the fair market value of 541 Maple Avenue was \$152,200.
42. The combined actions of the defendants in labeling 541 Maple Avenue a blighted property diminished the monetary value of 541 Maple Avenue from \$152,200 to \$72,000, and the City knowingly and intentionally assented to and facilitated the diminution in the value of the property.
43. The defendants, in their individual capacities and in their official capacities as officials of the City, intended to diminish the monetary value of the 541 Maple Avenue to make it attractive to potential investors.
44. The plaintiff was injured to the extent of the diminution in the value of 541 Maple Avenue, and the defendants are jointly and severally liable for her injury.

Count Two (Legal Malpractice)

- 16.Paragraphs 1-34 of Count One are made a part of Count Two as if fully set forth.
35. The defendant Forrest is an attorney admitted to practice in Connecticut.
36. In accordance with the Ordinance, Forrest was appointed by and served at the pleasure of the defendant Borges.
37. Forrest knew or in the exercise of reasonable diligence should have known that his appointment by and service at the pleasure of the corporation counsel put him in

direct conflict with Conn. Gen Stat. Sec 7-152c.

38. The plaintiff relied on Forrest, as a member of the bar and an officer of the court, to exercise independent professional judgment, to act competently, to give a fair account of the evidence in her case and to accord her a fair hearing, all in accordance with accepted standards of legal practice.
39. Forrest failed to exercise independent professional judgment, to act competently, to give a fair account of the evidence in the plaintiff's case or to accord her a fair hearing in accordance with accepted standards of legal practice, in that:
 - a. Forrest assessed fines of \$200 per day on a record bereft of fact.
 - b. Forrest found, without evidence and contrary to common knowledge, that "properly painted" surfaces are standard in the plaintiff's community.
 - c. Forrest made no mention of any abatement undertaken by the plaintiff or of any evidence or argument presented in her defense.
 - d. Forrest ruled that the conditions deemed to be in violation of subsection 2 also gave rise to a violation of subsection 7, thereby providing a basis for the two violations required to impose anti-blight sanctions but bypassing the subsection 7 provisions calling for "other" conditions.
 - e. Forrest gave no account of the abandoned allegations of a history of complaints, as recited in paragraph 15b.
 - f. Forrest failed to disclose that he served at the pleasure of the defendant Borges.
40. As a result of Forrest's professional misconduct as aforesaid and his failure to acknowledge his lack of legal authority, the plaintiff was obliged to incur legal fees and costs, was disturbed in the quiet enjoyment of her property, and suffered physical

and emotional injury.

Count Three (Denial of Equal Protection and Due Process)

Paragraphs 1-38 of Count One are incorporated into Count Three as if fully set forth.

39. The defendants have, jointly and severally and in their individual and official capacities, combined under color of law to deprive the plaintiff of her rights to equal protection of the laws and due process of law under Amendment XIV of the Constitution of the United States, in violation of Section 1983 of the Civil Rights Act of 1871, in that:

- a. It was the stated policy of the defendants to target selected property owners, including the plaintiff, for aggressive enforcement, with the explicit purpose of making an example that might bring others into compliance
- b. There was no rational basis for targeting 541 Maple Avenue as a blighted property
- c. There was insufficient notice of the specific character of the alleged defective conditions at 541 Maple Avenue and no notice of the measures necessary to abate them
- d. The plaintiff was charged twice for the same allegedly defective condition, satisfying the Ordinance's requirement of two violations to support the imposition of fines but bypassing the subsection 7 requirement of "other" conditions
- e. As may reasonably be inferred from the written decision of the hearing officer, the hearing on the plaintiff's appeal was not impartial
- f. The hearing officer was without proper authority to rule
- g. Fines of \$200 per day were excessive.

40. The plaintiff was obliged to incur legal fees and costs, was disturbed in the quiet

enjoyment of her property, and suffered physical and emotional injury as a result of the defendants' violations of law.

Count Four (Defamation)

Paragraphs 1-29 of the Count One are made part of Count Four as if fully set forth.

30. The plaintiff lives on a block with considerable foot traffic and automotive traffic, spends much time in her front yard, and is generally known among neighbors and passers-by as the owner and maintainer of 541 Maple Avenue,

31. The plaintiff derives income from 541 Maple Avenue and has a reputation as a responsible landlady.

32. The defendants' publication of the plaintiff's property as blighted caused damage to the plaintiff's reputation among neighbors and passers-by.

33. The defendants' publication of the plaintiff's property as blighted was libelous per se, in that it implied the presence of unhealthful conditions on her rented property.

Count Five (Intentional Infliction of Emotional Distress)

Paragraphs 1-38 of Count One are incorporated into Count Five as if fully set forth.

29. The defendants' actions were intended to cause and did cause extreme emotional distress to the plaintiff, in that:

- a. The defendants intended to make an example of the plaintiff and did make an example of her, as among the first homeowners cited, producing, according to the defendants, "results that are nonetheless significant. LSNI's influence has reached property owners who, although not directly targeted for enforcement, have responded to the City's renewed emphasis on property maintenance and have

voluntarily initiated remediation of potential violations before being subject to enforcement.”

- b. The defendants intended to terrorize and intimidate the plaintiff by recording documents purporting to be liens and purporting to secure fines in astronomical amounts, for the joint purpose of facilitating her displacement and frightening non-complying property owners into compliance without formal enforcement proceedings.
- c. The defendants created circumstances intended to cause the plaintiff to question, in the interest of emotional and mental health and stability, whether she could continue as a resident landlady or should allow herself to be forced out by oppressive fines and liens.
- d. The defendants created circumstances intended to cause the plaintiff to allow herself, in the interest of her emotional and mental health and stability, to be parted from her property for much less than it is worth.
- e. The defendants created circumstances intended to compel the plaintiff, in the interest of her emotional and mental health and stability, to leave her neighborhood after 40 years of continuous residence.
- f. The defendants created circumstances intended to compel the plaintiff to allow, in the interest of her emotional and mental health and stability, the equity in her property to be confiscated from her to be given to a developer or redeveloper.
- g. The plaintiff has been forced by circumstances created by the defendants to involve her family and friends in her effort to confront and overcome the

emotional upset intentionally inflicted upon her by the defendants, and this has caused further distress to the plaintiff.

- h. The plaintiff's physical health has been adversely affected by the emotional distress inflicted intentionally by the defendants.

Count Six (Extortion)

Paragraphs 1-26 of Count One are made a part of Count Six as if fully set forth.

- 20. The plaintiff refused the offer made to her by the defendant Landry, as stated in paragraph 26.
- 21. As a result of plaintiff's failure to accept the defendant Landry's offer and solely on Landry's recommendation, 541 Maple Avenue was declared a blighted property and published by the defendants as such, and the plaintiff was subjected to arbitrary and corrupt proceedings purporting to enforce the Ordinance, assessed fines exceeding \$25,000, and forced to accept the devaluation of her property, its encumbrance with liens, and her own dispossession and displacement from her property and her neighborhood of long standing.
- 22. The defendant Landry's conduct amounted to extortion, according to the criteria set forth in the Connecticut Penal Code, Section 53a-119 of the Connecticut General Statutes, causing injury to the plaintiff.
- 23. LSNI was poorly managed and its staff insufficiently trained, and the malfeasance of the defendant Landry should for this reason be imputed to the City and the other defendants.

DEMAND FOR RELIEF

WHEREFORE the plaintiff demands money damages, compensatory and punitive, to the value of three million dollars, along with attorney's fees and court costs and such other relief as the court deems appropriate.

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STATEMENT OF AMOUNT IN DEMAND

The amount in demand, exclusive of costs, interest and other additions, exceeds \$15,000.

Stephen Fournier
Plaintiff's attorney