



TO: Mayor and Members of Troy City Council
FROM: Lori Grigg Bluhm, City Attorney
Christopher J. Forsyth, Assistant City Attorney
DATE: November 20, 2006
SUBJECT: City of Troy v. George Roberts

After being alerted to potentially dangerous conditions at the property at 6791 Livernois Road, the City's housing and zoning Inspectors attempted to work with the owner and sole occupant, George Roberts, to correct violations to the exterior of the home. There was a large accumulation of trash and debris in the rear yard, and tall weeds that were in violation of the City of Troy ordinances. The owner was initially cooperative and indicated a willingness to remove the litter from the yard, and therefore the City did not immediately issue municipal civil infraction tickets. The housing and zoning inspectors had not been allowed inside the home, and were therefore initially unaware of dangerous conditions on the inside of the home.

After a few months, there was still no progress towards cleaning the exterior of the property. In addition to the litter and debris, vermin were also found on the property on subsequent inspections. These observations, in addition to the receipt of additional complaints concerning the interior of the property, led City Administration to request an administrative search warrant to inspect the interior of the home. The 52-4 Judicial District Court granted the requested administrative search warrant. On November 16, 2006, Building Inspectors went inside the home. They observed a substantial accumulation of debris, trash, loose paper, clothing, and other items throughout the house that blocked the doorways and aisle ways of the home, constituting a nuisance. The sinks in his kitchen and bathroom were covered with filth, and it appeared that the home lacked working plumbing. The Building Inspectors observed large amount of food waste and other garbage in the kitchen, and buckets of what appeared to be human waste in the bathroom.

Based on the above observations, our office immediately filed a nuisance complaint, which is attached for your review. This lawsuit was filed because of the multiple building code violations that exist at 6791 Livernois in the City of Troy. These violations pose immediate health, safety and welfare concerns, and it was necessary to file this lawsuit with the Oakland Circuit Court as soon as possible. There will be a hearing set for this Wednesday, November 22, 2006 for the Court to determine whether or not to allow Mr. Roberts to continue to occupy the home in its current condition.

If you have any questions, please let us know.

STATE OF MICHIGAN
IN THE OAKLAND COUNTY CIRCUIT COURT

CITY OF TROY,

Plaintiff,

CASE NO. CZ

vs.

GEORGE ROBERTS,

Defendant.

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There is no other pending or resolved civil
action arising out of the transaction or
occurrence alleged in the complaint.

**COMPLAINT FOR ABATEMENT OF NUISANCE AND
FOR INJUNCTIVE RELIEF**

Plaintiff, City of Troy, through the Troy City Attorney's Office, states for its
complaint:

1. Plaintiff City of Troy is a Michigan municipal corporation, located in
Oakland County, State of Michigan and incorporated under the Home Rule City
Act, MCLA 117.1, et. seq.
2. Defendant George Roberts is the sole owner of a house at 6791
Livernois Road, Troy, Oakland County, Michigan.

3. Defendant George Roberts is the sole occupant of the house at 6791 Livernois Road, Troy, Michigan.

4. This court is vested with jurisdiction over this action, pursuant to MCL 600.2940(1). Under this statute, the Circuit Court is vested with jurisdiction to hear any equitable claims seeking an abatement of a nuisance.

5. According to the provisions of the Michigan Constitution of 1963, Article 7, Section 22, "Each such city and village shall have the power to adopt resolutions and ordinances relating to its municipal concerns, property and government, subject to the constitution and law. "

6. This Constitutional grant to Cities to adopt ordinances relating to municipal concerns is further defined in the Home Rule City Act, MCL 117.3 (k), which provides as follows:

(A) city may adopt a law, code or rule that has been promulgated and adopted by an authorized agency of this state pertaining to fire, fire hazards, fire prevention, or fire waste, and a fire prevention code, plumbing code, heating code, electrical code, building code, refrigeration machinery code, piping code, boiler code, boiler operation code, elevator machinery code, an international property maintenance code, or a code adopted by this state, by a department, board, or other agency of this state, or by an organization or association that is organized and conducted for the purpose of developing the law, by reference to the law, code or rule in an adopting ordinance and without publishing the law, code or rule in full. (MCL 117..3 (k) in pertinent part)

7. The City of Troy has adopted the B.O.C.A. National Property Maintenance Code of 1993, which has been codified into Chapter 82 of the Troy Code of Ordinances. The B.O.C.A. National Property

Maintenance Code sets minimal code health, safety and welfare standards for existing housing.

8. Troy's City Charter, Chapter 2, Section 2.2 (l) provides the City of Troy with authority to seek abatement of nuisances within the City, and authorizes:

The preventing of injury or annoyance to the inhabitants of the City from anything which is dangerous, offensive, or unhealthy, and for preventing and abating nuisances and punishing those occasioning them or neglecting or refusing to abate, discontinue or remove the same.

9. Pursuant to Troy's Code of Ordinances, Chapter 88, Section 9.1, a public nuisance is defined as follows:

Whatever annoys, injures, or endangers the safety, health, comfort or repose of the public; interferes with or destroys or renders dangerous any street, highway, allows accumulation of junk or obnoxious matters on private property; or in any way renders the public insecure in life or property is hereby declared to be a public nuisance. Public nuisances shall include, but not be limited to, whatever is forbidden by any provision of this Chapter and the common and statute law of this state.

10. The City of Troy Housing and Zoning Inspectors have observed a substantial accumulation of garbage, debris, waste material, refuse, rubbish, newspapers, and other foreign substances strewn throughout the home at 6791 Livernois Road, and have personally observed piles of the above referenced materials that rise to three feet or more above the floor throughout most of the house. These piles leave no aisle ways for the safe ingress and egress of persons. In addition, the basement of the home is filled to the stairwell with debris and trash, which further impedes egress and ingress.

11. The failure to maintain clear aisle ways that are at least three feet wide consistently throughout the house is a safety hazard, as well as a violation of the B.O.C.A. Code, and a violation of the City of Troy ordinances.

12. In addition to the hazardous accumulation of mounds of garbage and debris inside the home, City of Troy officials are also concerned about other health, safety, and welfare risks in the home. An inspection of the home on November 16, 2006, revealed that Defendant George Roberts has failed to maintain his bathtub, lavatory, and kitchen sink in a sanitary, safe working condition. Buckets in the bathroom near the toilet and bathtub are filled with an unknown liquid that likely is urine or other human waste. The bathroom sink also is covered with filth, dirt, and other debris. In the kitchen, a bucket was placed in the kitchen sink that was covered in filth, and also contained an unknown liquid. Food waste, garbage, and other debris were piled at and around the kitchen sink. Based on these conditions, there is a strong likelihood that the residence lacks working plumbing, and that the Defendant will continue to deposit additional food or human waste in an unsafe manner in the home, which is a danger to the occupant of the home, as well as any visitors or any necessary police officers, fire fighters, or EMTs who may be required to enter the home.

13. Defendant George Roberts has also allowed debris and trash to accumulate in the fenced in area of the backyard of the premises at 6791 Livernois Road, in the City of Troy. This yard accumulation is of a nature similar to the garbage and trash accumulations in the house, which exceed a height of 3 feet. This is also a violation of City of Troy Ordinance.

14. In July 2006, the City of Troy Housing and Zoning Inspectors were alerted to the dangerous conditions at 6791 Livernois Road, in the City of Troy. At that time rats and other vermin were observed by the neighboring property owners. The Housing and Zoning Inspectors were allowed to complete an inspection of the exterior of the home at that time, which revealed many of the above referenced conditions. However, Defendant George Roberts refused to allow the Inspectors to enter his residence.

15. For the next several months, the City of Troy Housing and Zoning Inspectors unsuccessfully attempted to obtain voluntary compliance with the Troy ordinances (and also the B.O.C.A. Code) from Defendant George Roberts.

16. In November 2006, the City of Troy Housing and Zoning Inspectors were again alerted that dangerous conditions continued to exist at the home at 6791 Livernois Road. Based on this subsequent information, these Inspectors requested an administrative search warrant for the interior of the home. This search warrant was granted by a Troy District Court Judge on or about November 16, 2006.

17. Pursuant to the issuance of the administrative search warrant, City of Troy Housing and Zoning Inspectors conducted a preliminary inspection of the interior of the home at 6791 Livernois.

18. Upon information and belief, there has been no substantive progress in returning the home to a safe and sanitary condition, which is in compliance with the City of Troy ordinances.

19. Defendant has endangered the health, safety and welfare of himself, his neighbors and the public by allowing great quantities of refuse, rubbish, debris and other objects to accumulate in his residence, preventing the safe ingress and/or egress into his home, causing the residence to become infested with insects and others vermin and creating a fire hazard and a potential hazard to fire fighters and/or EMTs who maybe required to enter the house in an emergency.

20. The house at 6791 Livernois Road constitutes a nuisance, and should be abated in furtherance of the health, safety and welfare of the occupant and his neighbors and any police officers, fire fighters, or EMTs that could be required to enter the home.

21. Prior to filing this lawsuit, Plaintiff City of Troy unsuccessfully engaged in several efforts to abate the nuisance short of filing this lawsuit. This lawsuit, seeking equitable relief, is required in order to obtain compliance with the City of Troy ordinances and to abate the nuisances at the home at 6791 Livernois Road in the City of Troy.

Wherefore, the Plaintiff, City of Troy, requests an injunctive order from this Honorable Court, declaring the nuisance at the home at 6791 Livernois. Plaintiff further requests an order authorizing the City to immediately hire someone to return the home to a safe and sanitary condition, the cost of which shall be borne by the Defendant as a lien on the property, or as a judgment that can be collected in any manner allowed by law. Furthermore, Defendant requests an order that requires Defendant, or anyone else residing at the

premises to immediately vacate the home until the clean up is complete and the property is in compliance with the City codes. Plaintiff City of Troy also requests any other relief which is fair and equitable.

CITY OF TROY
CITY ATTORNEY'S OFFICE

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Dated: November 17, 2006