

Multi-Family Code Enforcement Issues for City Attorneys

**Texas City Attorneys Association
June 11- 13, 2008
South Padre Island, Texas**

**Brenda N. McDonald
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Irving City Attorney's Office
972-721-2541**

Multi-Family Code Enforcement Issues for City Attorneys

Texas City Attorneys Association
June 12, 2008

Brenda N. McDonald - Deputy City Attorney/TOD Administrator, City of Irving
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Multi-Family

Goal

Eliminate substandard housing



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Irving Texas

- Population – 210,102 persons
- 58% of housing stock is multi-family
- 503 multi-family properties
- Age
 - 37% pre-1970
 - 55% 1970-1990
 - 8% post 1990



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Irving Texas

- Direct connection between substandard multi-family properties and crime
 - Over 7,000 offenses in 2007

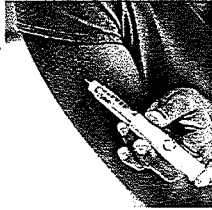


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Multi-Family

■ Pro-Active/Preventative Strategies

- Certificate of Occupancy
- Licensing
- Inspection
 - Risk Rating
- Recorded Notice



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Multi-Family

■ Enforcement Strategies

- Civil
 - Elevated Legal Process
 - Revocation of CO and License
 - Reinstatement
 - Building & Standards Commission
 - Chapter 54 Lawsuit
- Criminal
 - Code Compliance Conference
 - Multiple Citations



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Pro-Active/Preventative Strategies



Certificate of Occupancy

No building or structure shall be used or occupied, and no change in the existing occupancy classification of a building or structure or portion thereof shall be made until the building official has issued and the fire code official has approved a certificate of occupancy therefore as provided herein. Issuance of a certificate of occupancy shall not be construed as an approval of a violation of the provisions of this code or of other ordinances of the jurisdiction.

International Building Code Sect. 110.1 as adopted by the City of Irving

- Initial authorization to occupy the building

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License

It is unlawful for any person to own, operate, manage, or maintain a multiple-family dwelling complex in the city without a current and valid license having been issued for each multiple-family dwelling complex. Any person owning, operating, managing or maintaining a multiple-family dwelling complex at more than one location shall obtain a license for each separate location.

Sect. 8A-34(a) of the Code of Civil and Criminal Ordinances of the City of Irving

- Issued annually

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License



Requires:

- ⊖ one trade name;
- ⊖ name, address, telephone number of owner(s), manager, etc.;
- ⊖ registered agent;
- ⊖ license fee; and
- ⊖ if more than 50% ownership change or new general partner, new license within 30 days.

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Inspection



... owner, resident manager, and the property manager **in making application for a license consent and agree to allow inspection**, in whole or in part, as deemed necessary by a director or fire chief, **at least twice a year** of:

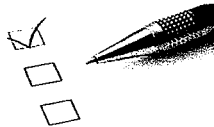
- ⊖ Exterior structures and all common grounds
- ⊖ Any dwelling units (occupied or unoccupied)
- ⊖ Storage areas, swimming pools, athletic facilities, club rooms, equipment rooms and all other portions of the facility
- ⊖ Anywhere upon receipt of a complaint

Sect. 8A-23 of the Code of Civil and Criminal Ordinances of the City of Irving

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Risk Rating

- ⊖ Worked with Apartment Association of Greater Dallas to develop a Risk Rating Assessment process
- ⊖ Annual quantitative rating from 1 – 4 assigned to a Multi-Family Dwelling Community based on several factors including: ⊖
 - ⊖ age;
 - ⊖ property condition;
 - ⊖ maintenance standards;
 - ⊖ life safety systems; and
 - ⊖ management practices
- ⊖ Draft ordinance to eliminate Level 4s ⊖



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Recorded Notice

- One page notice filed with Dallas County on every multi-family property Δ
 - Notice of Risk Rating on every property (not specific to the property)
 - Notice of minimum housing standards
- Puts potential buyers on notice



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Enforcement Strategies



Elevated Legal Process

- City Attorney's office meets with owner or person in control in an attempt to come to agreement
 - Abatement agreement Δ
 - Include copy of applicable ordinances
 - Letter if no appearance Δ
 - Include copy of applicable ordinances



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Elevated Legal Process

- City Council Resolution ◊ (Council involvement is important to communicate commitment to achieving compliance)
 - To sign and enforce the Abatement Agreement; or
 - To file a lawsuit under Chapter 54.

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CO & License Revocation

- After failure of reinspection for an ordinance violation:
 - certificate of occupancy may be withdrawn; and
 - the license may be canceled for those units or structures in violation.
- All public utility companies may be notified that the certificate of occupancy withdrawn and request that all public utility services be discontinued.

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Reinstatement of CO & License

- Upon the occurrence of all the following:
 - compliance with the violation notice;
 - compliance with current code requirements governing:
 - fire protection systems; and
 - electrical systems; and
 - on request by the owner, landlord, or property manager.

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Building & Standards Commission

- Established pursuant to Texas Local Gov't Code Chapters 54 & 214
- Quasi-judicial
- Substantial evidence review in district court if Commission action is appealed

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Building & Standards Commission

- Commission can order owner to:
 - vacate;
 - secure;
 - repair;
 - demolish; and
 - assess civil penalties
- Orders go to the property, but civil penalties can also be a personal liability of the property owner



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Chapter 54 Lawsuit

- Petition for Injunction ◊



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Chapter 54 Lawsuit

- Civil penalties
 - Up to \$1000 per day
 - Run from date Defendant was notified of ordinance provisions and committed acts in violation anyway
 - Personal debt
 - Enforceable by contempt



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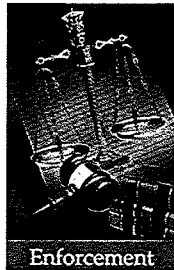
Code Compliance Conference

- Meeting between:
 - Code Enforcement Officer;
 - Prosecutor; and
 - Person(s) in control of property.
- Sign agreement for deadline to correct offenses and date for reinspection. △
- If not corrected upon reinspection, citation issued.

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Municipal Court

- Citation
- Complaint
- Pre-Trial
- Trial
- Potential personal fine of up to \$2000 per day



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Multi-Family Strategies

Result

Compliance with minimum housing standards.



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APARTMENT COMMUNITY ASSESSMENT

Date: _____

Apartment Community _____ Inspector: _____

Address: _____

Item	Criteria Description	Max Point Value	Point Breakdown	Apartment Complex Score
1*	Age	2	Less than 20 years = 0 points 20-30 years = 1 point Over 30 years = 2 points	
2	Property Condition (code violations)	24	0-6-Interior Maintenance Issues* 0-6- Exterior Maintenance Issues* 6-10- Int. & Ext. Maintenance Issues 7-10- Interior- Life Safety* 7-10- Exterior Life Safety* 11-14- Int. & Ext. Life Safety	
9*	Fire sprinklers	0 or 8	0-yes/8-no	
10*	Fire alarm system	0 or 7	0-yes/7-no	
11*	Hard wired smoke detectors	0-6	100% of units = 0 points Less than 100% but more than 50% of units are hard-wired = 3 points Less than 50% of units hard-wired = 6 points	
12*	Two-pipe HVAC systems	0 or 3	0-yes/3-no	
13	Sewage overflows	0-3	No history of overflows in past 7 years = 0 points One overflow in past 7 years = 1 point Two or more overflows in past 7 years = 3 points	
16	CAMT (Certified Apartment Maintenance Technician)	0 or 3	0-yes/3-no	
17	On-site mgmt office	0 or 4	0-yes/4-no	
			Total Points Accumulated	
			= Risk Level	

*Interior Maintenance Issues- Dripping faucets; tile; cabinets; counters; a/c filters; baseboards; carpet; paint; etc.

*Exterior Maintenance Issues- Paint; landscape; litter; parking lot striping; perimeter fence; siding; minor fascia deterioration; minor roof repairs; etc.

*Interior Life Safety Issues- Exposed Electrical; Sheetrock penetrations in ceilings/at electrical or mechanical equipment/into attic/exposed to elements; roof leaks; plumbing leaks

*Exterior Life Safety Issues- Balconies; railings; stairs; roof replacements; open/accessible units; pool dangerous

All*= 26 points (worst cases- Level 3 if no other points accumulated except for * points)

0-10 = level 1

11-20 = level 2

21-31 = level 3

32 & above = level 4

Draft Ordinance to Eliminate Level 4 Multi-Family Properties

Risk Rating Assessment.

(a) The Code Enforcement Director is authorized to assess each Multi-Family Dwelling Community for a Risk Rating once per calendar year, with follow-up or compliance assessments as necessary.

(b) Notice of the Risk Rating report of a Multi-Family Dwelling Community will be made by personal delivery, by certified mail with return receipt requested, or by delivery by the United States Postal Service using signature confirmation service, to the Owner, Manager, or lienholder of the affected Multi-Family Dwelling Community, as shown on the current Multi-Family Dwelling Community License application filed with the City, within five (5) business days of the report.

(c) An Owner, Manager, or lienholder may request another inspection once per calendar year within thirty (30) calendar days of the date of a Risk Rating report in an attempt to modify the rating of a Multi-Family Dwelling Community.

(d) The results of a Risk Rating become final thirty (30) calendar days from the date of the report, unless modified pursuant to Subsection (c) above.

Risk Rating appeal process.

(a) An Owner, Manager, or lienholder, jointly or severally aggrieved by a Risk Rating by the Code Enforcement Director may file an application to appeal to an administrative appellate panel within thirty (30) calendar days after the date of the Risk Rating report. The application must state the basis for the appeal.

(b) The administrative appellate panel shall consist of three members: one representative each from the Building Official's office, the City Attorney's office, and the Building and Standards office. Administrative appellate rulings shall be made by a simple majority of the members. The appeal to the administrative panel must be heard no later than thirty (30) days from the date the hearing request is filed, unless otherwise agreed to by the City and the applicant.

(c) The authority of the administrative appellate panel is limited in that it may modify a Risk Rating only if error is shown by the appellant as of the date of the Risk Rating report. Subsequent repair, renovations, work, or presentation of a scope and schedule do not form a basis for the administrative appellate panel to modify a Risk Rating.

(d) An Owner, Manager, or lienholder, jointly or severally aggrieved by a decision of the administrative appellate panel may file an appeal to the Construction Board of Appeals within thirty (30) calendar days after the date of the administrative appellate ruling. The Construction Board of Appeals shall follow the procedure in the International Building Code, Section 112, as modified in section 8-5 herein. The rulings of the Construction Board of Appeals shall be final and non-appealable.

(e) Filing for any appeal does not stay the deadlines related to a Risk Rating report.

Requirements for Risk Rating 4 Multi-Family Dwelling Communities.

(a) An Owner, Manager, or lienholder of a Multi-Family Dwelling Community as of January 1, 2009, which receives a Risk Rating of 4 as a result of any inspection on or after January 1, 2009, shall be required to:

(1) install a Heat Detection System; and

(2) improve its Risk Rating to 3 or better within twelve (12) months of the date of the inspection that resulted in the Risk Rating of 4.

(b) If an Owner, Manager, or lienholder described in Subsection (a) above fails to comply with the requirements in Subsection (a), the Building Official shall automatically revoke the Certificate of Occupancy for failure to meet the minimum housing standards set forth in this Chapter.

(c) An Owner who purchases property after January 1, 2009, and applies for a Certificate of Occupancy for a Multi-Family Dwelling Community which has a current Risk Rating of 4, shall be issued a Provisional Certificate of Occupancy and be required to do the following within six (6) months of the application to obtain a Certificate of Occupancy:

(1) install a Heat Detection System; and

(2) improve the Risk Rating to 3 or better.

(d) Only one Owner per Multi-Family Dwelling Community per rolling twelve (12) month period may take advantage of the provisions of Subsection (c) above. If such an Owner fails to comply with the requirements of Subsection (c) above, the Building Official shall automatically revoke the Provisional Certificate of Occupancy for failure to meet the minimum housing standards set forth in this Chapter.

(e) If a Multi-Family Dwelling Community receives a Risk Rating of 4, subsequent upgrades that improve the Multi-Family Dwelling Community's Risk

Rating shall not relieve the Owner, Manager, and lienholder from the requirement of installing a Heat Detection System. The installation of a Heat Detection System shall not establish the basis for which a Multi-Family Dwelling Community may be maintained with at a Risk Rating of 4.

(f) Ownership changes of a Multi-Family Dwelling Community shall not extend any requirement deadlines set forth in this Chapter 8, except as specifically provided herein.

Risk Rating does not stay other enforcement

Risk Ratings under this Section do not stay proceedings in civil or criminal court for violations of any ordinances of the City.

**NOTICE OF ORDINANCE REQUIREMENTS
FOR MULTI-FAMILY PROPERTY**

Date:

Legal Description:

Notice:

All multi-family complexes in the City of Irving, including this property are subject to a Risk Rating issued by the City of Irving, Texas. Please contact the Code Enforcement Division at the City of Irving for additional information regarding this property.

This property is subject to the minimum housing standards and other provisions contained in Chapter 8 of the Code of Civil and Criminal Ordinances of the City of Irving, Texas.

Janice Carroll, TRMC
City Secretary
Irving, Texas

County of Dallas §
 §
State of Texas §

This instrument was acknowledged before me on _____, 2008, by
Janice Carroll, City Secretary of the City of Irving, Texas.

Notary Public's Signature

ABATEMENT AGREEMENT

This Abatement Agreement ("Agreement") executed this 20th day of May, 2008, by and between Lika D. and Hassa D. Junk (the "Owners") and the City of Irving, Texas, a Texas municipal corporation (the "City"), evidences the following:

WHEREAS, Lika D. and Hassa D. Junk own the property located at 2000 Beautiful Road in Irving, Dallas County, Texas (the "Property"); and

WHEREAS, a large amount of outside storage, as that term is defined by the ordinances of the City of Irving, is located in and on the Property. Said outside storage includes, but is not limited to, inoperable vehicles, appliances not designed for outdoor use, other trash and refuse; and

WHEREAS, Owners understand that they are entitled to a public hearing wherein they may present proof of compliance with City ordinances, but Owners hereby waive their right to the public hearing and admit that said outside storage is a violation of the ordinances of the City of Irving and constitutes a nuisance and a hazard to the public health, safety, and welfare; and

WHEREAS, both Owners and the City desire to remove the outside storage from the Property;

NOW, THEREFORE, for the consideration stated above and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties do hereby mutually agree as follows:

1. The recitals set forth above are incorporated as if fully set forth herein.
2. Owners desires and hereby request and authorize City to remove ALL outside storage and all other miscellaneous items located on the Property on or after May 20, 2008. Owner hereby agrees to reimburse the City for the actual cost of such removal. City will allow Owners to execute a Promissory Note if payment in full cannot be made within 30 days of Owners' receipt of an invoice for City's actual costs associated with the remediation contemplated by this Agreement.
3. Owners hereby authorize and grant permission for City, its officers, employees or agents to enter onto the Property, on or after May 20, 2008, including any area behind a privacy fence, to remove all of the materials identified in paragraph 2 above that may be remaining on the Property.
4. Owner hereby expressly agrees that in consideration of the foregoing, neither the City of Irving, Texas, its Mayor and City Council,

employees, officers, agents, or volunteers (together also the "City") shall be liable or responsible for, and shall be saved and held harmless by the undersigned from and against any and all suits, actions, losses, damages, claims, or liability of any character, type, or description, including all expenses of litigation, court costs, and attorney's fees for injury or **death** to any person, or injury to any property, received or sustained by any person or persons or property, arising out of, or occasioned by, directly or indirectly, the City's performance under this agreement, including claims and damages arising in whole or in part from the negligence of City, without; however, waiving any governmental immunity available to the City under Texas law and without waiving any defenses of the City under Texas law. The provisions of this indemnification are solely for the benefit of the parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity.

It is the expressed intent of the parties to this Agreement that the indemnity provided for in this section is an indemnity extended by the undersigned to indemnify and protect City from the consequences of City's own negligence, whether that negligence is the sole or contributory cause of the resultant injury, death, or damage.

The undersigned further agrees to defend, at its own expense, and on behalf of City and in the name of City, any claim or litigation brought in connection with any such injury, death, or damage.

5. Following City's removal of the outside storage and other debris from the Property, Owner agrees and commits that no outside storage of any kind will be committed on the Property. All such material stored on the Property must be contained within a fully enclosed, lawfully erected structure.
6. Owner hereby irrevocably authorizes City, through its employees, to enter into the back yard of the Property not more frequently than 4 times during the next 12 month period to verify Owner's compliance with the provisions of paragraph 5 above. Such entry is hereby authorized in advance and no further authorization is required prior to inspection by the City.

This is a legal and binding document and the parties each acknowledge the need for legal counsel in understanding the effects of executing this Agreement. Each party, by its signature below, represents that it has had the opportunity to seek legal representation prior to execution of this Agreement.

OWNERS

CITY

Lika D. Junk

Herbert A. Gears, Mayor
Authorized by City Council
Resolution No. _____
Dated May 20, 2008

Hassa D. Junk

LETTER IF PERSON DOES NOT APPEAR AT MEEETING

May 20, 2008

Mr. Lika D. Junk
2000 Beautiful Road
Irving, TX

Re: 2000 Beautiful Road

Dear Mr. Junk:

Attached please find a Resolution which is being presented to the Irving City Council on May 30, 2008, asking for authorization to file a compliance lawsuit under Chapter 54 of the Texas Local Government Code. This is a result of your failure to take the action necessary to comply with the Zoning and Subdivision Ordinances of the City of Irving with regard to the above-referenced property.

You were asked to meet with representatives from Code Enforcement and the City Attorney's Office to discuss the outside storage issues on this property. You declined the opportunity for such a meeting. We would have presented several options available to you to obtain compliance with the City's code requirements. Instead, we understand that after several citations were issued to you, the outside storage issues are ongoing.

The property is zoned C-N Neighborhood Commercial District which does not allow for outside storage. Items on the property such as motor vehicle parts, inoperative vehicles, and boats qualify as outside storage. See Sections 52-21 and 52-56 of the Zoning and Subdivision Ordinances of the City of Irving which have been provided to you with this letter.

The lawsuit will compel removal or seek authorization for the City of Irving to remove the outside storage on the property, request civil penalties of up to \$1,000 a day, and seek any other remedies which are allowed by law.

If you do not own the property, please contact our office immediately.

Nothing in this letter should be considered legal advice to you. You may consult your own attorney.

Sincerely,

Michele I. Ritter
Assistant City Attorney

RESOLUTION FOR ABATEMENT AGREEMENT

CITY OF IRVING

COUNCIL RESOLUTION NO. 5-30-08-

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF IRVING, TEXAS:

SECTION I. THAT the City is hereby authorized to sign and enforce the Abatement Agreement for the property at 2000 Crummy Road, Beautiful, Dallas County, Texas, to remove all outside storage from the property on or after May 29, 2008, and the Mayor is authorized to execute said agreement.

SECTION II. THAT this resolution shall take effect from and after its final date of passage, and it is accordingly so ordered.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF IRVING, TEXAS, this 30th day of May, A.D. 2008.

HERBERT A. GEARS
MAYOR

ATTEST:

Janice Carroll, TRMC
City Secretary

APPROVED AS TO FORM:

REVIEWED BY:

Charles R. Anderson
City Attorney

Brenda N. McDonald
Deputy City Attorney

RESOLUTION FOR CHAPTER 54 LAWSUIT

CITY OF IRVING

COUNCIL RESOLUTION NO. 5-30-08-

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF IRVING, TEXAS:

SECTION I. THAT the City Attorney is hereby authorized to file suit and take all legal action authorized by Chapter 54 of the Texas Local Government Code to compel removal of, or seek authorization for, the City to remove outside storage, including, but not limited to, motor vehicle parts, inoperative vehicles, and boats, in a zoning district that does not allow such use, from the property located at 2000 Beautiful Road, and to seek civil penalties.

SECTION II. THAT this resolution shall take effect from and after its final date of passage, and it is accordingly so ordered.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF IRVING, TEXAS, this 30th day of May, A.D. 2008.

HERBERT A. GEARS
MAYOR

ATTEST:

Janice Carroll, TRMC
City Secretary

APPROVED AS TO FORM:

REVIEWED BY:

Charles R. Anderson
City Attorney

Brenda N. McDonald
Deputy City Attorney

CAUSE NO. _____

CITY OF IRVING,
Plaintiff

§
§
§
§
§
§
§

IN THE DISTRICT COURT

v.

COURT NO. _____

LIKA D. JUNK,
Defendant

DALLAS COUNTY, TEXAS

**PLAINTIFF'S ORIGINAL PETITION FOR TEMPORARY
AND PERMANENT INJUNCTIONS, CIVIL PENALTIES, AND
REQUEST FOR DISCLOSURE**

COMES NOW, the City of Irving, Plaintiff, complaining of Lika D. Junk, Defendant, and for good cause would respectfully show the Court as follows:

I.

DISCOVERY CONTROL PLAN

Discovery is intended to be conducted under Level 2 of Rule 190 of the Texas Rules of Civil Procedure.

II.

REQUEST FOR DISCLOSURE

Pursuant to Rule 194 of the Texas Rules of Civil Procedure, Defendant is requested to disclose, within 50 days of this request, the information or material described in Rule 194.2 regarding the property located at 2000 Beautiful Road, Irving, Texas. *See* TEX. R. CIV. P. 194.

III.

PARTIES

The City of Irving, a home rule municipality, is a municipal corporation situated in Dallas County, Texas, duly incorporated pursuant to the Constitution of the State of Texas, the laws of the State of Texas, and the Charter of the City of Irving.

IV.

Lika D. Junk is an individual and is control of the property generally located at 2000 Beautiful Road, Irving, Dallas County, Texas. Lika D. Junk may be served with process at 2000 Beautiful Road, Irving, Texas 75061.

V.

VENUE AND JURISDICTION

Plaintiff brings this cause of action to obtain temporary and permanent injunctive relief and to recover civil penalties against Defendant pursuant to Subchapter B of Chapter 54 of the Tex. Local Gov't Code. Venue is proper and this Court has jurisdiction pursuant to §§54.013 and 211.012 of the Tex. Local Gov't Code.

VI.

FACTS

The property that is the basis of this cause of action is located in Dallas County, Texas. The property is occupied and zoned as C-N Neighborhood Commercial District. The property at Lot 1 Block D, Irving Hills Addition, also known as 2000 Beautiful Road, Irving, Texas (the "Property"), is controlled by Defendant, Lika D. Junk. Defendant has been a person in control of the Property at all times pertinent to this cause of action.

VII.

At all times pertinent to this cause of action, Defendant has utilized the Property for outside storage of tires, tools and equipment not connected to the principle use of the Property, and other accumulations of trash, garbage, or refuse. Photographs of the Property from May 1, 2008 are attached to this petition as Exhibit "A" and incorporated herein. The City of Irving Development Codes: Zoning and Subdivision Ordinances, §§52-10 and 52-56, copies of which are attached to this petition as Exhibits "B" and "C," respectively, and are incorporated herein for all purposes, do not provide for the Property owned and controlled by Defendant to be used in the manner Defendant has utilized the Property. The foregoing ordinances have been in effect at all times pertinent to this cause of action.

VIII.

At all times pertinent to this cause of action, Defendant has failed, and continues to fail to eliminate all illegal use of the Property. The current use of the Property is an ongoing violation of the zoning ordinances of Plaintiff City of Irving. In addition, the use of the Property for outside storage creates and has created health, fire, and safety hazards for the surrounding area occupants.

On May 8, 2008, Defendant was given notice of the violations found on the Property and descriptions and copies of the relevant ordinance provisions. Since that date, the Property has been in continuous violation of the ordinances and Defendant has failed to take all necessary steps to remedy the violations.

IX.

CAUSES OF ACTION

Section 54.012 of the Tex. Local Gov't Code, applies to these ordinances violated by Defendant because the ordinances relate to:

- a) zoning that provides for the use of land or classifies a parcel of land according to the municipality's district classification scheme; or
- b) conditions caused by accumulations of refuse, vegetation, or other matter that creates breeding and living places for insects and rodents.

X.

Further, Tex. Local Gov't Code §211.012 states “if a building, other structure or land is used in violation of ...(a zoning) ordinance..., the appropriate municipal authority ... may institute appropriate action to (1) prevent the unlawful ... use; (2) restrain, correct, or abate the violation; (3) prevent the occupancy of the building, structure, or land; or (4) prevent any illegal act, conduct, business, or use on or about the premises.” The City is entitled to injunctive relief if it proves the violation of a zoning ordinance. It does not have to show a substantial danger of injury or and adverse health impact. Hollingsworth v. City of Dallas, 931 S.W.2d 699, 703 (Tex. App. - Dallas 1996, writ denied).

XI.

Nonetheless, persons other than Defendant and property other than that of the Defendant's will continue to suffer from adverse impacts and risk substantial danger of injury unless Defendant complies with these ordinances. These violations threaten harm that is irreparable.

XII.

Pursuant to §§54.016 and 211.012 of the Tex. Local Gov't Code, Plaintiff requests temporary and permanent injunctive relief ordering Defendant to remedy the condition on the Property to be in

compliance with the ordinances. If Defendant is unwilling or unable to comply, Plaintiff requests approval to remove all outside storage from the Property with all costs levied against Defendant.

XIII.

Pursuant to §54.017 of the Tex. Local Gov't Code, Plaintiff requests civil penalties not to exceed \$1,000 per day for each violation. Defendant was notified of the provisions of the applicable ordinances and after Defendant received notice of the ordinance provisions, Defendant committed acts in violation of the ordinances or failed to take action necessary for compliance with the ordinances. On July 19, 2007, Defendant was given notice of the violation found on the Property located at 2000 Beautiful Road and descriptions and copies of the relevant ordinance provisions. Since that date, the Property has been in continuous violation of the ordinances and Defendant has failed to take all necessary steps to remedy the violations.

XIV.

In addition, the facts herein alleged demonstrate that a delay will unreasonably endanger persons or property; therefore, Plaintiff requests that the court give a preference to this action when setting this case pursuant to Tex. Local Gov't Code §54.014.

XV.

Plaintiff also requests costs of court and post-judgment interest.

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays for the following relief:

- a) Plaintiff be granted temporary injunctive relief, enjoining Defendant from maintaining or allowing outside storage in violation of Plaintiff's zoning ordinances on the Property described herein, and requiring Defendant to immediately discontinue said use;
- b) Plaintiff be granted permanent injunctive relief, enjoining Defendant from maintaining or allowing outside storage on the Property described herein;

- c) Plaintiff be granted a preferential setting;
- d) Plaintiff be awarded judgment for a civil penalty not to exceed \$1,000.00 per day for each violation on the Property;
- e) Plaintiff be granted judgment for all costs of court;
- f) Plaintiff be granted judgment for post-judgment interest at the highest legal rate;
- g) Such other and further relief in law and in equity to which Plaintiff may show itself justly entitled.

Respectfully submitted,

CITY ATTORNEY'S OFFICE
CITY OF IRVING, TEXAS

By: _____

Julie Doctorate
Assistant City Attorney
State Bar of Texas No. 00000000
City of Irving, Texas
825 West Irving Boulevard
Irving, Texas 75060
Tel.: 555-555-5555
Fax: 555-555-5555

VERIFICATION



STATE OF TEXAS §
§
COUNTY OF DALLAS §

I, Keepa Clean, Code Enforcement Officer of the City of Irving, after being duly sworn, hereby certify that I am qualified and authorized to make this affidavit, and I have read each and every factual allegation contained within this petition and that said factual allegations are within my personal knowledge and are true and correct.

Keepa Clean

SUBSCRIBED AND SWORN TO BEFORE ME, on the _____ day of _____, 2008, to certify which witness my hand and official seal.

Notary Public in and for The State Of Texas



Thank you for appearing at your Code Compliance Conference and giving us the opportunity to speak with you regarding city ordinance requirements and potential violations. Compliance is our goal.

Location: _____

As we have discussed,

Must be completed by _____

Must be completed by _____

Must be completed by _____

If your violations are not corrected by the date indicated above, this case will be referred to the City Marshall's office for prosecution to ensure compliance. If you have any further questions regarding the discussion that took place today, please feel free to contact your code enforcement officer, _____, at **972-721-_____**.

Thank you again for your cooperation.

Prosecutor

Code Officer

I have received a copy of this notice.

Name

Address

Phone #

Date

