

Docket No. HHD-CV-12-6036987S

LISA F. DZIS : SUPERIOR COURT
V : HARTFORD/NEW BRITAIN
CITY OF HARTFORD : May 9, 2013

SECOND AMENDED 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. In June 2011, the defendant City adopted the Livable and Sustainable Neighborhoods Initiative (LSNI), allotting to its mayor and corporation counsel plenary authority over its implementation.
4. As part of LSNI, the defendant caused 20,000 properties to be inspected, identifying 771 as potentially blighted.
5. In May 2012, as part of LSNI, the defendant identified 703 vacant properties, some but not all of which were also identified as potentially blighted.
6. As part of LSNI, the defendant adopted a strategy of targeted enforcement of Chapter 9, Article V of the Hartford Municipal Code, the so-called “Anti-blight Ordinance.” (the Ordinance).

7. As part of LSNI, the defendant announced an intention to effect widespread compliance by targeting a sub-group of potentially blighted properties for aggressive enforcement.
8. As part of LSNI, the defendant 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's Corporation Counsel;
 - e. Accumulation of liens to facilitate foreclosure;
 - f. Displacement of long-term residents by developers and redevelopers.
9. On February 21, 2012, as part of LSNI, the defendant 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.

- 10. An owner must be in violation of at least two sections of the Ordinance to be subject to fines.
- 11. Fines accrue at the rate of \$100 per day per violation.
- 12. On March 3, 2012, the defendant notified the plaintiff by mail of the three notices of violation, allowing her 30 days from receipt of the notices to abate the violations.
- 13. On and after March 3, 2012, the defendant referred to 541 Maple Avenue as blighted property.
- 14. On March 5, 2012, before the expiration of 30 days as provided in the notices for abatement, the defendant caused the three notices to be recorded in the Hartford Land

Records.

15. 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.
16. 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.
17. 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.
18. 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.
19. On or about April 17, 2012, the defendant, acting through its employee, circulated a bar graph to the plaintiff illustrating the accrual of fines over various periods.
20. On April 17, 2012, the defendant, acting through its employee, 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.
21. The plaintiff refused the offer made to her by the defendant, as stated in paragraph 20.
22. 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.

23. At no time did conditions on the plaintiff's property amount to blight or a blighted condition.
24. 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.
25. 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.
26. On May 4, 2012, the petitioner appealed the assessment of fines.
27. On July 12, 2012, the petitioner's appeal was heard by Matthew Forrest, designated by the defendant as attorney hearing officer.
28. The defendant, acting through its hearing officer, made the following finding:

The City provides proper evidence that there was violation of 9-91(7) and 9-91(2). The evidence shows rot and deterioration in violation of 9-91(2). They also show substantial painting which has peeled (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.
29. On August 24, 2012, the plaintiff appealed the decision of the hearing officer by way of a petition to the Superior Court.
30. As of September 10, 2012, fines levied against 541 Maple Avenue totaled over \$25,000.

31. As of October 12, 2012, fines continued to accrue against 541 Maple Avenue.
32. On October 16, 2012, the defendant 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. ”
33. On October 22, 2012, the plaintiff and the defendant 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 defendant agreed to waive all fines and release all liens and notices encumbering 541 Maple Avenue.
34. The sale referred to in the stipulation provides for a purchase price of \$72,000.
35. As of September 10, 2012 , the City’s estimate of the fair market value of 541 Maple Avenue was \$152,200.
36. The actions of the defendant in labeling 541 Maple Avenue a blighted property diminished the monetary value of 541 Maple Avenue from \$152,200 to \$72,000.
37. In diminishing the value of 541 Maple Avenue, the defendant acted in furtherance of the objective of LSNI to make the property attractive to potential investors.
38. The plaintiff was injured to the extent of the diminution in the value of 541 Maple Avenue, and the defendant is liable for her injury.

Count Two (Denial of Equal Protection and Due Process)

Paragraphs 1-37 of Count One are incorporated into Count Two as if fully set forth.

38. The defendant has, under color of law, acted 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. Immediately following plaintiff's refusal to accept the defendant's offer of April 17, as alleged in paragraph 20, above, the defendant commenced to impose fines on the plaintiff, and the imposition of fines was in direct retaliation for the plaintiff's refusal to accept the said offer
- f. The hearing on the plaintiff's appeal was not impartial, in that :
 - The hearing officer assessed fines of \$200 per day on a record bereft of fact
 - The hearing officer found, without evidence and contrary to common

knowledge, that “properly painted” surfaces are standard in the community

- The hearing officer made no mention of any abatement undertaken by the plaintiff or of any evidence or argument presented in her defense
- The hearing officer 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
- The hearing officer gave no account of the abandoned allegations of a history of complaints, as recited in paragraph 15b

g. The hearing officer was without proper authority to rule

h. Fines of \$200 per day were excessive.

39. 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.

DEMAND FOR RELIEF

WHEREFORE the plaintiff demands money damages, 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

A copy of the foregoing complaint was transmitted by fax and email to all counsel this 9th of May 2013, and a copy was mailed on May 9, 2013.

