

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

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**ORAL ARGUMENT REQUESTED**

**COMPLAINT**

**JURY DEMAND**

**903 WEST WASHINGTON LLC,  
207 SECOND STREET LLC, and  
321 WEST MASON LLC,  
on behalf of themselves and  
others similarly situated.**

**Case No.  
Hon.**

**Plaintiffs,**

**v.**

**CITY OF JACKSON, a municipal corporation  
AND THE FOLLOWING INDIVIDUALS SEVERALLY,  
IN THEIR INDIVIDUAL AND OFFICIAL CAPACITY:**

**MATTHEW HAGERTY, city attorney, MARK  
PORTERFIELD, assistant city attorney, FRANK  
DONOVAN, former Chief Building Official, BRIAN  
TAYLOR, Chief Building Official, RICARDO  
O'CONNOR, Chapter 14 Code enforcement official,  
MICHAEL BRANDT, Chapter 14 Code enforcement  
official, MARK FISH, Electrical Inspector, SVEN  
HARRISON, former Chapter 14 Code enforcement official,  
SHANE LAPORTE, former Chapter 14 Code enforcement  
official, LYDELL TANNER, Chapter 14 Code enforcement  
official, DAVID BATTERSON, Chapter 14 Code  
enforcement official, DENNIS DIFFENDERFER, former  
Chapter 14 Code enforcement official, WILLIAM MILLS,  
former Chapter 14 Code enforcement official, SCOTT  
BARNETT, former Chapter 14 Code enforcement official,  
CHARLIE WILLIAMS, former Chapter 14 Code  
enforcement official, TIMOTHY PICKETT, former  
Chapter 14 Code enforcement official, JERRY**

**STACKHOUSE, former Chapter 14 Code enforcement official, DONALD KITTLE, former Chapter 14 Code enforcement official, JAYSON STREBE, former Chapter 14 Code enforcement official, and TIMOTHY BASORE, former Chapter 14 Code enforcement official.**

**Defendants.**

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**CLASS-ACTION COMPLAINT**

903 West Washington LLC, a Michigan limited liability company, 207 Second LLC, a Michigan limited liability company and the 321 West Mason LLC, a Michigan limited liability company, on behalf of all others similarly situated, by and through the undersigned attorney, JOHN WILLIAM TOIVONEN, states for this Complaint as follows:

**I. PARTIES**

1. **903 West Washington LLC** is a Michigan Limited Liability Company whose registered office is located in the City of Ann Arbor, County of Washtenaw, and State of Michigan.
2. **207 Second LLC** is a Michigan Limited Liability Company whose registered office is located in the City of Ann Arbor, County of Washtenaw, and State of Michigan.
3. **321 West Mason LLC** is a Michigan Limited Liability Company whose registered office is located in the City of Ann Arbor, County of Washtenaw, and State of Michigan.
4. Plaintiffs bring this class action on behalf of themselves, and others similarly situated, who have been the victims of a Chapter 14 ordinance void for vagueness, nefariously enforced by the city of Jackson in a deliberate *“Kafkaesque”* fashion thereby depriving homeowners of residential property within the city of their Fourth, Fifth, and

5. Defendant, City of Jackson, is a municipal corporation located within Jackson County, in the State of Michigan.
6. Pursuant to 42 USC § 1983, **“Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer’s judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable.”**
7. The natural persons who are named as defendants in this complaint do not enjoy qualified immunity as the City Attorney’s office, Building Department management and Code enforcement officials, worked in concert, under color of law, to deprive property owners within the city limits of Jackson of their civil right to have, hold and to enjoy the benefit of real property ownership.

## **II. JURISDICTION AND VENUE**

8. Plaintiff incorporates the preceding paragraphs.
9. Jurisdiction by this Court over Plaintiffs' constitutional claims is proper pursuant to 28 USC § 1343 and 28 USC § 1331.
10. Supplemental jurisdiction over any state law claims is proper pursuant to 28 USC § 1367.
11. Venue is proper in this District pursuant to 28 USC § 1391 because the district is where the Defendants reside, where a substantial part of the events and omissions occurred giving rise to Plaintiff's claims, and where a substantial part of all properties subject to the action are located.
12. As additional Class Plaintiffs are identified, this District will remain the most convenient venue in which all future cases can be considered and consolidated, as necessary.

## **III. NATURE OF THE ACTION**

13. Plaintiff incorporates the preceding paragraphs.
14. This action is brought on behalf of a class of:
  - a. All persons and entities who currently own or at one time owned Non Owner Occupied Residential Property located within the city of Jackson and who were illegally invoiced for inspection fees from a Constitutionally void for its vagueness Chapter 14 inspection regimen from the effective date of the ordinance on

March 22, 2012 and up to and including July 6, 2021 and

subsequently paid them.

- b. All persons and entities who refused to sign a consent to search pursuant to a Chapter 14 inspection demand by the city whereby an exterior code deficiency inspection was then conducted by the City from the public sidewalk, without providing a copy of the deficiency report to the homeowner within the statutorily Chapter 14 mandated time period for notice of violation which impaired their ability to appeal such deficiency determination to an impartial board, and the person or entity was then financially penalized for the refusal to sign a consent form, paid the penalties and subsequently consented to a search .
- c. All persons and entities who have refused to sign a consent to search pursuant to a Chapter 14 inspection demand by the city and the person or entity was financially penalized for the refusal to sign a consent form and which the city subsequently obtained and executed an ex parte search warrant without affording the subject of the search the opportunity to be heard in front of a neutral magistrate and the person or entity subsequently paid the penalties and search warrant fees.
- d. All persons and entities who currently own or at one time owned Foreclosed, Vacant or Abandoned real property located within the

city of Jackson and who were coerced under penalty of law to

register their real property and were illegally invoiced for

registration fees, subsequently paid those fees, from a

Constitutionally void Chapter 14 Foreclosed, Vacant, or

Abandoned Property Registration ordinance which compelled a

registrant , under threat of fine and penalty, to surrender their

Fourth Amendment rights by proving to the city, with their

property registration, “A statement allowing authorized staff of

the city to enter the premises for purposes of inspection”, for an

Article of the Chapter 14 ordinance which did not statutorily

mandate for an interior inspection of foreclosed, vacant, or

abandoned Property .

- e. All persons and entities who currently own or at one time owned Foreclosed, Vacant or Abandoned real property located within the city of Jackson and who were coerced under penalty of law to remunerate the city for “monitoring” fees from a Constitutionally void for its vagueness a Chapter 14 ordinance which did not provide a definition of “monitoring” or a statutorily mandated interior or exterior inspection schedule.
- f. All persons and entities who owned Foreclosed, Vacant or Abandoned real property from March 22, 2012 to July 6, 2021, located within the city of Jackson, and who were the victim of a

Constitutionally void for its vagueness Chapter 14 Non Owner

Occupied Residential Property Inspection regimen illegally applied by the City to their Foreclosed, Vacant or Abandoned unoccupied real property which resulted in the subsequent demolition of that property.

15. The State of Michigan under the Home Rule City Act (MCL 117.1 et seq.) permits municipal corporations like the City to adopt certain laws, codes, or rules for building maintenance issues.
16. MCL 117.3 (K) specifically addresses the adoption of certain building codes:

Except as otherwise provided under the Stille-DeRossett-Hale single state construction code act, 1972 PA 230, MCL 125.1501 to 125.1531, 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 pertaining to flammable liquids and gases or hazardous chemicals, that has been promulgated or 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 code, by reference to the law, code, or rule in an adopting ordinance and without publishing the law, code, or rule in full. The law, code, or rule shall be clearly identified in the ordinance and its purpose shall be published with the adopting ordinance. Printed copies of the law, code, or rule shall be kept in the office of the city clerk, available for inspection



by, and distribution to, the public at all times. The publication shall contain a notice stating that a complete copy of the law, code, or rule is made available to the public at the office of the city clerk in compliance with state law requiring that records of public bodies be made available to the general public.

17. The city has adopted and enacted a number of codes and ordinances pursuant to the Home Rule City Act and MCL 117.3 (K).
18. The City has adopted and enacted a number of such ordinances and regulations, one of which is titled the **Non-Owner Occupied Residential Rental Property Registry** of the Code of Ordinances of the City of Jackson, Michigan, Article I, Sections 14-1, *et seq.* (“Article” or “Ordinance”).
19. The city has adopted and enacted a “findings and purpose” definition for the enforcement of the Chapter 14 Article I Non-Owner-Occupied Residential Property Registry:

**Sec. 14-2. Findings and purpose.**

The city council finds that there are **non-owner-occupied** residential dwellings or units in the city that have become unsafe, unsanitary and unsecure due to deterioration. The city council finds that it is in the best interests of the health, safety and welfare of the city and its residents to require that all **non-owner-occupied** residential dwellings or units be registered and inspected **to ensure safe, secure and sanitary living conditions for those residing in non-owner-occupied residential dwellings or units.** The city council also finds that by requiring property registration of all **non-owner-occupied** residential dwellings or units in the city, the continuing maintenance of safe and quality

non-owner-occupied residential dwellings and units will be maintained and property values will be enhanced. The city council also finds that requiring designation of a responsible local agent will ensure timely notice under the law to the property owner and assist code enforcement inspectors in their duties to inspect non-owner-occupied dwellings or units.

(Ord. No. 2012-03, § 1, 2-21-12)

20. The city has also adopted and enacted ordinances that regulate the operation of non-owner-occupied housing within the city. Pursuant to these ordinances, an owner of non-owner-occupied real property whose desire is to rent their property must register the property with the city.

**Sec. 14-4. Property registration required.**

- (1) No person shall rent, lease, offer for rent or lease, or allow another person to occupy any **non-owner-occupied residential dwelling or unit** without a property registration issued by the city.
- (2) Upon the adoption of this chapter, any owner of a **non-owner-occupied residential dwelling or unit** must register the **non-owner-occupied residential dwelling or unit** within one hundred twenty (120) days of the effective date of this chapter. Upon expiration of the initial one hundred twenty-day period, an owner of a **non-owner-occupied residential dwelling or unit** must register the non-owner-occupied residential dwelling or unit within forty-five (45) days of the **non-owner-occupied residential dwelling or unit becoming non-owner occupied.**

(Ord. No. 2012-03, § 1, 2-21-12; Ord. No. 2020-09, § 2, 7-14-20)

21. The city has also adopted and enacted ordinances that regulate the

operation of non-owner-occupied housing within the city. Pursuant to these ordinances, the issuance of a non-owner-occupied residential property registration shall be issued subject to the following terms and conditions:

**Sec. 14-7. Issuance of property registration.**

A property registration shall be issued if the applicant meets all of the following requirements:

- (1) An application form is properly submitted;
- (2) An acknowledgment of local responsible agent form is submitted and signed by the local responsible agent, if required;
- (3) All application fees are paid;
- (4) All outstanding inspection fees and late fees are paid;
- (5) Payment in full of all of the following fines, fees and debts relating to the property being registered owed to the city that are currently due or past due, including but not limited to:
  - a. Outstanding water or sewer bills;
  - b. All charges for mowing, cleanup, weed or debris removal; and
  - c. Any fees, penalties, or debts of any sort arising from provisions of the housing code, including any blight violations.

(Ord. No. 2012-03, § 1, 2-21-12)

22. The city has adopted and enacted an ordinance which “presumes” when residential real property is subjected to the jurisdiction of the Chapter 14 Article I Non-Owner-Occupied Residential Property Registry.

**Sec. 14-13. Presumption of non-owner-occupied residential dwelling or unit.**

**Whenever a residential dwelling or unit used for or intended for residential purposes is vacant or occupied by anyone other than the owner of record as shown in the records of the city assessor, there shall exist a presumption that the dwelling or a portion of the dwelling is a non-owner-occupied residential dwelling or unit regardless of whether monetary compensation is exchanged between the owner and the person(s) occupying the residential dwelling or unit.** In addition, there shall be a presumption that the dwelling is non-owner occupied if the property or unit was rented, leased, let, or registered under this article within the last six (6) months, and the owner has not properly applied for a change of use.

(Ord. No. 2012-03, § 1, 2-21-12; Ord. No. 2015-19, § 2, 12-15-15)

23. Chapter 14 Article I Non-Owner-Occupied Property Registry Section 14-13 “Presumption of Non-Owner-Occupied Property” “presumes” that an owner-occupied residential property is vacant when the owner of record is not in residence without providing, in Chapter 14 Article I of the Non-Owner-Occupied Residential Property Registry, a definition of “vacant”. This begs the following questions: Is an owner-occupied structure considered a Non-Owner Residential Property by the City of Jackson should the owner of record depart the residence temporarily to

engage in a personal errand? Is owner occupied residential real property in the city of Jackson subject to a Chapter 14 Non-Owner-Occupied Residential property registration requirement if the owner of record should decide to leave their abode for a prolonged period of rest and relaxation thereby leaving their abode temporarily non-owner occupied and therefore subject to the terms and conditions of being a Non-Owner-Occupied Property? Is an owner of record required to register and submit to a city inspection regimen for engaging in an occupation that may require absences of varying and undetermined lengths of time from their owner occupied residential real property? Any reasonable person of common intelligence is undeniably unable to decipher from such vague, arbitrary, and capricious wording in Article I Chapter 14-13 that states “Whenever a residential dwelling or unit used for or intended for residential purposes is vacant...., there shall exist a presumption that the dwelling or a portion of the dwelling is a non-owner occupied residential dwelling or unit” of whether or not an owner occupied property is considered, pursuant to Chapter 14-13, a Non Owner Occupied Residential Property and therefore subject to the jurisdiction of registering the structure as Non Owner Occupied Property, pursuant to 14-4, and then subsequently enduring an invasion of their privacy that is required with the Chapter 14 Section 42 Non Owner Occupied inspection regimen without the city providing a

24. The city has adopted and enacted a maintenance code for the **Chapter 14 Non-Owner-Occupied Residential Property Registry** which is titled, **ARTICLE II-MIMIMUM HOUSING STANDARDS**
25. The city has adopted and enacted an applicability ordinance Chapter 14 Non-Owner-Occupied Residential Property Registry Article II- Minimum Housing Standards which is titled:

**Sec. 14-29. Applicability.**

The provisions of this article shall apply to all existing structures used, designed and constructed for the purpose of or intended to be used for human habitation. The minimum standards required under this Code are designed to prevent fire hazards, structural deterioration, inadequate light, air and heat, and unsanitary and overcrowded conditions **which constitute a menace to the safety, health and welfare of the *occupants*.**

(Ord. No. 2003.12, § 2, 9-2-03; Ord. No. 2012-03, § 1, 2-21-12; Ord. No. 2020-09, § 2, 7-14-20)

26. The city has adopted and enacted an inspection regimen for the **Chapter 14 Non-Owner-Occupied Residential Property Registry Article II- Minimum Housing Standards** which is titled:

**Sec. 14-42. Inspections.**

- (1) In order that they may perform their duties **to safeguard the health, safety and welfare of the *occupants* of dwellings** and of the general public, the chief building official, chief of police and fire official **are hereby authorized to make or cause to be made such**

**inspections of dwellings or dwelling units as are necessary to enforce the provisions of this article.**

The inspections that are authorized for the purpose of enforcement of the provisions of this article shall be made at a reasonable time. The word "dwelling" as used in this paragraph shall include, but not be limited to, those categories of structures defined in section 14-26.

- (2) The chief building official, chief of police and fire official shall inspect buildings and structures regulated by this article. Inspections may be conducted even though a current certificate of compliance is on record with the department of neighborhood and economic operations.
- (3) **An inspection shall be conducted in the manner best calculated to secure compliance with this article and appropriate to the needs of the community.**
- (4) In an emergency situation, the chief building official, chief of police and fire official have the right to enter at any time. for purposes of this article, an emergency shall exist when the chief building official, chief of police or fire official has reasonable grounds to believe that a condition hazardous to health or safety exists on the premises and requires immediate attention.
- (5) **In a nonemergency situation or where the owner or occupant of any dwelling demands a warrant for inspection of the premises, the chief building official, chief of police or fire official shall obtain a warrant from a court of competent jurisdiction.**

(Code 1977, § 8.604; Ord. No. 93-22, § 1, 10-12-93; Ord. No. 2012-03, § 1, 2-21-12; Ord. No. 2020-09, § 2, 7-14-20)

27. The city has adopted and enacted an ordinance which allows for unpaid inspection fees to be assessed against an inspected property as a special assessment which is titled:

**Sec. 14-43. Inspection fees.**

- (1) The owner of a dwelling unit shall be charged by the chief building official for inspections conducted pursuant to this article in accordance with the resolutions adopted by the city council. The owner or occupant of property whose dwelling is inspected pursuant to a housing rehabilitation program or other housing assistance program of the city shall not be charged for such inspection.
- (2) Reserved.
- (3) **If the owner fails to pay an invoice for inspection fees directed to him or her under subsection [1] of this section within thirty (30) days, the city may cause the costs reflected in said invoice to be assessed against the premises as a special assessment, pursuant to serial section 273 of the City Charter, and may institute an action against the owner for the collection of said costs in any court of competent jurisdiction. However, the city's attempt to collect such costs by any process shall not invalidate or waive the lien upon the premises.**
- (4) All revenues raised shall be placed in a housing code enforcement fund. No part of the funds held in the housing code enforcement fund may be transferred to the general operating fund for any purpose.

(Code 1977, § 8.605; Ord. No. 91-14, § 1, 4-23-91; Ord. No. 92-8, § 1, 5-19-92; Ord. No. 92-17, § 1, 10-20-92; Ord. No. 93-22, § 3, 10-12-93; Ord. No. 98-23, § 1, 8-18-98; Ord. No. 2012-03, § 1, 2-21-12; Ord. No. 2020-09, § 2, 7-14-20)

28. The city has adopted and enacted an ordinance, which was effective October 23, 2014, which allows for an appeal of cited Chapter 14 Article II Code violations which is titled Sec 14-51. Appeal.

**Sec. 14-51. Appeal.**

- (a) The building code board of examiners and appeals may grant a



specific variance to any requirement of this article if the literal application of a requirement would result in a practical difficulty for compliance with particular section(s) at issue. **An owner, or agent thereof, whose building has been inspected, may apply to the building code board of examiners and appeals for a hearing for reconsideration of the notice of violation(s) and any correction order(s) contained therein.** No variance shall be granted if same would result in either the purpose or the intent of the particular section(s) at issue being abrogated. The building code board of examiners and appeals may attach in writing any conditions in connection with the granting of a variance that, in its judgment, are necessary to protect the health, safety and welfare of the people of the city. In authorizing a variance, the board shall require such evidence as it may deem necessary to ensure that the purpose and intent of the particular section(s) at issue will be satisfied. In reviewing a request for a variance, the board shall consider the following to determine whether practical difficulty exists:

- (1) Whether there are exceptional or extraordinary conditions applying to the property that do not apply to other similar properties;
- (2) Whether the exceptional or extraordinary conditions resulted from the action of the property owner;
- (3) Whether there exists alternative or equivalent methods or

materials that would allow the purpose and intent of the particular

section(s) at issue to be satisfied;

- (4) Whether strict compliance with the ordinance [this chapter] requirements would be unreasonably burdensome on the property owner;
- (5) Whether strict compliance with the ordinance [this chapter] requirements would cause a financial hardship for the property owner;
- (6) Whether the granting of a variance would result in a substantial detriment to the property; and
- (7) Whether the variance requested is the minimum variance possible that would still allow the purpose and intent of the particular section(s) at issue to be met.
- (8) An owner, or agent thereof, whose building, structure, or dwelling has been determined to be unfit for human habitation by the chief building official and where a notice to vacate has been served under section 14-46, may appeal the determination of the chief building official to the building code board of examiners and appeals for a hearing to determine if the notice to vacate should be upheld or discharged. The building code board of examiners and appeals shall uphold the notice to vacate if it determines that the building, structure, or dwelling is unfit for human habitation

or discharge the notice to vacate if it determines that the building, structure, or dwelling is fit for human habitation.

(Code 1977, § 8.613; Ord. No. 90-18, § 1, 9-11-90; Ord. No. 2012-03, § 1, 2-21-12; Ord. No. 2014-23, § 2, 9-23-14, eff. 10-23-14)

29. The city has adopted and enacted an ordinance, which statutorily replaced Chapter 14-51 Appeal, and which was effective October 23, 2015, and which allows only for a “variance” of cited Chapter 14 Article II Code violations which is titled Sec 14-51. Variance.

**Sec. 14-51. Variance.**

(a) **An owner, or agent thereof, whose structure(s) has been inspected, may apply to the building code board of examiners and appeals for a hearing, no later than ninety (90) days after the notice of violation is issued, for consideration of receiving a specific variance to a requirement of this article that is identified as a violation or correction order in the notice of violation(s).** The building code board of examiners and appeals may grant a specific variance to any requirement of this article if the literal application of a requirement would result in practical difficulty for compliance with the particular section(s) at issue. No variance shall be granted if same would result in either the purpose or the intent of the particular section(s) at issue being abrogated. The building code board of examiners and appeals may attach in writing any conditions in connection with the granting of

a variance that, in its judgment, are necessary to protect the health, safety and welfare of the people of the city. In authorizing a variance, the board shall require such evidence as it may deem necessary to ensure that the purpose and intent of the particular section(s) at issue will be satisfied. In reviewing a request for a variance, the board shall consider the following to determine whether practical difficulty exists:

- 1) Whether there are exceptional or extraordinary conditions applying to the property that do not apply to other similar properties;
- 2) Whether the exceptional or extraordinary conditions resulted from the action of the property owner;
- 3) Whether there exists alternative or equivalent methods or materials that would allow the purpose and intent of the particular section(s) at issue to be satisfied;
- 4) Whether strict compliance with the ordinance [this chapter] requirements would be unreasonably burdensome on the property owner;
- 5) Whether strict compliance with the ordinance [this chapter] requirements would cause a financial hardship for the property owner;
- 6) Whether the granting of a variance would result in a substantial detriment to the property; and
- 7) Whether the variance requested is the minimum variance possible

that would still allow the purpose and intent of the particular section(s) at issue to be met.

8) An owner, or agent thereof, whose building, structure, or dwelling has been determined to be unfit for human habitation by the chief building official and where a notice to vacate has been served under section 14-46, may appeal the determination of the chief building official to the building code board of examiners and appeals for a hearing to determine if the notice to vacate should be upheld or discharged. The building code board of examiners and appeals shall uphold the notice to vacate if it determines that the building, structure, or dwelling is unfit for human habitation or discharge the notice to vacate if it determines that the building, structure, or dwelling is fit for human habitation.

(Code 1977, § 8.613; Ord. No. 90-18, § 1, 9-11-90; Ord. No. 2012-03, § 1, 2-21-12; Ord. No. 2014-23, § 2, 9-23-14, eff. 10-23-14 Ord. No. 2015-16, § 2, 9-22-15

30. The city of Jackson, demonstrating willful, malicious, and nefarious intent ignores the Constitutional Right of Due Process and tampers with the Chapter 14-51 “Appeals” ordinance thereby deliberately diminishing the Constitutional right of Due Process of a homeowner to appeal and possibly vacate a Chapter 14 Code violation and its remedy, to that of one which only statutorily

provides for the limitations of a variance of such a Chapter 14 Code

violation or its remedy.

31. The city has adopted and enacted certain maintenance codes for the

**Chapter 14 Non-Owner-Occupied Residential Property**

**Registry Article II-Minimum Housing Standards:**

**Sec. 14-72. Exterior building envelope.**

Unless otherwise provided, no person shall occupy or let to another for occupancy, any dwelling or dwelling unit for the purpose of living therein which does not comply with the following requirements:

- (1) Structure. Every foundation, wall and **roof shall be reasonably weatherproof**, and rodent-proof, shall be capable of privacy and kept in good repair.
  - a. The foundation elements shall adequately support the building at all points of the building footprint.
  - b. Every exterior wall shall be free of holes, breaks, loose or rotting boards or timbers, and any other condition which might admit rain, dampness or rodents to the interior portions of the walls, or which might provide harborage for insects or other vectors of disease. Exterior walls and wood trim shall be well and sufficiently painted so as to prevent same from deteriorating and becoming havens for rodents, insects and other vectors of disease. Defective paint that is suspected of containing lead levels in excess of allowable limits shall be treated or removed in accordance with established H.U.D. and E.P.A. guidelines.
  - c. **The roof system shall be free of defects of any kind** including, but not limited to, deflection that is not a consequence of, or results in, an unsafe condition, the admission of moisture, damage to structural members,

sheathing, flashings, roof covering, ventilation, and drainage systems.

**d. Gutters and downspouts shall be provided so as to prevent rainwater from causing dampness in the walls or interior portion of the building and to prevent ground water from migrating to or entering into the basement walls or foundation.**

- (2) *Stairs and porches.* Every inside and outside stair, every porch and every appurtenance thereto shall be so constructed as to be safe to use and capable of supporting the loads to which they are subjected and shall be kept in sound condition and in good repair. In the case of stairs with four (4) or more risers, the stairway shall be equipped with a full-length handrail and/or guardrail. Such handrails and guardrails shall be installed in accordance with the state building code or the state residential code.
- (3) *Openings.* Every window, exterior door, and basement hatchway and their frames shall be maintained in good repair, operate as designed and intended, and shall be weatherproof, rodent-proof, and waterproof.
- (4) *Chimneys.* All chimneys shall be maintained in sound condition, free of holes and breaks and operate as intended. All chimneys shall be properly capped and supplied with an appropriate cleanout. The top of the chimney shall be at least two (2) feet above any point on the roof within a ten-foot radius of the chimney but shall not be less than three (3) feet above the highest point where the chimney passes through the roof.
- (5) *Street numbers.* All buildings shall bear distinctive street numbers at least four (4) inches in height at or near the front entrance of such building. The owners of all buildings shall cause the correct numbers to be placed thereon. All numbers shall be facing the street, shall be of a contrasting color and in such a position as to be plainly visible from the street. The use of Arabic numerals is required.

32. The city has adopted and enacted certain maintenance codes for the

## **Chapter 14 Non-Owner-Occupied Residential Property**

### **Registry Article II-Minimum Housing Standards:**

#### **Sec. 14-101. Minimum requirements.**

Unless otherwise provided, no person shall occupy or let to another for occupancy, any dwelling or dwelling unit for the purpose of living therein which does not comply with the following requirements:

- (1) *Windows.* Every habitable room and bathroom shall have at least one (1) window or skylight facing directly to the outdoors or to a court. The minimum total window area measured between stops for every habitable room shall be at least eight (8) percent of the total floor area of such room. All windows shall be fully operational, and the sashes shall be capable of remaining open with approved sash control devices. This requirement is waived if the room is provided with adequate artificial lighting.
- (2) *Ventilation.* Every habitable room and bathroom shall have at least one (1) window that can be easily opened and will adequately ventilate the room. The total openable window area in every habitable room shall be at least four (4) percent of the total floor area of such room. This requirement is waived if the room is provided with adequate mechanical ventilation.
- (3) *Egress window.* Any room that may be used for sleeping purposes shall be supplied with an egress window in compliance with the state building code, the state residential code, or state rehabilitation code.
- (4) *Light and ventilation in public halls and stairways.* Every public hall and stairway serving dwellings, excluding one- and two-family dwellings and townhouses, shall be adequately lighted at all times, and shall be provided with as much ventilation to the outer air as required by the state building code. This language shall not be construed to exempt one- and



two-family dwelling units and townhouses from the requirements of the state residential code.

- (5) *Storm-screen units.* The owner of a dwelling shall be responsible for all storm-screen units.
  - a. *Doors.* Every uninsulated door opening directly from any dwelling or dwelling unit to the outdoors used for ventilation purposes shall be supplied with a storm-screen unit. Every insulated door shall be provided with a screen only. Every hinged screen or storm-screen door in a dwelling or dwelling unit shall have a self-closing device in good working condition.
  - b. *Windows.* Every uninsulated window opening directly from any dwelling or dwelling unit to the outdoors that may be used for ventilation purposes shall be supplied with a storm-screen unit. **Every insulated window shall be provided with a screen only.** Each basement or cellar window, when open for ventilation, shall be screened and every other opening to a basement which might provide an entry for rats or other vermin shall be supplied with a screen or other device as to effectively prevent their entrance.

(Code 1977, § 8.619; Ord. No. 2012-03, § 1, 2-21-12; Ord. No. 2020-09, § 2, 7-14-20)

33. The city of Jackson has adopted and enacted an ordinance for foreclosed, vacant and abandoned real property, which is titled, **Chapter 14 Article VI "Foreclosed, Vacant and Abandoned Property Registry Ordinance"**, Chapter 14 Code of Ordinances of the City of Jackson, Michigan, Article VI, Sections 14-400 et seq. ("Article" or "Ordinance".)

34. Pursuant to 14-402 of Article VI of the city of Jackson Ordinances  
“Foreclosed, Vacant, and Abandoned Property Registry definitions:

***Vacant property*** means a parcel of real property that has been **unoccupied** continuously for a period of thirty (30) days or more, and is either:

- (1) Subject to foreclosure as defined in this article;
- (2) Has been abandoned by the owner;
- (3) Is under a condemnation notice or order to vacate;
- (4) Is not in compliance with the housing, electrical, mechanical, plumbing, or building codes;
- (5) Has one (1) or more broken or boarded windows;
- (6) Is open to casual entry or trespass;
- (7) Is deteriorating due to a lack of maintenance or neglect;
- (8) Has a building or structure for which a building permit has expired that is partially completed and is not fit for human occupancy;
- (9) Contains a structure that is structurally unsound;
- (10) Has utilities disconnected or not in use;**
- (11) Has taxes in arrears for more than one (1) year; or
- (12) Is a potential hazard or danger to the safety of persons.

(Ord. No. 2012-4, § 1, 3-7-12; Ord. No. 2020-09, § 2, 7-14-20; Ord. No. 2021-03, § 2, 6-8-21)

35. The city of Jackson, mandates by ordinance, as a precondition of registering a Foreclosed, Vacant or Abandoned Property, pursuant to Chapter 14 Section 403 (3) h, that a registrant of such property shall provide the city with **“A statement allowing authorized staff of the city to enter the premises for purposes of inspection”**, thereby unlawfully statutorily requiring that the

owner of the property waive their Constitutional Fourth

Amendment Right to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures and Fourteenth Amendment Right to due process or face fines and penalties.

36. This egregious and Unconstitutional action promulgated by the city of Jackson in Chapter 14 Section 403 (3) h is exactly why the Fourth Amendment was designed- so as to guard against the kind of arbitrary and invasive searches and seizures that were systematically deployed by the British to suppress dissent in the Thirteen Colonies. The Fourth Amendment was a product of colonial revulsion toward “writs of assistance” and “general warrants” used by agents of the British Empire to suppress its colonial citizens. What is particularly disturbing, and repugnant, in this instance, is that city of Jackson mandates by legislative fiat, Chapter 14 Section 403 3 (h), that real property owners in Jackson are coerced to act as a co-conspirator with the city of Jackson in the stripping away of their Constitutional right to be free from arbitrary, capricious and unlawful searches or endure city enforcement action that may levy a fine upon them for refusing to aid and abet the city of Jackson with implementing its unconstitutional action.

37. The 321 West Mason LLC purchased 321 West Mason, Jackson, MI. 49201 at the Jackson County property tax foreclosure auction on October 7, 2013.
38. The city of Jackson unlawfully compelled the 321 Mason LLC, pursuant to threat of immediate demolition of the structure located at 321 West Mason, to submit to an Chapter 14 Article II Non-Owner Occupied Residential Rental Property Registry inspection regimen, even though the structure was defined by city ordinance as vacant, pursuant to Chapter 14-402 of the city of Jackson code of ordinances, and which the city had full knowledge of building being unoccupied for a substantial period of time as the property was registered as a Foreclosed, Vacant, Abandoned property with the city, and the structure had not had any functioning utility services, including, but not limited to, water service, which is supplied directly by the city of Jackson, for nearly seven years. The entire point of the Applicability of Chapter 14-29 Article II Minimum Housing Standards is designed to protect the **“safety, health, and welfare of the occupants.”** See Foreclosed, Vacant, Abandoned registration set forth as Exhibit “A”, Exterior and Interior Photographs set forth as Exhibits “B, C, D, and E”, and the History Detail Report for Water Utility Service set forth as Exhibit “F”.

39. The Chapter 14 Non-Owner Occupied Residential Property Registry

14-2 is unambiguously clear by both its title and findings that all **non-owner occupied** residential dwellings or units be registered and **inspected to ensure safe, secure and sanitary living conditions for those residing in non-owner occupied residential dwellings or units** and that its applicability, pursuant to Chapter 14-29, is for minimum maintenance standards **which constitute a menace to the safety, health, and welfare of the occupants**. Furthermore, Article II Chapter 14-42 (1) Inspections codifies **that an inspection is authorized to “safeguard the health, safety and welfare, of the occupants of dwellings”**. Chief Building Official Brian Taylor conducted the inspection.

40. The city of Jackson alleged from the inspection that was arbitrarily, capriciously and illegally conducted by Chief Building Official Brian Taylor that the roof of the structure needed to be replaced, even though no evidence existed that demonstrated the roof was leaking. Therefore, the roof substantially complied **with Sec. 14-72, of the city of Jackson, Chapter 14 Article I Non-Owner Occupied Residential Rental Property Registry inspection regimen which mandates in subsection (1), of the exterior building envelope, that the roof “shall be reasonably weatherproof”**. The owner

of 321 West Mason, the 321 Mason LLC, refused to replace the roof as ordered by the chief city inspector, Brian Taylor, as it was “reasonably weatherproof.” See Chapter 14 Inspection Findings set forth as Exhibit “G”.

41. The property located at 321 West Mason is subsequently demolished by the city of Jackson on December 13, 2018 after unlawfully applying an arbitrary, capricious, and constitutionally void for its vagueness ordinance that specifically addresses Non Owner Occupied Residential structures only, for the failure of the owner to replace a roof that was not leaking and therefore substantially complied with Sec. 14-72 (1) of the city of Jackson Non-Owner Occupied Residential Property maintenance code requiring that a roof be “reasonably weather proof”. The Chapter 14 Non-Owner-Occupied Minimum Housing Standards Article II code does not attempt to define what is “reasonably weatherproof”.
42. In an attempt to unjustly enrich itself by collecting funds twice for the cost of the demolition of 321 West Mason from both a federal government program that provided the city of Jackson with demolition funding of the structure at 321 West Mason, “*Help For Hardest Hit*”, and from the owner of 321 West Mason, the city of Jackson presents the owner of 321 West

Mason, the 321 West Mason LLC, with an invoice for (Thirty one thousand two hundred eighty dollars) (\$31,280.00) for the cost of the unlawful and illegal demolition of the structure. See Customer Statement for Demolition Costs set forth as Exhibit “H”.

43. On September 14, 2021, city of Jackson Code Enforcement Official Michael Brandt appeared at 10:30 a.m. to conduct a Chapter 14 Non-Owner-Occupied Residential Property Registry inspection at 207 Second Street. Loren Romain, the property manager and LLC member, places Brandt on notice that the property has been unoccupied for nine years, registered as a vacant property with the city and is still unoccupied, and has not had city-supplied water service, or any other utilities for approximately nine years. Romain, then informs Brandt as the property is not occupied, it is therefore exempt from the Chapter 14 Article I Non-Owner-Occupied Residential Property Registry inspection regimen. Romain demands Brandt obtain a search warrant to conduct an inspection and subsequently refuses entry to Brandt to either the building grounds or interior of the structure. Brandt then informs Romain that he will conduct a Chapter 14 Article II Non-Owner-Occupied Residential Property inspection of the exterior of the dwelling from the public

sidewalk and proceeds to do so. Brandt then distributes to

Romain a red tag notice which has “Lock Out” written on it. The city subsequently invoices the owner of the property a Two Hundred Fifty-Five-dollar (\$255.00) Chapter 14 inspection “Lock Out” fee. See Chapter FVA Registrations for 207 Second set forth as Exhibit “I”, the History Detail Report for Water Utility Service set forth as Exhibit “J”, the Initial Inspection Notice for the 09/14/2021 Inspection set forth as Exhibit “K”, and the Red Tag “Lock Out” for Said Inspection Date set forth as Exhibit “L”.

44. On November 2, 2021, City of Jackson Code Enforcement Officer Michael Brandt appears again at 207 Second street to conduct a Chapter 14 Article II Non-Owner-Occupied Residential Property Registry inspection. Loren Romain, the property manager, for the second time places Brandt on notice that the property has been unoccupied for nine years, registered as a vacant property, is still vacant, and that all utility service to the structure has been inactive for approximately nine years, including city supplied water service. Romain, for the second time, places Brandt on notice that as the property is not occupied it is therefore exempt from the Chapter 14 Article II Non-Owner-Occupied Residential Property Registry inspection



regimen. Brandt is persistent with Romain that he must conduct a Chapter 14 Non-Owner-Occupied Residential Property Registry inspection and Romain refuses entry to Brandt for the second time to either inspect the building grounds or interior of the structure. Romain again demands of Brandt that the city obtain a Search Warrant to conduct an inspection. Brandt provides to Romain a red tag notice which has “2nd Attempt Initial Housing Inspection” written on it. The city subsequently invoices the owner of the property a Two Hundred Fifty-Five dollar (\$255.00) “Lock Out” fee. See the Final Notice of Inspection Prior to Search Warrant for the 11/02/2021 Inspection set forth as Exhibit “M”, and the Red Tag “Lock Out” for Said Inspection Date set forth as Exhibit “N”.

45. On March 16, 2022, City of Jackson Code Enforcement Official Michael Brandt appears for the third time at 207 Second Street to conduct a Chapter 14 Article II Non-Owner-Occupied Residential Property Registry inspection. Romain, the property manager, for the third time places Brandt on notice that the property has been unoccupied for nine years, registered as a vacant property, is still unoccupied, and that all utility service to the structure has been inactive for approximately nine years, including city supplied water service. Romain, for the third time,

places Brandt on notice that as the property is not occupied it is therefore exempt from the Chapter 14 Article II Non-Owner-Occupied Residential Property Registry inspection regimen.

Brandt is persistent with Romain that he must conduct a Chapter 14 Non-Owner-Occupied Residential Property Registry inspection and Romain refuses entry to Brandt for the third time to either inspect the building grounds or interior of the structure. Romain again demands of Brandt that the city obtain a Search Warrant to conduct an inspection. Brandt provides to Romain a yellow tag notice which has “2nd Attempt Initial Housing Inspection-Lock out” written on it. The city subsequently invoices the owner of the property a Two Hundred Fifty-Five dollar (\$255.00) “Lock Out” fee. See the Final Notice of Inspection Prior to Search Warrant for the 03/16/2022 Inspection set forth as Exhibit “O”, and the Yellow Tag “Lock Out” for Said Inspection Date set forth as Exhibit “P”.

46. On or about April 24, 2022, the 207 Second LLC receives notice via first class mail, from the city of Jackson, dated April 6, 2022, that a Chapter 14 Non-Owner-Occupied Residential Property inspection is scheduled for May 26, 2022 at 9:00 a.m. The city generated correspondence declares that “Failure by you or your agent to appear and allow voluntary access will require the

to gain entry and proceed with the inspection”. The city also posts notice on a stake in the front yard of the property of the impending inspection. See the Execution of Search Warrant for 05/26/2022 set forth as Exhibit “Q”, the Yard Posting of the Scheduled Administrative Search Warrant set forth as Exhibit “R”, and the Municipal Billing Invoice set forth as Exhibit “S”.

47. In a serial and blatant disregard for the U.S Constitution’s Fourth Amendment, Fourteenth Amendment and Supreme Court jurisprudence, the city of Jackson does not provide any notice to the 207 Second LLC of the day, date, time and location of the hearing for the city to obtain the Administrative Search Warrant to inspect 207 Second Street. In order for an administrative search to be constitutional, the subject of the search, the 207 Second LLC, must be afforded an opportunity to obtain precompliance review before a neutral decisionmaker. *NILI 2011, LLC et al v. City of Warren, Case No. 15-cv-13392 (E.D. Mich. Oct. 23, 2018)*
48. The City of Jackson, pursuant to the Home Rule City Act and MCL 117.4 (Q), created an Administrative Hearing Bureau. The creation of this Administrative Hearing Bureau allows the city of Jackson to directly levy, collect, and retain one hundred percent

ordinance alleged “blight” violations. **Chapter 14 Non-Owner Occupied Residential Rental Property Registry alleged violations are adjudicated by the City Administrative Hearing Bureau.**

49. Since the adoption of the Non-Owner-Occupied Residential Property Registry inspection regimen in 2012 by the city of Jackson through the fiscal year 2019-20, the Administrative Hearing Bureau has collected Two million forty-seven thousand and eight hundred fifty-six dollars (\$2,047,856) in costs and fines for the adjudication of Non-Owner-Occupied Residential Property Registry violations.
50. At a trial held in the city of Jackson Administrative Hearing Bureau on February 10, 2021, the 232 West Mason LLC, a Michigan limited liability company, which is not a party to this litigation, but which the Plaintiffs have personal knowledge of the stated facts, battled the unlawful action by the City Code Enforcement Official, of a citation that was issued to the 232 West Mason LLC after an inspection conducted by City Code Official Ricardo John O’Connor, for an alleged leaking roof of the rental property located at 232 W. Mason in the city of Jackson. Both code enforcement official Ricardo John

O'Connor, who issued the citation, and Chief Building Inspector

Brian Taylor, testified at this trial that neither of them observed any evidence that demonstrated that the roof was leaking or was not "reasonably weatherproof". See the Order of AHB Hearing Officer John S. Kane set forth as Exhibit "V".

51. The 232 West Mason LLC demonstrated as a matter of law, at the trial conducted in the Administrative Hearing Bureau on February 10, 2021, that the city did not have the statutory authority to conduct inspections on a biannual basis, pursuant to Chapter 14 Code, as was city practice, as the Chapter 14-42 Inspections ordinance was constitutionally void for its vagueness as a person of ordinary intelligence could not decipher what time frame was statutorily authorized by city ordinance as an inspection schedule. Therefore, the citation that was issued to the 232 West Mason LLC for a roof that was "reasonably weatherproof" should be dismissed forthwith with prejudice. Assistant City Attorney, Mark Porterfield, represented to Administrative Hearing Officer John Kane that a city council resolution existed that provided the city with the statutory authority to conduct Non-Owner Occupied Residential Rental Property Registry inspections on a biannual inspection schedule.
52. Administrative Hearing Officer John Kane ordered both the city

“Post Trial” brief, due within thirty days, affirming their positions as to the statutory authority of the city of Jackson to lawfully conduct biannual Non-Owner Occupied Residential Rental Property Registry inspections.

53. The city schedules rental property inspections to coincide with the statutory two-year rental registration requirement, “Because Chapter 14 of the City Code provides that non-owner-occupied residential dwellings are to be registered every two years, the city schedules the inspection cycles to match the registration time periods”, Assistant City Attorney Mark Porterfield argued in his Jackson Administrative Hearing Bureau post trial brief. However, there was no existing statutory authority to align these inspections with the registration cycle making this inspection scheme an arbitrary and capricious one. See the Petitioners AHB Post-Trial Brief set forth as Exhibit “T”.

54. The Respondent, the 232 West Mason LLC, demonstrated as a matter of law that Chapter 14 Article II 14-42 (3) Non-Owner Occupied Residential Rental Property Registry inspection regimen schedule is arbitrary, capricious and pursuant to West Bloomfield Charter Twp. v. Karchon, 209 Mich. App. 43, 530 N.W.2d 99, 1995 Mich. App., and Northgate Towers Assocs. v.

1995 Mich. App., Constitutionally void for its vagueness for the lack of a stated inspection schedule that an ordinary person of common intelligence could understand. Therefore, as the inspection of 232 W. Mason was conducted unlawfully, and without statutory authority, the 232 West Mason LLC demonstrated as a matter of law that the citation that the city issued to the LLC should be dismissed forthwith with prejudice. See the Respondents AHB Post-Trial Brief set forth as Exhibit “U”.

55. **Administrative Hearing Officer John Kane, in his post-trial order addressing the brief from both the city and the 232 West Mason LLC on the Constitutionality and therefore validity of a two year inspection schedule cycle conducted by the city, Chapter 14 Article II Non Owner Occupied Residential Property inspection regimen, placed in writing in his Order that he does not have the statutory authority as an Administrative Hearing Officer to rule upon the Constitutional argument of void for vagueness presented by the Respondent, the 232 West Mason LLC. Therefore, even after ordering that a brief be prepared by both the city of Jackson and the 232 West Mason LLC on that same issue,**

**Kane then refuses to rule on the issue of the statutory**

**authority of the city to conduct a two-year non-owner-**

**occupied residential property inspection regimen. See the**

Order of AHB Hearing Officer John S. Kane set forth as Exhibit

“V”.

56. Furthermore, Kane writes in his post-trial order on the affirmative defense to the Chapter 14 Code citation that the roof is not leaking and therefore comports with the city code that a roof be “reasonably waterproof”. Therefore, the issuance of a citation for an anticipatory breach of the city code, **in this case a roof that might leak in the future**, is not lawfully within the purview of the city to sanction. However, he writes **“His [232 West Mason LLC] position is that because the roofs in question do not yet leak, they do not constitute a threat to the tenants’ health, safety, or welfare that the City has authority to sanction. He is essentially relying on the adage that, “If it ain’t broke, don’t fix it. While this is surely common sense in many contexts, the City Housing Code is not one of those contexts”**. It would seemingly appear that a more appropriate maxim for the City Housing Code would be **“If the City thinks its broke-Fix It-Even if it’s not.”** One must ask, is the **Jackson City Housing Code special in that, at least in some**



Order of AHB Hearing Officer John S. Kane set forth as Exhibit  
“V”.

57. City of Jackson Administrative Hearing Bureau Officer Kane subsequently levies Three hundred twenty dollars (\$320.00) in costs and Two Thousand dollars (\$2000.00) in fines against the 232 West Mason LLC for the anticipatory contravention of the Chapter 14 Non-Owner-Occupied Residential Property Registry code. See the Order of AHB Hearing Officer John S. Kane set forth as Exhibit “V”.
58. Those charged with enforcing the Non-Owner-Occupied Residential Property Registry inspections may inspect the dwellings “as necessary to enforce the provisions of this article” for the safeguarding of the “health, safety and welfare of the occupants of dwellings and of the general public.” Sec. 14-42(1).
59. An inspection of a property occurs when an inspector appears at the property demanding to inspect. The inspector hands a consent to inspect form to the owner. If the owner or occupant denies the city entry to a property for a Chapter 14 Code inspection, the inspector subsequently receives an administrative search warrant for the inspection from the local magistrate.

Then, the owner is invoiced at the rate of \$255.00 (two-hundred fifty-five dollars) for a “lock out” or for the failure to “allow access” fee to the property for each inspection that consent to inspect the property is denied.

60. Where the owner or occupant demands a warrant for the inspection, the official "shall obtain a warrant from a court of competent jurisdiction." Sec. 14-42(5). The Article permits an *ex parte* warrantless inspection only in an "emergency situation." *Id.* Code 1977, § 8.604; Ord. No. 93-22, § 1, 10-12-93; Ord. No. 2012-03, § 1, 2-21-12. This is the only procedural safeguard or element of procedural due process offered to the citizens of Jackson under the Article, pre-deprivation or post-deprivation. The Article provides neither means for pre-compliance *bi-parte* review in front of a neutral decisionmaker as Supreme Court jurisprudence requires nor post-deprivation appeal or review. The warrant process is perfunctory, and the Article mandates that the *ex parte* warrant shall be issued on administrative application regardless of whether the application or any affidavit in support of such application meets any standards demonstrating any legitimate governmental purpose, whatsoever.

61. On the degree of specificity required for the issuance of the

warrant, the warrant section of this Article, varies significantly from the warrant section of the Housing Law of Michigan. Sec. 127 of Michigan Public Act 167 of 1917 provides:

- (1) In a nonemergency situation where the owner or occupant demands a warrant for inspection of the premises, the enforcing agency shall obtain a warrant from a court of competent jurisdiction. The enforcing agency shall prepare the warrant, stating the address of the building to be inspected, the nature of the inspection, as defined in this or other applicable acts, and the reasons for the inspection. It shall be appropriate and sufficient to set forth the basis for inspection (e.g., complaint, area or recurrent violation basis) established in this section, in other applicable acts or in rules or regulations. The warrant shall also state that it is issued pursuant to this section, and that it is for the purposes set forth in this and other acts which require that inspection be conducted.
- (2) If the court finds that the warrant is in proper form and in accord with this section, it shall be issued forthwith.
- (3) In the event of an emergency no warrant shall be required.

MCL § 125.527.

61. Under Article I of the Code of Ordinances, the owner must pay inspection fees; the failure to do so may result in the imposition of a lien on the subject real property and subjects the owner to a collection suit by the city. Sec. 14-43. Code 1977, § 8.605; Ord. No. 91-14, § 1, 4-23-91; Ord. No. 92-8, § 1, 5-19-92; Ord. No. 92-17, § 1, 10-20-92; Ord. No. 93-22, § 3, 10-12-93; Ord. No. 98-23, § 1, 8-18-98; Ord. No. 2012- 03, § 1, 2-21-12. Such collection remedies granted to the city are not subject to any

challenge or review whatsoever. The administrative search

warrant applicant “shall obtain” the warrant, and the warrant

“shall issue” upon such application.

62. Nothing in the Non-Owner Occupied Residential Rental Property Registry code provides any type of mechanism for owners to challenge the inspection of their property, petition a neutral decisionmaker, and assert any other of their rights at any type of precompliance review before the inspection takes place.
63. The single local magistrate of the City is charged with the obligation of issuing *ex parte* administrative warrants, which the Article makes mandatory. Thus, the warrants are systematically, habitually, perfunctorily, unconditionally, and as a matter of custom and policy, issued on some type of *ex parte* application only on the averment of City officials, whether supported by sworn testimony made on personal knowledge articulating a legal basis for issuance, mere hearsay, or less. The averments in support are routinely and automatically accepted, the applications granted, and the *ex parte* administrative warrants issued, all without challenge. Allegations given in support of the application, if any, are typically conclusory and lack the inclusion of a sworn statement of facts on personal knowledge establishing probable cause or any good cause for such

inspections. Such are, thus, made with no showing or articulation of any facts establishing a valid governmental purpose, rationale, logical basis, or legal basis. Such shortcomings effectively render the warrants arbitrary and capricious at best, or motivated by evil purpose or recklessness at worst, which is not surprising given that such issuance is mandated by legislative fiat. The issuance of the warrants is done on what is essentially a “rubber stamp” basis. The warrant process cannot function constitutionally, lawfully, or even effectively by such mechanism. Unless the magistrate scrutinizes a legislative or administrative assessment of broad factors not unique to the particular property and property owners and occupants at issue, he or she must be forced to issue such a “rubber stamp” warrant, which provides no protection at all to the property owner or occupant. Further, unlike the parallel state law, the Article sets forth no standards for the determination of what the warrant, application, or affidavit must provide or for its issuance.

64. The Constitution mandates that before an administrative search warrant is issued and the inspection is conducted, the government must give the subject of the search a meaningful opportunity to contest an administrative search request by obtaining precompliance review in front of a neutral

*LLC et al v. City of Warren, Case No. 15-cv-13392 (E.D. Mich. Oct. 23, 2018)*

65. To satisfy constitutional guarantees against unreasonable searches and of notice and an opportunity to be heard, the review scheme, at a minimum, must give the owner a meaningful chance to contest an administrative search request in front of a neutral party before the search occurs. Only after such a *bi-parte* search warrant hearing process may any magistrate properly and conclusively determine that an inspection is necessary for the “safeguarding of the health, safety and welfare of the occupants of dwellings and of the general public.”
66. The mechanism for the administrative search warrant inspection process the Article authorizes lacks any provision or safeguard of precompliance review; it allows absolutely no right of precompliance review or *bi-parte* challenge before the search warrant is authorized or the search occurs.
67. Consequently, the Article is facially invalid as violative of constitutional guarantees of the right against unreasonable searches and seizures and of procedural due process comprised of notice and an opportunity to be heard reasonably calculated to inform citizens in advance so that they may enjoy the privilege

of being present for, fully prepared for, and fully informed at,

such proceeding, hearing, or administrative review.

68. The city is liable to Plaintiffs as it has, through its Non-Owner *Occupied Residential Rental Property Registry* code promulgated a facially unconstitutional Article and has conducted itself in the enforcement of such Article so as to run afoul of these guarantees under the fourth and fifth amendments, the right to privacy and to be secure in one's home, and the right to due process. Further, the City has employed customs, practices, and policies that further derogate such rights of its citizens. All inspections of residential real property, related charges and fees are made and collected pursuant to and solely under the power the Article grants to the City and its officials for administration and enforcement.
69. On March 12, 2021, and June 18, 2021, Lydell Tanner, Code Enforcement Officer for the city of Jackson attempted to conduct a Non-Owner *Occupied Residential Rental Property Registry* inspection at 1604 Floral, a vacant property. The property manager, Loren Romain, denied the city entry to the property or its grounds and demanded a warrant be obtained to conduct an inspection. Code Enforcement Official Tanner Conducted a Chapter 14 Non-Owner-Occupied Residential Property code

inspection from the public sidewalk on March 12, 2021. The

owner of the property was invoiced twice for a Chapter 14

inspection “lock out” fee at the rate of Two hundred Fifty-Five

dollars (\$255.00) for each inspection date.

70. In an electronic mail exchange dating from March 15 to March 31 by and between Loren Romain, property manager of 1604 Floral, and Mathew Haggerty, Jackson city attorney, Romain explains to Haggerty that as the city cannot demonstrate they have statutory authority to conduct the inspection on a biannual basis because the property is vacant. The property is vacant as there are no tenants residing in the property. Therefore, under the code, the City of Jackson cannot require that the property be **inspected to ensure safe, secure and sanitary living conditions for those *residing in* non-owner-occupied residential dwelling**, pursuant to the findings and purpose of the Non-Owner-Occupied Residential Property code. As the property does not meet the definition of Non-Owner-Occupied Property, there is no statutory authority for the city to conduct an inspection. Furthermore, Romain requests of the city that if it is the intent of the city to obtain an administrative search warrant to inspect the premises that Romain be apprised of the day, date, place and time of the administrative search warrant hearing. See



as Exhibit “W”.

71. After a second request via electronic mail by Romain to be placed on notice of the day, date, place and time of any administrative search warrant hearing, Mathew Haggerty, in a blatant disregard for constitutionally mandated due process and Supreme Court jurisprudence, ignores Romain’s request to be notified of the administrative search warrant hearing so as to be able to exercise his constitutional mandated right to contest the issuance of an administrative search warrant obtained for the purpose to conduct an inspection at 1604 Floral by responding to Romain that **“You will be provided notice of any forthcoming inspection conducted via administrative search warrant in the same manner as all other landlords.”** See the Email Correspondence Between Romain and Hagerty set forth as Exhibit “X”.
72. After eight further requests made by Loren Romain of Mathew Haggerty, which included case law demonstrating to Hagerty that the city of Jackson is obligated by Supreme Court jurisprudence to provide the subject of the administrative search an opportunity to obtain a bi-party, pre-compliance review before a neutral decision maker, Haggerty belatedly responds to

Romain the city is under no obligation whatsoever to provide to

Romain the day, date, time and place of when the city will seek and obtain an administrative search warrant. See the Final Notice of Inspection Prior to Search Warrant for the 06/18/2021 Inspection set forth as Exhibit “Y”, and the Municipal Billing Invoice set forth as Exhibit “Z”.

73. On March 3 and April 1, 2021, Code Enforcement Officer William Mills of the City of Jackson attempted to conduct a Non-Owner *Occupied* Residential Rental Property Registry inspection 903 West Washington. Mills was denied the entry to the interior of the property, or its grounds and demand was made for a warrant to be obtained to conduct an inspection. The property owner was invoiced twice for a Chapter 14 inspection “lock out” fee at the rate of Two hundred Fifty-Five dollars (\$255.00) for each inspection date. See the Final Notice of Inspection Prior to Search Warrant for the 04/01/2021 Inspection set forth as Exhibit “AA”, the Municipal Billing Invoice set forth as Exhibit “BB”, and the Unsigned Consent Form set forth as Exhibit “CC”.

74. On July 14, 2021, Code Enforcement Officer William Mills appeared at 903 West Washington and served an Administrative Search Warrant, dated July 14, 2021, and signed by the local

magistrate at 8:30 a.m. the same day, to search for Chapter 14

Maintenance Code violations on both the exterior grounds and interior of the structure upon the property manager Loren

Romain and then entered the property. No notice of an administrative search warrant hearing, as required by Supreme Court jurisprudence and the United States Constitution, was received either by the owner, property manager or the tenant living in the property, who was not present when the search warrant was served and executed. See the Administrative Search Warrant set forth as Exhibit “DD”.

75. In 1967 the Supreme Court held that administrative inspections to detect building code violations must be undertaken pursuant to a search warrant if there is an objection to such an inspection. *Camara v. Municipal Court*, 387 U.S. 523, 530 and *See v. City of Seattle*, 387 U.S. 541.
76. Much litigation has concerned the sufficiency of the complaint to establish probable cause to obtain a search warrant. **The court has ruled and demonstrated that mere conclusory assertions are not enough to obtain a search warrant.** In *Byars v. United States*, 273 U.S. 28 the affiant stated he “has good reason to believe and does believe” that the defendant has contraband materials in his possession. In *Giordenello v. United States* 357

*U.S. 480, 486* the complainant merely stated his conclusion that

the defendant had committed a crime.

77. Code Enforcement official William Mills swore in his affidavit to obtain the administrative search warrant to conduct a Chapter 14 inspection upon 903 West Washington on both the exterior and interior of the structure is that he observed from the public sidewalk on 4 March 2021, the following five alleged Chapter 14 Code exterior violations, “two screens missing, upper level 2 screens, gutter and downspout not connected on east side of porch, low hanging in center not sloped towards downspout, and soffit sagging and not attached in center of structure”. See the Administrative Search Warrant set forth as Exhibit “DD”.

78. **No alleged interior violations were cited on Code Enforcement Official Mills affidavit to obtain an Administrative Search Warrant.** Therefore, the warrant to search the interior of the structure located at 903 West Washington for Chapter 14 Code violations which was issued by the local magistrate and obtained by the city of Jackson Code Official Mills, was authorized merely upon the conclusory assertion by Mills, which is unlawful, that if a violation may exist on the exterior of a structure that there must be a violation on the interior of the structure thereby providing probable cause

for the search of the interior of the structure was unlawful and

contravenes the U.S. Constitution and Supreme Court

jurisprudence. See the Administrative Search Warrant set forth

as Exhibit “DD”.

79. The Jackson Chapter 14 maintenance code provides for no statutory authority to a Code Enforcement official to cite the five alleged exterior violations Code Enforcement official William Mills cited and deployed in his effort to obtain the Administrative Search Warrant to conduct the inspection at 903 W. Washington. See the Administrative Search Warrant set forth as Exhibit “DD”.

80. Chapter 14 Section 101 (5)b, cited by Mills on his search warrant affidavit as probable cause to obtain a search warrant for one alleged violation of missing screens, is unambiguously clear in that “**Every insulated window shall be provided with a screen only**”. Pursuant to Chapter 14 maintenance code Section 101 (5) b, a screen for the insulated window was provided to the tenant by the owner of the structure thereby being in compliance with Chapter 14 (101) (5) b screen code. It was necessary for the tenant to remove the owner provided screens to install window air conditioning units into the window frames. The tenant placed the provided screens in storage near the windows where the air-

The second alleged screen violation pursuant to 14-101 (5) b on the search warrant affidavit states “upper level 2 screens”. No reasonable person of common standard intelligence can ascertain from this vague statement of fact, “upper level 2 screens”, if a Chapter 14-101 (5) b alleged violation in fact may exist. See the Administrative Search Warrant set forth as Exhibit “DD”.

81. Code Enforcement official Mills cited Chapter 14-72 (1) c as probable cause for two violations regarding gutters whereby it is alleged that a gutter was “low hanging in center not sloped towards downspout” and “gutter and downspout not connected on east side of porch”. The cited code reference used to obtain the search warrant by Mills, Chapter 14 Chapter 14-72 (1) c, does not address the code issue of gutters and downspouts. See the Administrative Search Warrant set forth as Exhibit “DD”.
82. Chapter 14 72-14 (1) d does address downspouts and gutters and is unambiguously clear that **“Gutters and downspouts shall be provided so as to prevent rainwater from causing dampness in the walls or interior portion of the building and to prevent ground water from migrating to or entering into the basement walls or foundation”**. The Chapter 14-72 (1) d code does not provide for a statutory angle of a slope of a gutter or as to proper

connectivity of a gutter to a downspout. The code is abundantly clear that gutters and downspouts, are to direct water away from a structure wall, foundation and the interior which is what occurred at 903 West Washington as evidenced by the fact that no interior or exterior violations at 903 West Washington are cited by Code Enforcement Official Mills, who conducted the inspection, which demonstrated the gutters and downspouts did not comply with Chapter 14-72 (1) d. See the Administrative Search Warrant set forth as Exhibit “DD”.

83. The affiant on the affidavit for the search warrant, Code Enforcement Official Mills, alleged that the “soffit sagging and not attached in center of structure” referencing Chapter 14-72 (1) c as vindication for citing the alleged violation. Chapter 14-72 (1) c promulgates that:

**The roof system shall be free of defects of any kind including, but not limited to, deflection that is not a consequence of, or results in, an unsafe condition, the admission of moisture, damage to structural members, sheathing, flashings, roof covering, ventilation, and drainage systems.**

See the Administrative Search Warrant set forth as Exhibit “DD”.

84. Nowhere in Chapter 14 Article II Minimum Housing Standards is “free of defects of any kind” “roof system”, “deflection”, or unsafe condition” defined thereby allowing Code Enforcement Officials, including Mills with unfettered discretion as to the determination of their meaning.

85. After thoroughly conducting an exterior and interior inspection of 903 West Washington Code Enforcement Officer Mills did not cite any roof system Chapter 14-72 (1) c maintenance violations that demonstrated that any unsafe condition, the admission of moisture, damage to structural members, sheathing, flashings, roof covering, ventilation, and drainage systems, had in fact occurred. See the Rental Certificate Inspection Chapter 14 Violations set forth as Exhibit “EE”.
86. The city has arbitrarily, capriciously, and unlawfully, conducted inspections every two years, to match the registration time period since the adoption of the Chapter 14-4 Registration and 14-42 Inspection ordinances from March 22, 2012, through July 6, 2021.
87. On July 7, 2021, the city changed the registration cycle to every three years.
88. On July 7, 2021, the city enacted a revised Chapter 14-42 inspection regimen ordinance, which provided for inspections to be conducted in conjunction with the registration period. This change in policy reveals that the City of Jackson was aware that their policy was arbitrary and capricious, and, therefore, not in alignment with the rule of law.
89. The city is liable to Plaintiffs and their classes as it has through



Enforcement Division promulgated a facially unconstitutional Article, which is void for its vagueness, and has enforced such Article so as to trample the guarantees under the fourth, fifth, and fourteenth amendments, the right to privacy and to be secure in one's home, the freedom to utilize real property, and the right to due process. Further, the City has systemically and continuously deployed customs, practices, and policies that further derogate such rights of its citizens. All inspections of residential real property, related charges and fees are made and collected pursuant to and solely under the power the Article grants to the City and its officials for administration and enforcement.

90. The City of Jackson has performed Chapter 14 Non-Owner-Occupied Residential property inspections of unoccupied, vacant residential property without statutory authority to do so. Chapter 14 Section 14-2 provides for that **non-owner-occupied** residential property be “**inspected to ensure safe, secure and sanitary living conditions for those *residing in non-owner-occupied residential dwellings or units.***” Nowhere does the Chapter 14 Articles I and II ordinance mention an inspection regimen for unoccupied vacant properties. The Chapter 14

Article I ordinance is titled “**Non-Owner-Occupied Residential**

**Property Registry.**

91. Consequently, the Chapter 14 Housing Ordinance is facially invalid as it violates the right to be free from unreasonable searches and seizures, and of procedural due process which requires notice. For notice to be meaningful it must be calculated to apprise citizens of their interests so that they can prepare for legal proceedings.
92. 903 West Washington LLC, 207 Second LLC, 321 West Mason LLC, Plaintiffs, along with thousands of other homeowners, are faced with the dubious position that with every inspection performed by the City of Jackson they are forced to upgrade their properties for items that clearly fall outside of the Chapter 14 requirements such as:
  - Replacing roofs with years of life left that meet the Chapter 14 requirements because they don’t “look good”;
  - Replacing carpeting because it doesn’t “look good”;
  - Repairing, replacing, or upgrading other property elements that aren’t required by the Chapter 14 code, or any other existing code, simply because the City wants the property to “look better”.
93. It is the policy and custom of the City to illegally enforce the

Chapter 14 Code in order to deprive owners of rental properties

in the City of their constitutional right to due process and

freedom from an unlawful search in an effort to drive revenue

growth through unlawful inspections, property registration fees

collected pursuant to unlawful registration ordinance for both

occupied and vacant property being enforced, tickets illegally

issued and fines extracted in violation of Plaintiffs'

constitutional rights as set forth herein.

94. It is the policy and custom of the City to illegally enforce the Chapter 14 Code in order to force Plaintiffs, and those similarly situated, to incur hundreds if not thousands of dollars in additional expenses with every property registration and inspection the city engages in.

#### **IV. WHAT HAPPENED TO PLAINTIFFS HAPPENS**

#### **TO EVERY OTHER HOMEOWNERS WHO OWN RENTAL PROPERTY**

#### **IN THE CITY**

95. Plaintiff incorporates the preceding paragraphs.
96. The plight of Plaintiffs illustrates the dangers of the system set forth by local ordinances as implemented and administered by the city and its inspectors and building officials.

#### **V. CAUSES OF ACTION**

**COUNT ONE**

**VIOLATION OF DUE PROCESS**

*(Facial Challenge: Void for Vagueness)*

***FACIAL INVALIDITY OF ORDINANCE UNDER FOURTEENTH  
AMENDMENT AND STRICT LIABILITY OF DEFENDANT THE CITY OF  
JACKSON FOR REDRESS UNDER 42 U.S.C. § 1983 AND ACCOUNTABILITY  
OF INDIVIDUAL DEFENDANTS UNDER 42 U.S.C. § 1983***

97. Plaintiffs incorporate the preceding paragraphs.
98. The 14th Amendment to the U.S. Constitution bars the enforcement of ordinances which either forbid or require the doing of an act in terms so vague that those of common intelligence must guess at their meaning.
99. Ordinances are required to provide sufficient notice of their proscriptions and requirements and to contain reasonably clear guidelines to prevent official arbitrariness or discrimination in their enforcement.
100. Jackson City Code Chapter 14-42 (1) addresses the inspection regimen for Non-Owner-Occupied Residential Property. It states:

In order that they may perform their duties to safeguard the health, safety and welfare of the *occupants* of dwellings and of the general public, the chief building official, chief of police and fire official **are hereby authorized to make**

**or cause to be made such inspections of dwellings or dwelling units as are necessary to enforce the provisions of this article.** The inspections that are authorized for the purpose of enforcement of the provisions of this article shall be made at a reasonable time. The word "dwelling" as used in this paragraph shall include, but not be limited to, those categories of structures defined in section 14-26.

101. Jackson City Code inspection regimen Chapter 14-42 (3) further explicates that **“An inspection shall be conducted in the manner best calculated to secure compliance with this article and appropriate to the needs of the community.”**

102. Nowhere within Chapter 14 of the Jackson City Code are the phrases “as are necessary” or “in the manner best calculated” defined.

103. The cited provisions of the Jackson City Chapter 14 Code do not provide clearly enumerated standards or definitions sufficient to allow a person of ordinary intelligence to understand when Chapter 14 Non-Owner-Occupied Residential Property inspections are allowed to be conducted by the city or what is required. As such, the provisions grant unbridled discretion to Code Officials resulting in the arbitrary and selective enforcement of the inspection regimen.

104. “A statute is unconstitutionally vague if it denies fair notice of the standard of conduct for which the citizen is to be held accountable, or if it is an unrestricted delegation of power which

leaves the definition of its terms to law enforcement officers.”

*American-Arab Anti-Discrimination Comm. v. City of Dearborn*, 418 F.3d 600, 608–09 (6th Cir. 2005); *see also Belle Maer Harbor v. Charter Twp. of Harrison*, 170 F.3d 553, 556 (6th Cir. 1999) (applying same standards to ordinance). A licensing scheme must have a “narrow, objective, and definite standards to guide the licensing authority” so as not to provide undue discretion to law enforcement. *American-Arab Anti-Discrimination Comm.*, 418 F.3d at 609.

105. Accordingly, the cited ordinance is, on its face, unconstitutionally vague and unenforceable and their application to these Plaintiffs therefore resulted in violations of their due process.
106. Since the adoption and promulgation of an arbitrary, capricious and Constitutionally void for its vagueness Chapter 14 Article II 14-42 Inspection Regimen ordinance enacted by the city from March 22, 2012 through July 6, 2021, when the city changed the Chapter 14-42 Inspection ordinance, the city of Jackson has illegally collected in Chapter 14 inspection fees through the city fiscal year 2019/20 of Three million nine hundred eighty four thousand six hundred forty seven dollars (\$3,984,647.00). The City of Jackson budgeted amount of collected Chapter 14-

Section 42 Non-Owner-Occupied Residential inspection fees for

2020/21 fiscal year, which ended June 30, 2021, and which is not available for public viewing as of the date of this complaint, anticipated an additional Seven hundred thousand dollars collected (\$700,000.00) revenue from these arbitrary, capricious and constitutionally void for its vagueness inspection schedule.

107. Pursuant to 42 USC § 1983, **“Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer’s judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable.”**

108. In addition to the right to recover damages from the City and the individual Defendants under Section 1983, Plaintiffs are also entitled to the declaratory and injunctive relief from Defendants prayed for below. The ordinance on its face violates

**COUNT TWO**

**VIOLATION OF DUE PROCESS**

*(Facial Challenge: Void for Vagueness)*

***FACIAL INVALIDITY OF ORDINANCE UNDER FOURTEENTH  
AMENDMENT AND STRICT LIABILITY OF DEFENDANT THE CITY OF  
JACKSON FOR REDRESS UNDER 42 U.S.C. § 1983 AND ACCOUNTABILITY  
OF INDIVIDUAL DEFENDANTS UNDER 42 U.S.C. § 1983***

109. Plaintiffs incorporate the preceding paragraphs.
110. The 14th Amendment to the U.S. Constitution bars the enforcement of ordinances which either forbid or require the doing of an act in terms so vague that those of common intelligence must guess at their meaning.
111. Ordinances are required to provide sufficient notice of their proscriptions and requirements and to contain reasonably clear guidelines to prevent official arbitrariness or discrimination in their enforcement.
112. **Jackson city code Chapter 14-13 addresses what the city “presumes” what is a Non-Owner-Occupied Residential Property and therefore subject to a Chapter 14 registration and subsequent Chapter 14-42 Inspection Regimen. Article I Sec. 14-13. Presumption of non-owner occupied residential dwelling**



or unit promulgates **“Whenever a residential dwelling or unit used for or intended for residential purposes is vacant or occupied by anyone other than the owner of record as shown in the records of the city assessor, there shall exist a presumption that the dwelling or a portion of the dwelling is a non-owner occupied residential dwelling or unit regardless of whether monetary compensation is exchanged between the owner and the person(s) occupying the residential dwelling or unit.”**

113. Nowhere within Chapter 14 Article I or Article II of the Jackson City Code is the phrase “vacant” defined.

114. The cited provision of the Jackson City code, Chapter 14-13, does not provide a clear enumerated standard or definition of “vacant” sufficient to allow a person of ordinary, common intelligence to understand when a residential structure within the city of Jackson must comport with the requirement Chapter 14 Non-Owner Occupied Residential Property registration and inspection requirements As such, the provision grants unbridled discretion to Code Officials resulting in the arbitrary and selective enforcement of what is to be presumed as a Non-Owner Occupied Residential property and therefore subject to Chapter 14 jurisdiction.

115. Chapter 14 Article I Non-Owner-Occupied Property Registry

Section 14-13 Presumption of Non-Owner-Occupied Property presumes that a property is a non-owner-occupied residential property whenever it is “vacant” or when the owner of record is not in residence, without providing, in Chapter Article I of the Non-Owner-Occupied Residential Property Registry, a definition of “vacant”. Is an owner-occupied structure considered vacant and therefore non-owner occupied by the City of Jackson should the owner of record depart the residence temporarily? Is owner occupied real property in the city of Jackson subject to a Chapter 14 Non-Owner-Occupied Residential property registration requirement and subsequent inspection if the owner of record should decide to hold title in their name only and then depart their abode temporarily while their spouse still resides in the property who is not an “owner of record”? Is an owner of record required to register and submit to a city inspection regimen for engaging in an occupation that may require absences of varying and undetermined lengths of time from their owner-occupied real property? Any reasonable person of standard common intelligence is undeniably unable to decipher from such cryptic vague, arbitrary, and capricious wording in Article I Chapter 14-13 that states “Whenever a residential dwelling or unit used for

or intended for residential purposes is vacant...., there shall exist a presumption that the dwelling or a portion of the dwelling is a non-owner occupied residential dwelling or unit” of whether in the previous three examples provided if an owner occupied structure is considered vacant and subject to the requirement of registering the structure as Non Owner Occupied, pursuant to 14-4. Based on that ambiguous language should the property owner then subsequently endure an invasion of privacy that is required with the Chapter 14 Section 42 Non-Owner-Occupied inspection regimen without the city providing a definition in Chapter 14 Article I of the meaning of the term “vacant”.

116. “A statute is unconstitutionally vague if it denies fair notice of the standard of conduct for which the citizen is to be held accountable, or if it is an unrestricted delegation of power which leaves the definition of its terms to law enforcement officers.”

*American-Arab Anti-Discrimination Comm. v. City of Dearborn*, 418 F.3d 600, 608–09 (6th Cir. 2005); *see also Belle Maer*

*Harbor v. Charter Twp. of Harrison*, 170 F.3d 553, 556 (6th Cir.

1999) (applying same standards to ordinance). A licensing

scheme must have a “narrow, objective, and definite standards to guide the licensing authority” so as not to provide undue

discretion to law enforcement. *American-Arab Anti-*

117. Accordingly, the cited ordinance, Chapter 14-13, is on its face, constitutionally void for its vagueness, application to these Plaintiffs, and others like them, therefore resulted in violations of their due process.
118. Pursuant to 42 USC § 1983, **“Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer’s judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable.”**
119. In addition to the right to recover damages from the City and the individual Defendants under Section 1983, Plaintiffs are also entitled to the declaratory and injunctive relief from Defendants prayed for below. The ordinance on its face violates

**COUNT THREE**

**VIOLATION OF DUE PROCESS**

*(Facial Challenge: Void for Vagueness)*

***FACIAL INVALIDITY OF ORDINANCE UNDER FOURTEENTH  
AMENDMENT AND STRICT LIABILITY OF DEFENDANT THE CITY OF  
JACKSON FOR REDRESS UNDER 42 U.S.C. § 1983 AND ACCOUNTABILITY  
OF INDIVIDUAL DEFENDANTS UNDER 42 U.S.C. § 1983***

120. Plaintiffs incorporate the preceding paragraphs.
121. The 14th Amendment to the U.S. Constitution bars the enforcement of ordinances which either forbid or require the doing of an act in terms so vague that those of standard common intelligence must guess at their meaning.
122. Ordinances are required to provide sufficient notice of their proscriptions and requirements and to contain reasonably clear guidelines to prevent official arbitrariness or discrimination in their enforcement.
123. Jackson City Code 14-72 establishes the standard for roofing. It states, “*Structure*. Every foundation, wall and roof **shall be reasonably weatherproof, waterproof** and rodent-proof, shall be capable of privacy and **kept in good repair** and “**the roof system shall be free of defects**”.

124. **Nowhere in the Chapter 14 Code are “reasonably weatherproof, waterproof, in good repair, and defect” defined.**
125. **The cited provision of the Jackson City Chapter 14 Code does not provide clearly enumerated standards or definitions sufficient to allow a person of ordinary intelligence to understand when a roof is “reasonably weatherproof, waterproof” or is “in good repair” or has a “defect” that would affect its functionality. As such, the provisions grant unbridled discretion to Code Officials resulting in the arbitrary and selective enforcement of the provision and at worst provide an avenue to a Code Enforcement Official to engage in a deliberate nefarious intent to cite and ticket an inconsequential Chapter 14-72 “defect”, which neither impairs the function or utility of a roof, thereby compelling the homeowner to endure an unnecessary expense to repair or replace a roof because the inspector “does not like the way a roof looks”.**
126. On December 13, 2018, the structure located at 321 West Mason was razed by the city of Jackson as a direct result of arbitrary, and unlawful application by city Chief Building Official Brian Taylor of an arbitrary, capricious and

City roofing Code.

127. On April 20, 2021, Administrative Hearing Bureau Officer John Kane in his written order levied a fine of Two Thousand Dollars (\$2000.00) upon the Respondent, the 232 West Mason LLC, for a contravention of Chapter 14-72 with an additional Three hundred Twenty Dollars (\$320.00) in costs.
128. This enforcement action by John Kane was predicated upon testimony by Chief Building Inspector Brian Taylor who testified at the Administrative Hearing Bureau trial on February 10, 2021, that the current condition of the shingles did not allow them “to perform their function”. **Taylor further testified that the current condition of the roof violated Section 14-72 that required that the roof be “reasonably weatherproof and waterproof”, even though he did not know of any leakage occurring. When Taylor was questioned in cross examination if the current condition of the roof could nonetheless repel water-Taylor confirmed that it could.**
129. **Testimony elicited from Chapter 14 Code Enforcement Official John Ricardo O’Connor on the current condition of the roof is that it had the “potential” to allow water to enter**

**the structures located at 232 W. Mason. O'Connor further testified that he had not seen any signs of leakage in the interior of the home nor had the tenants complained to the city about any water leaks attributable to the current condition of the roof.**

130. Administrative Hearing Bureau Officer, John Kane, who adjudicates Chapter 14 code violations for the city of Jackson, provides an adequate synopsis of the Chapter 14 Article II “Minimum Housing Standards” Sections 14-25 through 14-111 for all Non-Owner-Occupied Residential Property owners it affects within the city of Jackson with his written statement in his Post Trial Order- **“If it ain’t broke, don’t fix it. While this is surely common sense in many contexts, the City Housing Code is not one of those contexts”**. Quoting Kane from his post trial order in the matter of city of Jackson v. 232 West Mason LLC, dated April 20, 2021.
131. Since the adoption and promulgation of an arbitrary, capricious and constitutionally void for its vagueness Chapter 14-72 ordinance on February 23, 2012, through today’s date, the city of Jackson has unlawfully razed structures, levied fines, and forced the unnecessary absorption of costs for the repair and/or replacement of roofs upon many Non-Owner Occupied and



Unoccupied Residential Property owners within the city of

Jackson.

132. “A statute is unconstitutionally vague if it denies fair notice of the standard of conduct for which the citizen is to be held accountable, or if it is an unrestricted delegation of power which leaves the definition of its terms to law enforcement officers.” *American-Arab Anti-Discrimination Comm. v. City of Dearborn*, 418 F.3d 600, 608–09 (6th Cir. 2005); *see also Belle Maer Harbor v. Charter Twp. of Harrison*, 170 F.3d 553, 556 (6th Cir. 1999) (applying same standards to ordinance). A licensing scheme must have a “narrow, objective, and definite standards to guide the licensing authority” so as not to provide undue discretion to law enforcement. *American-Arab Anti-Discrimination Comm.*, 418 F.3d at 609.
133. Accordingly, the cited ordinance is, on its face, constitutionally void for its vagueness and its application to these Plaintiffs and others like them resulted in violations of their due process.
134. Pursuant to 42 USC § 1983, **“Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the**

**deprivation of any rights, privileges, or immunities secured**

**by the Constitution and laws, shall be liable to the party**

**injured in an action at law, suit in equity, or other proper**

**proceeding for redress, except that in any action brought**

**against a judicial officer for an act or omission taken in such**

**officer's judicial capacity, injunctive relief shall not be**

**granted unless a declaratory decree was violated or**

**declaratory relief was unavailable.”**

135. In addition to the right to recover damages from the City and the individual Defendants under Section 1983, Plaintiffs are also entitled to the declaratory and injunctive relief from Defendants prayed for below. The ordinance on its face violates constitutional guarantees of the right to procedural due process.

#### **COUNT FOUR**

#### **VIOLATION OF DUE PROCESS**

*(Facial Challenge: Void for Vagueness)*

***FACIAL INVALIDITY OF ORDINANCE UNDER FOURTEENTH  
AMENDMENT AND STRICT LIABILITY OF DEFENDANT THE CITY OF  
JACKSON FOR REDRESS UNDER 42 U.S.C. § 1983 AND ACCOUNTABILITY  
OF INDIVIDUAL DEFENDANTS UNDER 42 U.S.C. § 1983***

136. Plaintiffs incorporate the preceding paragraphs.

137. The 14th Amendment to the U.S. Constitution bars the

enforcement of ordinances which either forbid or require the

doing of an act in terms so vague that those of common

intelligence must guess at their meaning.

138. Ordinances are required to provide sufficient notice of their proscriptions and requirements and to contain reasonably clear guidelines to prevent official arbitrariness or discrimination in their enforcement.
139. The city of Jackson has adopted an ordinance for foreclosed, vacant and abandoned real property, which is titled, **Chapter 14 Article VI "Foreclosed, Vacant and Abandoned Property Registry Ordinance"**, Chapter 14 Code of Ordinances of the City of Jackson, Michigan, Article VI, Sections 14-400 et seq. ("Article" or "Ordinance".)  
(Ord. No. 2012-4, § 1, 3-7-12; Ord. No. 2021-03, § 2, 6-8-21)
140. The cost of the mandated registration for a Foreclosed, Vacant, and Abandoned Property to the registrant is three hundred dollars (\$300.00) and is valid for a two-year period.
141. The city of Jackson, mandates by ordinance Chapter 14-403, as a condition precedent of registering a Foreclosed, Vacant or Abandoned Property, pursuant to Chapter Section 403, that the registrant must agree to provide to the city the following information, **"Any additional information required by the**

142. Nowhere within Article VI, Chapter 14-400 of the Jackson City Code Foreclosed, Vacant or Abandoned Property Registry Ordinance is the phrase “**any additional information**” defined.
143. The cited provision of the Jackson City Article VI, Chapter 14-403 Code does not provide clearly enumerated standards or definitions sufficient to allow a person of ordinary intelligence to understand what the phrase “any additional information” pertains to so as to comply with the ordinance. This clause allows for the unfettered, arbitrary and capricious collection of any information from a registrant that a code enforcement official may deem necessary.
144. “A statute is unconstitutionally vague if it denies fair notice of the standard of conduct for which the citizen is to be held accountable, or if it is an unrestricted delegation of power which leaves the definition of its terms to law enforcement officers.” *American-Arab Anti-Discrimination Comm. v. City of Dearborn*, 418 F.3d 600, 608–09 (6th Cir. 2005); *see also Belle Maer Harbor v. Charter Twp. of Harrison*, 170 F.3d 553, 556 (6th Cir. 1999) (applying same standards to ordinance). A licensing scheme must have a “narrow, objective, and definite standards to guide the licensing authority” so as not to provide undue

discretion to law enforcement. *American-Arab Anti-*

*Discrimination Comm.*, 418 F.3d at 609.

145. Accordingly, the cited ordinance is, on its face, is unconstitutionally vague and unenforceable and their application to these Plaintiffs therefore resulted in violations of their due process.

146. Since the adoption and promulgation of an arbitrary, capricious and constitutionally void for its vagueness Article VI, Chapter 14 Section 403 Code, Foreclosed, Vacant or Abandoned Property Registry Ordinance, on March 22, 2012, the city has collected in Foreclosed, Vacant or Abandoned Property Registry registration fees the amount of Three hundred forty-five thousand two hundred nineteen dollars (\$345,219.00) through June 30, 2020. Furthermore, the city of Jackson budgeted an amount for collected Chapter 14 Foreclosed, Vacant or Abandoned Property Registry Ordinance registration fees for 2020/21 fiscal year, which ended June 30, 2021, and which is not available for public viewing as of the date of this complaint, an anticipated additional Forty thousand dollars (\$40,000.00) in registration revenue collected from this arbitrary, capricious and constitutionally void for its vagueness registration ordinance.

147. Pursuant to 42 USC § 1983, “**Every person who, under color**

**of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable.”**

148. In addition to the right to recover damages from the City and the individual Defendants under Section 1983, Plaintiffs are also entitled to the declaratory and injunctive relief from Defendants prayed for below. The ordinance on its face violates constitutional guarantees of the right to procedural due process.

### **COUNT FIVE**

#### **VIOLATION DUE PROCESS**

*(Facial Challenge: Warrantless Searches)*

#### ***FACIAL INVALIDITY OF ORDINANCE UNDER FOURTH AMENDMENT***

**REDRESS UNDER 42 U.S.C. § 1983 AND ACCOUNTABILITY OF  
INDIVIDUAL DEFENDANTS UNDER 42 U.S.C. § 1983**

149. Plaintiffs incorporate the preceding paragraphs.
150. The Fourth Amendment to the U.S. Constitution prevents the government from conducting unreasonable searches and provides that warrants, based on probable cause, are required before searching a house.
151. The city of Jackson has adopted an ordinance for foreclosed, vacant and abandoned real property, which is titled, **Chapter 14 Article VI "Foreclosed, Vacant and Abandoned Property Registry Ordinance"**, Chapter 14 Code of Ordinances of the City of Jackson, Michigan, Article VI, Sections 14-400 et seq. ("Article" or "Ordinance".)  
(Ord. No. 2012-4, § 1, 3-7-12; Ord. No. 2021-03, § 2, 6-8-21)
152. As adopted by the City, Chapter 14 Section 14-403 of the Chapter 14 Article VI "Foreclosed, Vacant and Abandoned Property Registry Ordinance" requires that the owner of a foreclosed, vacant or abandoned property register the property with the city.
153. Failure of the property owner to register their foreclosed, vacant, or abandoned property with the city subjects the owner to fines

154. The City of Jackson **has NOT adopted an ordinance for a mandatory inspection schedule** for the interior or exterior of a property registered pursuant to the **Chapter 14 Article VI "Foreclosed, Vacant and Abandoned Property Registry Ordinance"**.
155. Chapter 14-403, titled "property registration required", statutorily mandates that the registrant cede their Fourth Amendment rights and provide the city with, as a condition precedent to register their property, **"A statement allowing authorized staff of the city to enter the premises for purposes of inspection"**.
156. The Supreme Court has held that "an overarching principle, known as the unconstitutional conditions doctrine, that vindicates the Constitution's enumerated rights by preventing the government from coercing people into giving them up." *Koontz v. St. Johns River Water Management Dist.*, 133 S.Ct. 2586, at 2594 (2013)
157. This egregious, unconstitutional promulgation by the City of Jackson that a registrant of a foreclosed, vacant or abandoned property is statutorily mandated to provide city Code Officials with unfettered access to their registered foreclosed, vacant or



158. The adoption of Chapter 14-403 constitutes the City's express policy and practice of entering residential properties without first satisfying the dictates of the Fourth Amendment and thus, on its face, Chapter 14-403 is patently unconstitutional and should be struck in its entirety.

159. Pursuant to 42 USC § 1983, **“Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable.”**

160. In addition to the right to recover damages from the City and the individual Defendants under Section 1983, Plaintiffs are also entitled to the declaratory and injunctive relief from Defendants

prayed for below. The ordinance on its face violates constitutional guarantees of the right to be free from unreasonable searches by the government.

**COUNT SIX**

**VIOLATION OF DUE PROCESS**

*(Facial Challenge: Void for Vagueness)*

***FACIAL INVALIDITY OF ORDINANCE UNDER FOURTEENTH AMENDMENT AND STRICT LIABILITY OF DEFENDANT THE CITY OF JACKSON FOR REDRESS UNDER 42 U.S.C. § 1983 AND ACCOUNTABILITY OF INDIVIDUAL DEFENDANTS UNDER 42 U.S.C. § 1983***

161. Plaintiffs incorporate the preceding paragraphs.
162. The 14th Amendment to the U.S. Constitution bars the enforcement of ordinances which either forbid or require the doing of an act in terms so vague that those of common intelligence must guess at their meaning.
163. Ordinances are required to provide sufficient notice of their proscriptions and requirements and to contain reasonably clear guidelines to prevent official arbitrariness or discrimination in their enforcement.
164. The city of Jackson has adopted an ordinance for unoccupied, vacant and abandoned real property, which is titled, **Chapter 14 Article VI "Foreclosed, Vacant and Abandoned Property**

**Registry Ordinance**”, Chapter 14 Code of Ordinances of the

City of Jackson, Michigan, Article VI, Sections 14-400 et seq.

(“Article” or “Ordinance”).

(Ord. No. 2012-4, § 1, 3-7-12; Ord. No. 2021-03, § 2, 6-8-21)

165. The city of Jackson **has NOT adopted an ordinance for a mandatory inspection schedule** for the interior or exterior of a property registered pursuant to the **Chapter 14 Article VI "Foreclosed, Vacant and Abandoned Property Registry Ordinance"**.
166. The city of Jackson, mandates by ordinance, Chapter 14-403, the registering of a Foreclosed, Vacant or Abandoned Property. Pursuant to Chapter 14 Section 409 Monitoring, **Periodic “monitoring”, not less than once every thirty (30) days, shall be conducted by the chief building official or his or her authorized representatives to assure continuing compliance with the duties set forth in this article”**.
167. Nowhere within Chapter 14 Article VI, Foreclosed, Vacant or Abandoned Property Registry Ordinance is the phrase **“monitoring”** defined.
168. The cited provision of the Jackson Chapter 14 Article VI Code does not provide clearly enumerated standards or definitions sufficient to allow a homeowner of standard, ordinary

intelligence to comprehend and understand what the phrase

“**monitoring**” is defined as, and consequently, of what city service, if any, they are being invoiced for which is cryptically referred to as “**monitoring**”, within city code, as there is no statutorily mandated Chapter 14 Article VI mandated interior or exterior inspections of Foreclosed, Vacant or Abandoned Property, as defined in Chapter 14 Article VI.

169. The Registrant of the property is assessed quarterly for “monitoring” fees at the rate of two hundred twenty-five dollars (\$225.00) for one unit, three hundred dollars (\$300.00) for a two-unit property, three hundred seventy-five dollars (\$375.00) for three- and four-unit properties, and three hundred seventy-five dollars (\$375.00), plus an additional fifteen dollars (\$15.00) per unit, for properties with greater than four units. The “monitoring” fees are assessed and collected for structures that are being arbitrarily and capriciously allegedly “monitored”, whatever that may mean, at the discretion of the Code Enforcement Official.
170. “A statute is unconstitutionally vague if it denies fair notice of the standard of conduct for which the citizen is to be held accountable, or if it is an unrestricted delegation of power which leaves the definition of its terms to law enforcement officers.”

*American-Arab Anti-Discrimination Comm. v. City of Dearborn*,

418 F.3d 600, 608–09 (6th Cir. 2005); *see also Belle Maer*

*Harbor v. Charter Twp. of Harrison*, 170 F.3d 553, 556 (6th Cir.

1999) (applying same standards to ordinance). A licensing

scheme must have a “narrow, objective, and definite standards to guide the licensing authority” so as not to provide undue

discretion to law enforcement. *American-Arab Anti-*

*Discrimination Comm.*, 418 F.3d at 609.

171. Accordingly, the cited ordinance is, on its face, is unconstitutionally vague and unenforceable and their application to these Plaintiffs therefore resulted in violations of their due process.
172. Since the adoption and promulgation of an arbitrary, capricious and constitutionally void for its vagueness Article VI, Chapter 14 Section 403 Code, Foreclosed, Vacant or Abandoned Property Registry Ordinance, on February 23, 2012, the city has collected in Foreclosed, Vacant or Abandoned Property Registry registration fees the amount of Six hundred forty-five thousand nine hundred thirty-five dollars (\$645,935.00) through June 30, 2020. Furthermore, the city of Jackson budgeted an amount for collected Chapter 14 Foreclosed, Vacant or Abandoned Property Registry Ordinance registration fees for 2020/21 fiscal year,

viewing as of the date of this complaint, an anticipated additional one hundred thirty thousand dollars (\$130,000.00) in registration revenue from this arbitrary, capricious and constitutionally void its vagueness registration ordinance.

173. Pursuant to 42 USC § 1983, **“Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer’s judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable.”**

174. In addition to the right to recover damages from the City and the individual Defendants under Section 1983, Plaintiffs are also entitled to the declaratory and injunctive relief from Defendants prayed for below. The ordinance on its face violates

**COUNT SEVEN**

**VIOLATION OF DUE PROCESS**

*(Failure to provide proper notice and a meaningful opportunity to be heard)*

***FACIAL INVALIDITY OF ORDINANCE UNDER FOURTEENTH  
AMENDMENT AND STRICT LIABILITY OF DEFENDANT THE CITY OF  
JACKSON FOR REDRESS UNDER 42 U.S.C. § 1983 AND ACCOUNTABILITY  
OF INDIVIDUAL DEFENDANTS UNDER 42 U.S.C. § 1983***

175. Plaintiff incorporates the preceding paragraphs.
176. It is unconstitutional to deprive of a person of their property without Due process of law. U.S. Constitution 14th Amendment; Michigan Constitution 1963 Article 1, Section 17.
177. The United States and Michigan Constitutions require that a person have a meaningful opportunity to be heard as part of their due process rights.
178. Pursuant to Chapter 14-4 a property registration is required for homeowners on Non-Owner-Occupied Property.
179. Failure to register a Non-Owner-Occupied Property subjects the homeowner to fees and penalties pursuant to Chapter 14-17.
180. The city has adopted an ordinance, 14-7 Issuance of a Property Registration.
181. A property registration shall issue subject to the following terms

- 1) An application form is properly submitted;
- 2) An acknowledgment of local responsible agent form is submitted and signed by the local responsible agent, if required;
- 3) All application fees are paid;
- 4) All outstanding inspection fees and late fees are paid;
- 5) **Payment in full of all of the following fines, fees and debts relating to the property being registered owed to the city that are currently due or past due, including but not limited to:**
  - a. Outstanding water or sewer bills;
  - b. All charges for mowing, cleanup, weed or debris removal; and
  - c. **Any fees, penalties, or debts of any sort arising from provisions of the housing code, including any blight violations.**

182. Nowhere in the Jackson city Chapter 14 Code is a process codified to provide the homeowner with the Constitutional due process required to appeal “any fees” imposed by city officials of Chapter 14 Housing Code.

183. When a homeowner objects to “any fees” assessed by Code



Enforcement Officials from the Chapter 14 Housing Code the

only “due process” afforded to them by city Code Enforcement

Officials for redress is to “talk with Brian Taylor”, the Chief

Building Official in the city of Jackson

184. Allowing Brian Taylor, Chief Building Official, to be the ultimate arbiter of any Chapter 14 “any fees” assessed by the city of Jackson, cannot equate to an application of due process as Constitutionally mandated and does not comport with the rule of law.
185. It is the policy and custom of the City to illegally enforce the Chapter 14-4 and 14-7 sections in order to deprive owners of rental properties in the City of their constitutional right to due process in an effort to drive revenue growth through illegally assessed fees extracted in violation of Plaintiffs’ constitutional rights as set forth herein.
186. The City’s failures as set forth in this Complaint are violations of Plaintiffs’, and those similarly situated’ s, constitutional due process rights.
187. Pursuant to 42 USC § 1983, **“Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or**

**other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable.”**

188. The due process rights of Plaintiffs and others similarly situated have been violated by the City and as a result Plaintiffs have incurred monetary and other damages. Left unchecked, the City and its agents and contractors will continue to administer the Chapter 14-7 code in violation of the due process rights of Plaintiffs and other homeowners who are similarly situated.
189. In addition to the right to recover damages from the City and the individual Defendants under Section 1983, Plaintiffs are also entitled to the declaratory and injunctive relief from Defendants prayed for below. The application of the ordinance by Code Enforcement Officials to homeowner's who demand the City obtain a search warrant to conduct an inspection violates constitutional guarantees of the right to procedural due process.

**COUNT EIGHT**

**VIOLATION OF DUE PROCESS**

*(Failure to provide proper notice and a meaningful opportunity to be heard)*

***FACIAL INVALIDITY OF ORDINANCE UNDER FOURTEENTH  
AMENDMENT AND STRICT LIABILITY OF DEFENDANT THE CITY OF  
JACKSON FOR REDRESS UNDER 42 U.S.C. § 1983 AND ACCOUNTABILITY  
OF INDIVIDUAL DEFENDANTS UNDER 42 U.S.C. § 1983***

190. Plaintiff incorporates the preceding paragraphs.

191. It is unconstitutional to deprive of a person of their property without Due process of law. U.S. Constitution 14th Amendment; Michigan Constitution 1963 Article 1, Section 17.

192. The United States and Michigan Constitutions require that a person have a meaningful opportunity to be heard as part of their due process rights.

193. The city has adopted an Issuance of certificate of compliance ordinance, 14-42.1., which mandates that Code Enforcement Officials **“Upon a finding that there is not a condition that would constitute a violation of this article, the certificate of compliance shall be issued.”**

**Sec. 14-42.1. Issuance of certificate of compliance.**

The certificate of compliance shall be issued only upon an inspection of the premises by the chief building official or his or her appointed designee.

(1) The chief building official shall not issue a certificate of compliance when any existing condition constitutes a violation of this article.

(2) **Upon a finding that there is not a condition that would constitute a violation of this article, the certificate of compliance shall be issued.** Upon a finding that there is a condition that would constitute a violation of this article, the certificate of compliance shall not be issued, and an order to comply with this article shall be issued immediately and served upon the owner in accordance with section 14-45. **Upon re-inspection and proof of compliance, the order shall be rescinded, and a certificate of compliance shall be issued.** Unless stated otherwise, a certificate shall not be valid for a period of more than three (3) years from the date of the last initial inspection of the premises.

(3) A certificate of compliance shall be issued on condition that the building or structure remains free from violations of this article. If upon re-inspection pursuant to section 14-42 of this article the chief building official determines that conditions exist which constitute a violation of this article, the certificate shall be immediately suspended as to affected areas, and an order to comply with this article shall be issued immediately and served upon the owner in accordance with section 14-45 of this article. On re-inspection and proof of compliance, the order shall be rescinded, and the suspended certificate reinstated, or a new certificate issued.

(Ord. No. 93-22, § 2, 10-12-93; Ord. No. 2012-03, § 1, 2-21-12; Ord. No. 2014-8, § 2, 3-25-14; Ord. No. 2015-5, § 2, 2-10-15, eff. 3-12-15; Ord. No. 2016-14, § 2, 7-12-16; Ord. No. 2021-02, § 2, 6-8-21)

194. On May 9, 2022, a representative of the 903 Washington LLC,

spoke by telephone at 11:24 a.m. with the city of Jackson

employee, Rhonda Watkins, who is an administrative assistant within the city department which regulates Non-Owner-Occupied Residential Property. The representative requested that Watkins to electronically mail a copy of the certificate of compliance for 903 West Washington. Much to the dismay of the homeowner, Watkins responded that the city will not even issue a certificate of compliance to a homeowner who has complied with Chapter 14-42.1. who has not paid any “fees” that may be owed to the city for the property in question. Watkins further communicated that the balance due to the city from the 903 West Washington LLC was Twelve hundred eleven dollars and twenty-five cents (\$1211.25). This amount included, penalties of Five hundred ten dollars (\$510.00) for demanding the city obtain a search warrant to inspect the property and three hundred eighty-two dollars (\$382.00) in search warrant fees for which the homeowner did not receive notice of the day, date, time and location of the search warrant application in able to be afforded to have the opportunity to be heard in front of an impartial decision maker as mandated by the Constitution and Supreme Court jurisprudence.

195. **When requested to cite where in the Chapter 14 code does it**

**provide the city statutory authority to delay the issuance of a Certificate of Compliance even after Chapter 14-42.1. has been complied with when there is an alleged balance for fees owed to the city, Watkins replied, “It *probably* does, but I am not sure or aware of what section that is in”.**

196. Nowhere in the Jackson Chapter 14 city code does it provide the city with statutory authority to deny or delay the issuance of a Certificate of Compliance once the condition precedent is fulfilled of the homeowner correcting any alleged Chapter 14 violations cited by the inspector.

197. Nowhere in the Jackson city Chapter 14 Code is a process codified to provide the homeowner with the Constitutional due process required to challenge an assessment imposed by city officials of Chapter 14 fees.

198. When a homeowner objects to Chapter 14 fees assessed by Code Enforcement Officials the only “due process” that is afforded to them by city Code Enforcement Officials for redress is to “talk with Brian Taylor”, the Chief Building Official in the city of Jackson

199. Allowing Brian Taylor, the Chief Building Official, to be the ultimate arbiter of any Chapter 14 fees assessed by the city of Jackson, cannot equate to an application of due process as

Constitutionally mandated and does not comport with the rule of law.

200. City of Jackson Code Enforcement Officials habitually contravene Chapter 14-42.1. by their deliberate action of failing to issue a statutorily mandated Certificate of Compliance upon completion of any Chapter 14 alleged code violations cited in an inspection by a Jackson Code Enforcement Official.
201. It is the policy and custom of the City to illegally enforce the Chapter 14 in order to deprive owners of rental properties in the City of their constitutional right to due process in an effort to drive revenue growth through illegally assessed fees extracted in violation of Plaintiffs' constitutional rights as set forth herein.
202. The City's failures as set forth in this Complaint are violations of Plaintiffs', and those similarly situated' s, constitutional due process rights.
203. Pursuant to 42 USC § 1983, **“Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party**

**injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer’s judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable.”**

204. The due process rights of Plaintiffs and others similarly situated have been violated by the City and as a result Plaintiffs have incurred monetary and other damages. Left unchecked, the city and its agents and contractors will continue to administer the Chapter 14-42.1. code in violation of the due process rights of Plaintiffs and other homeowners who are similarly situated.
205. In addition to the right to recover damages from the City and the individual Defendants under Section 1983, Plaintiffs are also entitled to the declaratory and injunctive relief from Defendants prayed for below. The application of the ordinance by Code Enforcement Officials to homeowner’s who demand the City obtain a search warrant to conduct an inspection violates constitutional guarantees of the right to procedural due process.

**COUNT NINE**

**VIOLATION OF DUE PROCESS**

*(Failure to provide proper notice and a meaningful opportunity to be heard)*



***FACIAL INVALIDITY OF ORDINANCE UNDER FOURTEENTH***

***AMENDMENT AND STRICT LIABILITY OF DEFENDANT THE CITY OF  
JACKSON FOR REDRESS UNDER 42 U.S.C. § 1983 AND ACCOUNTABILITY  
OF INDIVIDUAL DEFENDANTS UNDER 42 U.S.C. § 1983***

206. Plaintiff incorporates the preceding paragraphs.
207. It is unconstitutional to deprive of a person of their property without Due process of law. U.S. Constitution 14th Amendment; Michigan Constitution 1963 Article 1, Section 17.
208. The United States and Michigan Constitutions require that a person have a meaningful opportunity to be heard as part of their due process rights.
209. When city inspectors arrive at a rental location for a Chapter 14 code inspection, they ask property owners to sign a consent to search form. If the property owner does not sign the form, the property owner is penalized financially by being charged a one hour “failure to allow access” penalty of two hundred fifty-five dollars (\$255.00) every time the property owner does not allow the inspector to access the property. The city will typically engage in three attempts to inspect a property prior to seeking and obtaining a search warrant. The City Code Enforcement Official will then proceed to conduct a Chapter 14 Non-Owner-Occupied Residential Property inspection of the exterior from

the public sidewalk at the first attempt to inspect. The Chapter

14 violations cited from the public sidewalk are then deployed as

“probable cause” to obtain a search warrant by Code

Enforcement Officials.

210. Being threatened with a fine for not signing a consent form is an aggressive act of intimidation that cannot comport with the rule of law.

211. The city has adopted an ordinance which mandates that Code Enforcement Officials provide written notice, within fourteen days of an inspection being conducted, to an owner of Non-Owner-Occupied Residential Property, of any alleged Chapter 14 Code violations cited, and to place the owner of the property on notice of their right to appeal any alleged violations cited by the Code Enforcement Official at the time of inspection.

#### **Sec. 14-45. Notices and orders.**

Notice of violations of this article and orders for the correction of such violations **shall be given to the owner or his or her agent within fourteen (14) working days from the date of inspection.** Notice shall:

- 1) Be in writing.
- 2) Identify the property involved, the day of the inspection and the name of the inspector.
- 3) **Cite the conditions that constitute violations of this article.**
- 4) **State the time allotted for correction of the violations.** Emergency hazards shall be corrected

immediately. For purposes of this section, the time allotted for correction of nonemergency violations shall be no less than thirty (30) and no more than ninety (90) calendar days.

**5) Inform the owner of his or her right to appeal to the building code board of examiners and appeals.**

(Code 1977, § 8.607; Ord. No. 2012-03, § 1, 2-21-12; Ord. No. 2020-09, § 2, 7-14-20)

212. City of Jackson Code Enforcement Officials habitually and illegally contravene Chapter 14-45 by their deliberate action of failing to provide notice, within Fourteen days, in writing, to owners of Non-Owner Occupied Residential structures of any Chapter 14 exterior violations cited at the first inspection from the public sidewalk, or any subsequent inspections thereafter, as statutorily mandated by Chapter 14-45, to homeowner's who deny access to city inspectors to inspect and then demand that the city obtain a search warrant to inspect the property. This unlawful and egregious action that the city Code Officials engage in as a matter of practice, denies property owners the ability to remedy any alleged code violations cited thereby making moot the obtainment of a search warrant by the Code Official and denying the property owner their due process mandated by Jackson City Code to appeal any alleged Chapter 14 exterior violations pursuant to Chapter 14-45 (5) which is

**“Inform the owner of his or her right to appeal to the building code board of examiners and appeals”.**

213. The Chapter 14-45 code is intended to provide an owner of rental property with the minimum due process recognized by the United States and State of Michigan constitutions. It is so vital to the constitutional application of the Chapter 14 Article II code that the Chapter 14-45 code itself recognizes this reality.
214. The Chapter 14-45 code requires that the homeowner be provided with a notice of deficiencies and a reasonable time to make repairs or improvements in order to comply with the applicable code and obtain a certificate of compliance.
215. The Chapter 14-45 code requires that the homeowner be provided with a procedural means to challenge the City’s Code Official and their interpretation or application of the Chapter 14 code.
216. The Chapter 14-45 code requirements as set forth in that code and in this complaint function as a required minimum due process afforded to the homeowner before any legal or other court action can be taken by the City against the homeowner. In this fashion, they are conditions precedent to the City’s ability to lawfully issue any fine, fee, or other penalty against the

homeowner.

217. The City's code of ordinances makes the failure to correct Chapter 14 Article II code violations a strict-liability offense.
218. The city's failure to provide the required statutory notice to property owners who demand the city obtain a search warrant, after city Code Officials conduct a Chapter 14 code inspection from a public sidewalk, of any violations that may exist, if any do in fact exist, deprives the property owner of any knowledge of the contravention of the Chapter 14 Article II code and the ability to appeal those alleged violations to an impartial panel of individuals as proscribed by Chapter 14-45 code.
219. Equally important is that the Chapter 14-45 code requires that appeals to alleged code violations be heard by an impartial panel of individuals who are not employed by the City and whom have experience in the relevant areas being challenged, namely the Building Code Board of Examiners and Appeals.
220. The City's failures as set forth in this Complaint are violations of Plaintiffs', and those similarly situated's, constitutional due process rights:
  - a) The City fails to provide notice to property owners who demand a search warrant of the city code official to conduct an inspection that enumerates what alleged Chapter 14 code

exterior violations may exist after a public sidewalk Chapter

14 inspection is completed subsequent to an inspection request is denied.

- b) The City fails to provide notice to property owners who demand a search warrant to inspect of a reasonable time period in which to correct the alleged exterior deficiencies that were the direct result of a public sidewalk inspection;
- c) The City fails to notify the homeowner of his constitutional right to appeal the code enforcement official's interpretation of the Chapter 14-45 code as required by ordinance;
- d) The City fails to notify the homeowner that the City may lien his property for failing to comply;
- e) The city completely ignores requests to present the code enforcement official's list of alleged Exterior Chapter 14 violations, which the city is required to do pursuant to Chapter 14-45, even when presented with a request to do so;
- f) The City continues to issue fines, fees, and levies to homeowners without completing these conditions precedent.

221. Pursuant to 42 USC § 1983, **“Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or**

**other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable.”**

222. The due process rights of Plaintiffs and others similarly situated have been violated by the City and as a result Plaintiffs have incurred monetary and other damages. Left unchecked, the City and its agents and contractors will continue to administer the Chapter 14-45 code in violation of the due process rights of Plaintiffs and other homeowners who are similarly situated.
223. In addition to the right to recover damages from the City and the individual Defendants under Section 1983, Plaintiffs are also entitled to the declaratory and injunctive relief from Defendants prayed for below. The application of the ordinance by Code Enforcement Officials to homeowner's who demand the City obtain a search warrant to conduct an inspection violates constitutional guarantees of the right to procedural due process.

**COUNT TEN**

**VIOLATION OF DUE PROCESS**

*(Failure to provide proper notice and a meaningful opportunity to be heard)*

***FACIAL INVALIDITY OF ORDINANCE UNDER FOURTEENTH  
AMENDMENT AND STRICT LIABILITY OF DEFENDANT THE CITY OF  
JACKSON FOR REDRESS UNDER 42 U.S.C. § 1983 AND ACCOUNTABILITY  
OF INDIVIDUAL DEFENDANTS UNDER 42 U.S.C. § 1983***

224. Plaintiff incorporates the preceding paragraphs.
225. It is unconstitutional to deprive of a person of their property without Due process of law. U.S. Constitution 14th Amendment; Michigan Constitution 1963 Article 1, Section 17.
226. The United States and Michigan Constitutions require that a person have a meaningful opportunity to be heard as part of their due process rights.
227. The city of Jackson adopted an ordinance, Chapter 14-51, titled “Appeal”, effective October 23, 2014.
228. In Chapter 14-51 Appeal is unambiguously clear in its purpose that **“An owner, or agent thereof, whose building has been inspected, may apply to the building code board of examiners and appeals for a hearing for reconsideration of the notice of violation(s) and any correction order(s) contained therein.”**



229. A modicum of Due Process was afforded to owners of Non-Owner-Occupied Residential Property within the confines of the Chapter 14 Article II Minimum Housing Standards Ordinance which allowed a homeowner to petition a nominally independent forum, the Building Code Board of Examiners and Appeals, for reconsideration of a cited Chapter 14 Article II violation and the remedy ordered by the Code Enforcement Official.

230. The City of Jackson adopted a renamed ordinance, still enumerated as Chapter 14-51, now titled “Variance”, effective October 23, 2015.

231. Chapter 14-51, “Variance” is unambiguously clear in its purpose that an owner, or agent thereof, whose building has been inspected for Chapter 14 Article II code violations that they **“may apply to the building code board of examiners and appeals for a hearing, no later than ninety (90) days after the notice of violation is issued, for consideration of receiving a specific variance to a requirement of this article that is identified as a violation or correction order in the notice of violation(s).”**

232. Nowhere else in the Chapter 14 Article II Minimum Housing Standards ordinance is the owner of a Non-Owner-Occupied Residential Property statutorily empowered to appeal to vacate

the edicts of a Code Enforcement Official.

233. With the stroke of a pen, the city of Jackson, has unilaterally and summarily terminated a bedrock Constitutional right, Due Process, as it pertains to challenging the Chapter 14 Article II fiats of a Code Enforcement Official.

234. The Building Code Board of Examiners and Appeals is in name only. Statutory authority no longer exists for the Board, pursuant to Chapter 14-51 “Variance”, to hear and decide appeals where it is alleged by the appellant that the Code Enforcement Official erred in their interpretation of the provisions in Article II, erred in standards of approval for an Article II violation,

“overstepped” his or her authority to enforce a provision, or provide the board with the power to vacate a cited code violation or its remedy demanded by the code enforcement official as was previously proscribed in Chapter 14-51 Appeal. The board is strictly and statutorily limited to providing merely a variance to an Article II violation, even if the alleged violation was beyond the scope an authority of the Code Enforcement Official to cite.

235. **Renaming the Chapter 14-51 ordinance from “Appeal” to “Variance”, and subsequently altering the language of the ordinance so it is impossible for a homeowner to appeal and vacate a cited Chapter 14 code violation or its remedy within**

**the confines of the Building Code Board of Examiners and**

**Appeals, is clear intent, of the habitual, systemic, nefarious**

**and illegal actions the city engages in when enforcing**

**Chapter 14 code.**

236. The City's failures as set forth in this Complaint are violations of Plaintiffs' and those similarly situated, constitutional due process rights.

237. Pursuant to 42 USC § 1983, **“Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable.”**

238. The due process rights of Plaintiffs and others similarly situated have been violated by the City and as a result Plaintiffs have

incurred monetary and other damages. Left unchecked, the City

and its agents and contractors will continue to administer the

Chapter 14-51 code in violation of the due process rights of

Plaintiffs and other homeowners who are similarly situated.

239. In addition to the right to recover damages from the City and the individual Defendants under Section 1983, Plaintiffs are also entitled to the declaratory and injunctive relief from Defendants prayed for below. The application of the ordinance by Code Enforcement Officials to homeowner's who demand the City obtain a search warrant to conduct an inspection violates constitutional guarantees of the right to procedural due process.

### **COUNT ELEVEN**

#### **VIOLATION OF FOURTH AMENDMENT**

*(Facial Challenge: Warrantless Searches)*

***FACIAL INVALIDITY OF ORDINANCE UNDER FOURTH AMENDMENT***

***AND STRICT LIABILITY OF DEFENDANT THE CITY OF JACKSON FOR***

***REDRESS UNDER 42 U.S.C. § 1983 AND ACCOUNTABILITY OF***

***INDIVIDUAL DEFENDANTS UNDER 42 U.S.C. § 1983***

240. Plaintiffs incorporate the preceding paragraphs.

241. The Fourth Amendment to the U.S. Constitution prevents the government from conducting unreasonable searches and provides that warrants, based on probable cause, are required

242. As adopted by the City, Chapter 14 Section 14-42 Inspection regimen of the Chapter 14 Housing Code allowed Code Officials to enter rental properties for the purpose of inspection “**as are necessary to enforce the provisions of this article**” or allowed that an “**inspection shall be conducted in the manner best calculated to secure compliance with this article and appropriate to the needs of the community**” all without any warrant or prior showing that reasonable cause exists for the entry.

243. When city inspectors arrive at a rental location for a Chapter 14 code inspection, they ask property owners to sign a consent to search form. The Code Enforcement Official places the property owner on notice that if he does not sign the consent form, the property owner is penalized financially by being charged a one hour “failure to allow access” penalty of two hundred fifty-five dollars (\$255.00) any time the property owner does not allow the city Code Official to inspect the property. The city will typically engage in three attempts to inspect a property prior to seeking and obtaining a search warrant and the homeowner will subsequently be penalized three times for not consenting to a search of the property. The City Code Enforcement Official will

then proceed to conduct a Chapter 14 Non-Owner-Occupied

Residential Property inspection of the exterior from the public sidewalk at the first attempt to inspect. **No written notice of any alleged violations, as proscribed by Chapter 14-45, is provided to the homeowner. The Chapter 14 violations cited from the public sidewalk are then deployed as “probable cause” to obtain a search warrant by Code Enforcement Officials.**

244. Being threatened with a fine for not signing a consent form to allow a Chapter 14 inspection is an aggressive act of intimidation that cannot comport with the rule of law.
245. If the owner or occupant of a property demands the city obtain a search warrant for an inspection, the City of Jackson code official "*shall* obtain a warrant from a court of competent jurisdiction, Chapter 14-42(5). This section of the Chapter 14 code permits an *ex parte* warrantless inspection only in an "emergency situation."
246. As the City's inspection does not involve a criminal investigation, the Supreme Court's administrative search jurisprudence governs the legality of the ordinance. Under that precedent, "the Supreme Court has held that absent consent, exigent circumstances, or the like, in order for an administrative

search to be constitutional, **the subject of the search must be**

**afforded an opportunity to obtain pre-compliance review**

**before a neutral decisionmaker.”** *NILI 2011, LLC et al v. City*

*of Warren, Case No. 15-cv-13392 (E.D. Mich. Oct. 23, 2018)*

247. Two Supreme Court cases explain this doctrine. First, in *Camara*, the Court invalidated parts of a housing code that permitted the City of San Francisco employees to enter any premises to perform any function required by the city code. *Camara*, 387 U.S. at 525–26. The Supreme Court reasoned that the administrative searches were a “significant intrusion upon the interests protected by the Fourth Amendment.” *Id.* at 534.

Specifically, the Court explained that:

When the inspector demands entry, the occupant has no way of knowing whether enforcement of the municipal code involved requires inspection of his premises, no way of knowing the lawful limits of the inspector’s power to search, and no way of knowing whether the inspector himself is acting under proper authorization.

*Id.* at 532. Accordingly, a pre-compliance procedure was necessary for this housing code to comply with the Fourth Amendment. *Id.*

248. Second, the Supreme Court invalidated a Los Angeles ordinance requiring hotel operators to record and provide police their guest lists, as the ordinance subjected noncompliant hotel operators to a criminal misdemeanor prior to any pre-compliance review.

*Patel*, 135 S. Ct. at 2452. The Supreme Court observed that “[a]

hotel owner who refuses to give an officer access to his or her registry can be arrested on the spot,” and that “[t]he Court has held that business owners cannot reasonably be put to this kind of choice.” *Id.* (citing *Camara*, 387 U.S. at 533). **Likewise, in this instance, property owners who do not grant city inspectors access for an inspection face an immediate fine by being invoiced one hour at the current hourly inspection rate, regardless of whether the City of Jackson later obtains a warrant to enter.** This procedure, mandated by Chapter 14.42 (5), and which provides for no pre-compliance review before a neutral magistrate, is exactly the type of behavior prohibited by the Supreme Court in *Patel*.

249. Furthermore, requiring that property owners relinquish their right to be free of unreasonable searches violates the unconstitutional conditions doctrine that maintains that if the government is prohibited from directly infringing upon the constitutional rights, the government may not affect the same result by offering tangible benefits in exchange for the citizen waiving those rights.

250. The Supreme Court has held that “an overarching principle, known as the unconstitutional conditions doctrine, that



vindicates the Constitution's enumerated rights by

preventing the government from coercing people into

giving them up." *Koontz v. St. Johns River Water*

*Management Dist.*, 133 S.Ct. 2586, at 2594 (2013).

## **COUNT TWELVE**

### **ASSUMPSIT**

251. Plaintiffs incorporate the preceding paragraphs.
252. The City has been extracting fees and/or penalties from Plaintiffs and those similarly situated by way of denial of procedural due process rights.
253. Pursuant to city of Jackson Ordinance Chapter 14 Section 43 (3), “any action taken by the authority having jurisdiction on such premises shall be charged against the real estate upon which the structure is located and shall be a special assessment upon such real estate”.
254. Michigan law provides that an assumpsit action, a remedy for recovering an unlawful exaction, may be maintained against a municipality and/or its divisions without regard to government immunity when restitution is being sought for an illegal or inappropriate assessment that is authorized to become a lien on property.

## **COUNT THIRTEEN**

**MUNICIPAL LIABILITY**

255. Plaintiffs incorporate the preceding paragraphs.
256. As set forth herein, the City and its Agents have administered the City Code in ways that deprive owners of Non-Owner-Occupied Residential Property and Foreclosed, Abandoned and Vacant property in the City of their due process rights.
257. More specifically, the City through their policies and customs, implemented and enforced by their City Attorney's Building Department management and Code Enforcement Officials, has circumvented the requirements of due process by:
- a. Systemically deploying an arbitrary, capricious and void for vagueness Chapter 14-42 Inspection regimen which allows city Code Officials unmitigated discretion to conduct Chapter 14-42 inspections of non-owner-occupied residential property **“as are necessary to enforce the provisions of this article”** and **“an inspection shall be conducted in the manner best calculated to secure compliance with this article”**
  - b. The provisions of the Chapter 14 Article II Minimum Housing Standards do not provide clearly enumerated standards or definitions sufficient to allow a person of ordinary intelligence to understand what is required to comply with the Chapter 14 Code Inspection or otherwise to get into compliance after

violations are alleged. As such, the provisions grant unbridled

discretion to Code Officials resulting in the arbitrary and

selective enforcement of the provisions, 14-72 “roof shall be

reasonably weatherproof and waterproof”, 14-13 “Presumption

of Non-Owner-Occupied Property”.

- c. Code Enforcement officials illegally and without statutory authority arbitrarily and capriciously applied Chapter 14 Article II Code as they inspect and then citing it as a violation. Gutter “low hanging in center not sloped towards downspout” Chapter 14-72.
- d. The city practice of illegally denying the issuing a Certificate of Compliance if fees are allegedly due and payable to the city, contrary to Chapter 14-42.1.
- e. Issuing warrants for searches without clear, legal criteria.
- f. Depriving homeowners of statutory notice in writing of any exterior violations cited within 14 days of conducting an exterior inspection from the sidewalk, Chapter 14-45, for homeowners who demand a search warrant be obtained.
- g. Issuing tickets and violations against homeowner’s without first complying with the procedural due process afforded by the United States and Michigan constitutions.

258. In this regard and as a routine part of their policies and customs,

Officials deprived Plaintiffs, and thousands of other homeowners in the City, of their rights to a meaningful opportunity to be heard and thus their constitutional right to due process.

259. The reason the city and their Building Department management and Code Officials fail in this respect is because they are driven by profit making rather than a legitimate governmental interest in preserving and protecting the safety and welfare of occupants of housing. The City's desired purpose is to unjustly enrich the city by deploying arbitrary, capricious, constitutionally void for their vagueness and violation of Due Process city of Jackson Ordinances in order to generate funding to finance their cash-strapped municipality.

260. As a direct result of and due to the driving force behind the City Attorney, Building Department management and Code Officials refusal to provide constitutional due process, Plaintiff's, and thousands like them have been forced to pay unlawful inspection fees out of fear of continued levy. Plaintiffs and thousands like them have also been forced to perform repairs on property for items not required by the City Code at the mere whims of the code officials without right to appeal to vacate. Given this manner and form of the City's and their Agent's administration

to notice and a meaningful opportunity to be heard.

### **COUNT FOURTEEN**

#### **UNJUST ENRICHMENT**

261. Plaintiffs incorporate the preceding paragraphs.
262. Defendant City of Jackson has acquired and /or is in possession of funds that it is not entitled to retain.
263. A suit seeking the return of specific funds wrongfully collected or held by a state actor may be maintained in equity.
264. Unjust enrichment exists when there is:
  - 1) A benefit conferred by a plaintiff upon a defendant;
  - 2) Knowledge by the defendant of the benefit; and
  - 3) Retention of the benefit by the defendant under circumstances where it would be unjust to do so without payment (i.e., the "unjust enrichment" element).
265. Plaintiff has disputed many fees forcefully paid to defendant.
266. Through its Chapter 14 Section 14-42 inspection regimen fee assessments, Non-Owner-Occupied Residential Property Registration assessments, Foreclosed, Vacant or Abandoned Property Registry and its Foreclosed, Vacant or Abandoned Property "Periodic Monitoring" scheme, the defendant, City of Jackson has acquired funds rightfully belonging to plaintiffs and

many others.

267. Since the adoption and promulgation of an arbitrary, capricious and Constitutionally void for its vagueness Chapter 14 Article II 14-42 Inspection Regimen ordinance enacted by the city from March 22, 2012 through July 6, 2021, when the city changed the Chapter 14-42 Inspection ordinance, the City of Jackson has unlawfully collected in Chapter 14 inspection fees through the city fiscal year 2019/20 of Three million nine hundred eighty four thousand six hundred forty seven dollars (\$3,984,647.00). The city of Jackson budgeted amount of collected Chapter 14-Section 42 Non-Owner-Occupied Residential inspection fees for 2020/21 fiscal year, which ended June 30, 2021, and which is not available for public viewing as of the date of this complaint, anticipated an additional Seven hundred thousand dollars collected (\$700,000.00) revenue from these arbitrary, capricious and constitutionally void for its vagueness inspection schedule.

268. Since the adoption and promulgation of an arbitrary, capricious and constitutionally void for its vagueness Article VI, Chapter 14 Section 403 Code, Foreclosed, Vacant or Abandoned Property Registry Ordinance, on February 23, 2012, the city has collected in Foreclosed, Vacant or Abandoned Property Registry registration fees the amount of Six hundred forty-five thousand

nine hundred thirty-five dollars (\$645,935.00) through June 30,

2020. Furthermore, the city of Jackson budgeted an amount for

collected Chapter 14 Foreclosed, Vacant or Abandoned Property

Registry Ordinance registration fees for 2020/21 fiscal year,

which ended June 30, 2021, and which is not available for public

viewing as of the date of this complaint, an anticipated

additional one hundred thirty thousand dollars (\$130,000.00) in

registration revenue from this arbitrary, capricious and

constitutionally void its vagueness registration ordinance.

269. Defendant acquired these funds to fund unconstitutional searches of plaintiff's properties.

270. It would be unconscionable for the City of Jackson to retain and/or abstain from returning these fees as well as penalty fees for failure to allow Code Enforcement Officials access to a property which were acquired from plaintiffs.

271. Therefore, the City of Jackson must be compelled to disgorge these funds that were acquired through unjust enrichment.

### **COUNT FIFTEEN**

### **DECLARATORY RELIEF**

272. Plaintiffs incorporate the preceding paragraphs.

273. An actual controversy exists between **903 West Washington,**

and the City of Jackson and its Building Department management and Code Enforcement Officials regarding their administration of the City Code in violation of clearly established due process rights.

274. Plaintiffs and others similarly situated are entitled to a declaration of their rights to due process in the context of the City Code processes related to inspections, appeals, obtainment of search a warrant, and obtaining certificates of compliance, and ask that the Court determine that the City and their Agents must comply with meaningful procedural due process requirements mandated by the United States and Michigan Constitutions.

### **COUNT SIXTEEN**

#### **DECLARATORY RELIEF**

275. Plaintiffs incorporate the preceding paragraphs.
276. An actual controversy exists between **903 West Washington, LLC, 207 Second Street LLC, and the 321 West Mason LLC,** and the City of Jackson and its Building Department management and Code Enforcement Officials regarding their administration of the definition of the Chapter 14 Article II “Minimum Housing Standards” City Code.



277. **Plaintiffs and others similarly situated are entitled to a**

**declaration of their right to compel the city of Jackson Code Enforcement Officials to deploy only the enumerated, strict, definition of the Chapter 14 Code Article II” Minimum Housing Standards” as codified in ordinance by the city of Jackson in the context of the City Code processes related to inspections, appeals, and obtaining certificates of compliance, and ask that the Court determine that the City and their Agents must also comply with meaningful procedural due process requirements mandated by the United States and Michigan Constitutions.**

**COUNT SEVENTEEN**

**VIOLATION OF 42 USC 1983**

278. Plaintiffs incorporate the preceding paragraphs.

279. **42 USC 1983 states: Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding**

**for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer’s judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.**

280. The U.S. Supreme Court has declared that qualified immunity protects “all but the plainly incompetent or those who knowingly violate the law”. *Malley v. Briggs*, 475 U.S. 335, 341 (1986)
281. Furthermore, “officials are immune unless the law clearly proscribed the actions they took” *Anderson v. Creighton*, 483 U.S. 635, 639 (1987) (quoting *Mitchell v. Forsyth*, 472 U.S. 511 (1985)).
282. Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), even federal officials can be sued as individuals for violating constitutional rights.
283. The *Bivens* Court wrote: “damages may be obtained for injuries consequent upon a violation of the Fourth Amendment by federal officials should hardly seem a surprising proposition. Historically, damages have been regarded as the ordinary

remedy for an invasion of personal interests in liberty. See

Nixon v. Condon, 286 U.S. 73, 52 S.Ct. 484, 76 L.Ed. 984

(1932); Page 396

284. Pursuant to testimony in the Administrative Hearing Bureau on February 10, 2021, Brian Taylor, Chief Building Official and Assistant Direct of the Neighborhood and Economic Operations Department for the city, which controls the activities of Chapter 14 Code Officials, is a licensed builder and Code Officer for over twenty years and has “extensive experience in the construction industry”.
285. Pursuant to testimony in the Administrative Hearing Bureau on February 10, 2021, of Chapter 14 Code Enforcement Official Ricardo John O’Connor, who is a licensed builder and certified lead inspector, Chapter 14 Code Enforcement Officials receive extensive training from the city of Jackson on Chapter 14 Code statute and implementation.
286. Shane LaPorte is the Director of Neighborhood and Economic Operations Department for the city, which controls the activities of Chapter 14 Code Officials, Assistant City Manager of Jackson, and a former Jackson peace officer.
287. The City of Jackson currently employs four Chapter 14 Code Enforcement Officials: Ricardo John O’Connor, Michael Brandt,

288. Brandt, Tanner and Batterson are former peace officers.
289. William Mills, of recent, a Chapter 14 Code Official, is a former peace officer.
290. Pursuant to the Michigan Commission on Law Enforcement Standards (MCOLES), which statutorily approves the licensing of peace officers, requires that the mandatory basic peace officer training curriculum includes training in, but not limited to, Civil Rights, Search and Seizure (Fourth Amendment), Investigative skills, Constitutional Law, and Procedural Justice.
291. The individual Defendants named in this Complaint have received extensive training from the city of Jackson on the statutory provisions and enforcement of the Chapter 14 Code.
292. In the case before the court the agents of the city of Jackson have knowingly deprived citizens of the civil right to have a hold and enjoy the benefit real property by, among others, with their following actions:
  - a. Nefariously and intentionally deploying a constitutionally void vague rental inspection process upon both occupied, and without statutory authority, upon unoccupied residential real property.
  - b. Nefariously citing Chapter 14 Article II violations which

transcend the limits of their statutory authority and then intentionally deploying such unlawful violations as probable cause to obtain search warrants.

- c. Nefariously circumventing statutory notice requirements of violations by failing to tender notice within the statutory time period, of exterior violations cited from a public sidewalk to homeowners who refuse to execute a consent to search document thereby violating their Constitutional right to Due Process.
- d. Enforcing a Chapter 14 Non-Owner-Occupied Residential Property inspection regimen upon homeowners who place Code Enforcement Officials on notice that a structure is statutorily defined, pursuant to ordinance, as Foreclosed, Abandoned or Vacant and therefore exempt from a Chapter 14 Non-Owner-Occupied Residential Property Inspection regimen.
- e. Manipulating statute that is deliberately vague to aid Code Enforcement officials with arbitrary and capricious enforcement.
- f. Enforcing statute that is an unambiguously clear constitutional violation of Due Process.
- g. Enforcing a Chapter 14 Non-Owner-Occupied

Residential Property inspection regimen upon

homeowners who place Code Enforcement Officials on notice that a structure is statutorily defined, pursuant to ordinance, as Foreclosed, Abandoned or Vacant and therefore exempt from a Chapter 14 Non-Owner-

Occupied Residential Property Inspection regimen **which subsequently results in the demolition of the property.**

- h. Defaulting an Abandoned, Vacant or Foreclosed Property as defined pursuant to statute, to the status of Non-Owner-Occupied Resident Property thereby subjecting the property to a 14-42 Inspection regimen for the failure of the owner to register the property as Abandoned, Vacant, or Foreclosed property without statutory authority to do so.

293. **The city of Jackson continues to deploy, without statutory authority to do so, a now modified, as of July 7, 2021, Chapter 14-42 Inspection regimen, whose applicability, as defined in Chapter 14-29, is to existing structures “which constitute a menace to the safety, health, and welfare of the occupants” to unoccupied structures.**

294. The employees who inspect and register property in the City of Jackson, act under color of local authority, and, therefore, joint

capacity, should apply to each city employee engaged in these nefarious actions.

295. The individuals named in this complaint are personally liable to the Plaintiff as their Chapter 14 enforcement actions demonstrate a strong likelihood that pursuant to Supreme Court jurisprudence, that they are not protected by qualified immunity, as “all but the plainly incompetent or those who knowingly violate the law”. obtain qualified personal immunity. *Malley v. Briggs*, 475 U.S. 335, 341 (1986)
296. Plaintiffs and the class of those similarly situated have a right to procedural due process to proper notice and to challenge or otherwise appeal a determination of the City’s code official before any enforcement of the court action was taken.
297. Despite these rights, Defendant’s customs and policies eliminated Plaintiffs’ (and similarly situated class Plaintiffs’) rights without any due process or adequate notice of any kind.
298. As set forth above Defendants then proceeded to prosecute Plaintiffs and collect fines and fees from them, and those similarly situated, in violation of their due process rights.
299. The City has deprived homeowners within its boundaries of property and rights related thereto and is liable to the Plaintiffs

300. The deprivation of property under color of law has been affected by not only the City of Jackson but by the City Attorney's building department management and code enforcement officials acting in concert with the city.
301. Pursuant to 42 USC 1988, in any action or proceeding to enforce Section 1983 the Court, in its discretion, may allow the prevailing party a reasonable attorney fee as part of the costs.

### **COUNT EIGHTEEN**

#### **REQUEST FOR EMERGENCY INJUNCTIVE RELIEF**

#### **207 SECOND STREET AND OTHERS**

#### **SIMILARLY SITUATED**

302. Plaintiffs incorporate the preceding paragraphs.
303. The City, through its building department management and Code Enforcement Officials, continues to issue and enforce inspection orders in direct violation of the constitutional due process requirements set forth in the Michigan Constitution, United States Constitution and Supreme Court jurisprudence.
304. Plaintiffs, and those similarly situated, are still being denied their right to challenge the issuance of an Administrative Search Warrant as set forth by the United States Constitution and



305. Unchecked, the City, and acting in consort with Building Department management and Code Enforcement Officials, will continue to issue tickets to Plaintiffs and those similarly situated for failing to comply with a vaguely worded City Code that does not give property owners clear notice of what constitutes a violation and an Administrative Search Warrant process that contravenes the Constitution, Supreme Court jurisprudence and State statute. As such, the City will continue to reap an illegal windfall for continuing to violate clearly established constitutional rights.
306. Given these circumstances, the losses to Plaintiffs and other owners of real property similarly situated in the City are imminent and as such Plaintiffs request injunctive relief and an order stopping the City and its Building Department Management and Code Enforcement Officials from its illegal and unconstitutional practices including the issuance of administrative search warrants without the subject of the search warrant attending and receiving an impartial hearing and **the application of an inspection ordinance whose stated purpose is to safeguard the health, safety and welfare of the occupants of dwellings to foreclosed, vacant or abandoned, unoccupied**

**structures.**

307. **The city of Jackson achieves its goal of turning a vacant property into a non-owner-occupied property by means of enforcing without statutory authority a now modified, as of July 7, 2021 Chapter 14-42 Inspection regimen. Ironically, the applicability, as defined in Chapter 14-29, is to existing structures “which constitute a menace to the safety, health, and welfare of the occupants to structures that have been unoccupied for a substantial period of time.**
308. Once the certificate expires under the Foreclosed, Vacant, and Abandoned registration, if the owner does not re-register the dwelling as a Foreclosed, Vacant and Abandoned property, the City will automatically default the property to the Non-Owner Occupied Residential Property inspection regimen.
309. Nowhere in Chapter 14 Code does it provide the statutory authority to the City for the automatic default of a Foreclosed, Vacant, or Abandoned property to default to the status of a Non Owner Occupied Residential Property for the failure of the owner to register the property as Foreclosed , Vacant or Abandoned.
310. The 207 Second Street LLC has refused to sign a consent form to allow the City to conduct a search of the premises for Chapter

14 Non Owner Occupied Residential Property violations and

subsequently demanded the city of Jackson obtain a Search

Warrant to conduct an inspection of 207 Second Street in the

city of Jackson on four separate occasions between September

14, 2021 and March 16, 2022.

311. On each occasion the 207 Second Street LLC was penalized Two hundred and fifty-five dollars (\$255.00) for refusing to provide consent to City Code Enforcement Official. This action by Jackson Code Officials does not comport with Supreme Court jurisprudence.

312. Representatives of the 207 Second Street LLC have unambiguously and unequivocally on numerous occasions demonstrated to the City of Jackson that the structure located at 207 Second Street is unoccupied and therefore exempt to a Chapter 14-42 Non-Owner-Occupied Residential Property Inspection regimen.

313. **City Code Enforcement Officials have ignored these protestations from representatives of the 207 Second Street LLC and have scheduled a Chapter 14-42 Non-Owner-Occupied Residential Property inspection for May 26, 2022 at 9:00 a.m.**

314. The 207 Second Street LLC has not received any

correspondence from the city of Jackson as to the day, date, time and location of the application to obtain a search warrant by City Code Enforcement Officials as required by the Constitution of the United States and Supreme Court jurisprudence.

315. Upon information and belief, the City intends to deprive members of the 207 Second Street LLC of their due process right to be afforded an opportunity to be heard by an impartial decision maker to protest the issuance of a search warrant.
316. Upon information and belief, the City intends to demolish the property deploying alleged violations from an unlawfully conducted Chapter 14 Non-Owner-Occupied Inspection regimen as justification to do so.
317. Plaintiff has no adequate remedy at law.
318. Plaintiff will likely prevail on the merits.
319. Plaintiff will suffer imminent and irreparable harm unless an injunction is issued.
320. The risk of loss to Plaintiff exceeds any risk to the Defendant if an injunction is not issued.
321. WHEREFORE, Plaintiff respectfully requests this Honorable Court to:
  - 1) Issue a preliminary and permanent injunction prohibiting the City from demolition of said property.

- 2) Issue a preliminary and permanent injunction prohibiting  
  
the City from seeking an ex parte search warrant to  
  
conduct a Chapter 14 Non-Owner-Occupied Residential  
  
Property inspection regimen search of 207 Second Street,  
  
and of others similarly situated, of an unoccupied  
  
foreclosed, vacant, abandoned dwelling as defined  
  
pursuant to Chapter 14-402.

## VI. CLASS ALLEGATIONS

322. Plaintiffs incorporate the preceding paragraphs.
323. All Plaintiffs and putative class members have suffered and continue to suffer similar harm due to having their property taken by the City without minimum due process. After not receiving adequate notice or a meaningful opportunity to be heard, the Plaintiffs and class members are then faced with multiplying levies for failure to pay improperly assessed fees.
324. Class Definition. Plaintiffs seeks to certify the following classes:
  - a. All persons and entities who own or owned Non-Owner-Occupied Residential Property located within the city of Jackson and who were illegally invoiced for inspection fees from Constitutionally void for its vagueness Chapter 14 inspection regimen from the effective date of the ordinance on March 22, 2012 and up to and including July 6, 2021 and

- b. All persons and entities who refused to sign a consent to search pursuant to a Chapter 14 inspection demand by the city whereby an exterior code deficiency inspection was then conducted by the City from the public sidewalk, without providing a copy of the deficiency report to the homeowner within the statutorily Chapter 14 mandated time period for notice of violation which impaired their ability to appeal such deficiency determination to an impartial board and the person or entity, who was then financially penalized for the refusal to sign a consent form, paid the penalties and subsequently consented to a search .
- c. All persons and entities who have refused to sign a consent to search pursuant to a Chapter 14 inspection demand by the city and the person or entity was financially penalized for the refusal to sign a consent form and which the city subsequently obtained and executed an ex parte search warrant without affording the subject of the search the opportunity to be heard in front of a neutral observer and the person or entity subsequently paid the penalties and search warrant fees.
- d. All persons and entities who currently own or owned

Foreclosed, Vacant or Abandoned real property located

within the city of Jackson and who were coerced under penalty of law to register their real property and were illegally invoiced for registration fees and subsequently paid those fees, from a Constitutionally void Chapter 14

Foreclosed, Vacant, or Abandoned Property Registration ordinance which compelled a registrant , under threat of fine and penalty, to surrender their Fourth Amendment rights by proving to the city, with their property registration, “A statement allowing authorized staff of the city to enter the premises for purposes of inspection”, for an Article of the Chapter 14 ordinance which did not statutorily mandate for an interior inspection of foreclosed, vacant, or abandoned Property .

- e. All persons and entities who currently own or at one time owned Foreclosed, Vacant or Abandoned real property located within the City of Jackson and who were coerced under penalty of law to remunerate the city for “monitoring” fees from a Constitutionally void for its vagueness a Chapter 14 ordinance which did not provide a definition of “monitoring” or a statutorily mandated interior or exterior inspection schedule.

f. All persons and entities who owned Foreclosed, Vacant or Abandoned real property from March 22, 2012 to July 6, 2021, located within the city of Jackson, and who were the victim of a Constitutionally void for its vagueness Chapter 14 Non-Owner-Occupied Residential Inspection regimen illegally applied by the City to their Foreclosed, Vacant or Abandoned unoccupied real property which resulted in the subsequent demolition of that property.

325. Numerosity. The proposed classes are so numerous that joinder of all members is impracticable. While the exact number of class members is not now known, Plaintiffs believe the class number is in excess of 2,000 members. These members may be readily identified from Defendant's own records.

326. Commonality. There are questions of law or fact common to the members of the class that predominate over questions affecting only individual members.

327. Among the questions of law or fact common to the class are the following:

a) Did the City provide proper notice of violations prior to taking court action?

b) Does the City of Jackson Code give clear notice to property owners of what behavior is permitted, and what behavior is



- c) Does the warrant procedure that is used to search the homes of the residential property owners comply with the United States and Michigan constitutions?
- d) Why is the city applying, without statutory authority, an inspection scheme whose stated purpose is “to safeguard the health, safety and welfare of the *occupants* of dwellings” to Foreclosed, Vacant, and Abandoned *unoccupied* dwellings?
- e) Why does the city require a registrant of a Foreclosed, Vacant, or Abandoned property to surrender their Fourth Amendment rights?
- f) Why did the city of Jackson deploy a constitutionally void for its vagueness Chapter 14-42 illegal inspection scheme while collecting millions of dollars in fees for doing so?

328. Typicality. The harm suffered by Plaintiffs is typical of the harm suffered by other class members differing only in amount. Accordingly, the claims of Plaintiffs are the same as those of the other class members. Resolution of these common questions will determine the liability of the Defendant to Plaintiffs and the class members in general. Thus, the claims properly form the basis for class treatment in this case.

329. Although the amount of damages between individual class members may vary, the underlying liability issues remain the same as between all members of the class and the Defendant.
330. Adequacy of Representation. The represented parties will fairly and adequately assert and protect the interest of the class. Plaintiffs have already demonstrated their willingness to pursue this litigation on their own behalf, and they have no known conflicts with the class members.
331. Plaintiff's counsel will also fairly and adequately represent the interest of the class. Attorney John W. Toivonen is well versed in the facts and substantive law underlying the Plaintiff's claims and has 12 years of general litigation experience.
332. This class action is maintainable under Federal Rule of Civil Procedure 23(b).
333. The maintenance of this action as a class action will be superior to other available methods of adjudication in promoting the convenient administration of justice.
- a) The prosecution of separate actions by or against individual members of the class could create a risk of inconsistent or varying adjudications with respect to individual members of the class that would confront the party opposing the class with incompatible standards of conduct; and/or

b) The prosecution of separate actions by or against individual members of the class would create a risk of adjudications with respect to individual members of the class that would as a practical matter be dispositive of the interests of other members not parties to the adjudications or substantially impair or impede their ability to protect their interests.

334. The party opposing the class has acted or refuses to act on grounds that apply generally to the class, so that final equitable, injunctive or corresponding declaratory and monetary relief is appropriate respecting the class as a whole. Specifically, Defendants have and continue to deprive homeowners of their right to appear to contest the issuance of an Administrative Search Warrant, forced real property owners to endure a constitutionally void for vague Chapter 14 inspection scheme, registration requirement and “monitoring” ordinances while simultaneously collecting nearly Seven million dollars (\$7,000,000.00) in unlawful inspection, registration, and “monitoring” fees, and of providing a clear notice of alleged real property code deficiency in violation of the due process rights of the class. See the City of Jackson Budget Revenue Detail for Years 2012-2022 set forth as Exhibit “FF”.

335. The questions of law or fact common to class members

predominate over any questions affecting only individual

members, and as such a class action is superior to other available methods for fairly and efficiently adjudicating the controversy.

336. The action is and will be manageable as a class action and in fact more manageable than the prosecution of separate actions in various forums and venues.

337. In view of the complexity and importance of the constitutional issues and expense of the litigation, the separate claims of individual class members are insufficient in amount to support separate actions.

338. It is probable that the amount which may be recovered for individual class members will be large enough in relation to the expense and effort of administering the action to justify a class action.

339. Plaintiffs are not aware of any members of the proposed class that have filed similar litigation nor are Plaintiffs aware of any pending similar litigation in which the city is a Defendant.

340. The class action is the appropriate method for the fair and efficient adjudication of the controversy. The legal and factual bases for the Plaintiffs' claims are the same as for the claims of all class members. The only difference between individual claims is the severity of the harm and resulting damages.

Adjudicating this case on a class wide basis will promote

substantial judicial economy by eliminating the likelihood of multiple cases (perhaps thousands) turning on the same questions of law and fact. The class action will also provide the Plaintiffs with the only meaningful avenue for relief, due to the economy of spreading their litigation costs, thereby reducing each individual's expenses over the class and enabling counsel to pursue the litigation by aggregating the claims. Further, the class action will save the Defendants the burden of defending multiple suits in multiple forums.

## **VII. RELIEF REQUESTED**

WHEREFORE, on behalf of itself and others similarly situated, 903 West Washington LLC, 207 Second LLC, and the 321 West Mason LLC requests the following relief:

- A. That this action be determined as proper to be maintained as a class action pursuant to Federal Rules of Civil Procedure 23(b), together with an order appointing the named Plaintiffs to represent the class and subclass and certifying Plaintiffs' counsel to represent the class and subclass;
- B. The injunctive and declaratory relief as applicable and specified in Counts Fifteen, and Seventeen and Eighteen;
- C. An award of damages, including all applicable interest, in an amount

- D. An award of costs of this suit, including reasonable attorney's fees, as provided by 42 USC § 1988 or on other grounds;
- E. An award of an incentive fee to the named Plaintiffs for having the courage to come forward and challenge the City of Jackson Chapter 14 Ordinance and the manner in which it is administered; and/or
- F. Any other relief as necessary to redress the violation of Plaintiff's rights secured by the Constitution and laws.

### **VIII. RIGHT TO AMEND**

Plaintiffs reserve their right to amend the Complaint pursuant to the Federal Rules of Civil Procedure

### **DEMAND FOR JURY TRIAL**

Plaintiffs demand a trial by jury on all claims and issues so triable.

Respectfully submitted by:

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/s/ John W. Toivonen  
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**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN**

**INDEX OF EXHIBITS**

<b>Exhibit</b>	<b>Description</b>
<b>A.</b>	321 W Mason FVA Registration
<b>B.</b>	321 W Mason Front Exterior Photo
<b>C.</b>	321 W Mason Interior Photo #1
<b>D.</b>	321 W Mason Interior Photo #2
<b>E.</b>	321 W Mason Interior Photo #3
<b>F.</b>	321 W Mason History Detail Report for Water Utility Service
<b>G.</b>	Chapter 14 Inspection Findings for 321-23 W Mason and 903 W Washington from 01/17/2017 Inspection
<b>H.</b>	Customer Statement for Demolition Costs of 321 W Mason from City of Jackson
<b>I.</b>	207 Second FVA Registrations for periods covering 01/14/2016 through 06/04/2021
<b>J.</b>	207 Second History Detail Report for Water Utility Service
<b>K.</b>	207 Second NOORP Initial Inspection Notice Dated 08/23/2021 for Inspection Date of 09/14/2021

- L.** 207 Second Red Tag “Lock Out” Dated for 09/14/2021
  
- M.** 207 Second NOORP Final Notice of Inspection Prior to Search Warrant Dated 10/05/2021 for Inspection Date of 11/02/2021
  
- N.** 207 Second Red Tag “Lock Out” Dated 11/02/2021
  
- O.** 207 Second NOORP Final Notice of Inspection Prior to Search Warrant Dated 02/15/2022 for Inspection Date of 03/16/2022
  
- P.** 207 Second Yellow Tag “Lock Out” Dated 03/16/2022
  
- Q.** 207 Second Notice of Execution of Search Warrant Dated 04/06/2022 for Search Warrant Execution on 05/26/2022
  
- R.** 207 Second Yard Posting of Administrative Search Warrant scheduled for 05/26/2022 at 9:00 AM
  
- S.** 207 Second Municipal Billing Invoice Dated for 11/04/2021
  
- T.** Petitioner City of Jackson AHB Post-Trial Brief Dated 02/25/2021
  
- U.** Respondents AHB Post-Trial Brief Dated 03/26/2021
  
- V.** Order of AHB Hearing Officer John S. Kane Dated 04/20/2021
  
- W.** 1604 Floral Initial Inspection Notification Letter Dated 02/17/2021 for Inspection Date of 03/12/2021



- X.** Email Correspondence Between Romain and Hagerty Dated 03/31/2021
  
- Y.** 1604 Floral Final Notice Prior to Search Warrant Dated 05/21/2021 for Inspection Date of 06/18/2021
  
- Z.** 1604 Floral Municipal Billing Invoice Dated 06/28/2021
  
- AA.** 903 W Washington Final Notice Prior to Search Warrant Dated 03/11/2021 for Inspection Date of 04/01/2021
  
- BB.** 903 W Washington Municipal Billing Invoice Dated 11/02/2021
  
- CC.** 903 W Washington Unsigned Search Consent Form for 03/04/2021 Inspection
  
- DD.** 903 W Washington Administrative Search Warrant
  
- EE.** 903 W Washington Rental Certificate CR210234 Interior & Exterior Inspection Chapter 14 Violations
  
- FF.** City of Jackson Budget Revenue Detail for Fund 251 (Housing Enforcement) for years 2012-2022



**Foreclosed, Vacant and Abandoned Residential Property Registry**

**Property Registration**

**City of Jackson**  
161 W. Michigan Avenue  
Jackson, MI 49201  
(517) 788-4060  
www.cityofjackson.org

**Registration Date: 10/10/2016**

**Expiration Date: 10/10/2018**

**Property Address:** 321 W MASON ST -323

**PIN:** 4-052700000

**Type of Dwelling:** DUPLEX

**Year Built:** 0.00

**Property Owner:** 321 W MASON LLC

**Physical Address:** P O BOX 3816

**Mailing Address:** ANN ARBOR, MI 48106

**Telephone No.:**

(734) 216 1822  
Cell

Work

**E-mail Address:** LOREN@PROVIDE.NET

**Responsible Local Agent:** LOREN ROMAIN

**Physical Address:** PO BOX 3816

**Mailing Address:** Ann Arbor, MI 48106

**Telephone No.:**

(734) 216 1822  
Cell

Work

**E-mail Address:** LOREN@PROVIDE.NET

The owner of a foreclosed, vacant or abandoned residential property shall:

- 1) Comply with all of the maintenance and security requirements under Section 14-408 of the ordinance.
- 2) Display property contact information as specified under Section 14-412 of the ordinance.

**Changes to the information contained on this Property Registration must be made within ten (10) days to the Department of Neighborhood & Economic Operations at no cost. Failure to update information within ten (10) days is a violation Chapter 14, Section 14-404 of the City of Jackson Code of Ordinances and will be subject to late fees and penalties provided in Chapter 2.5 of the Code.**

*The Foreclosed, Vacant and Abandoned Residential Property Registry Property Registration may not be construed as providing any warranty or guarantee that there are no defects in or on any foreclosed, vacant or abandoned property.*

Foreclosed, Vacant and Abandoned Residential Property Registry - Property Registration (07/12)

PLAINTIFF'S  
EXHIBIT

**A**



PLAINTIFF'S  
EXHIBIT  
**B**



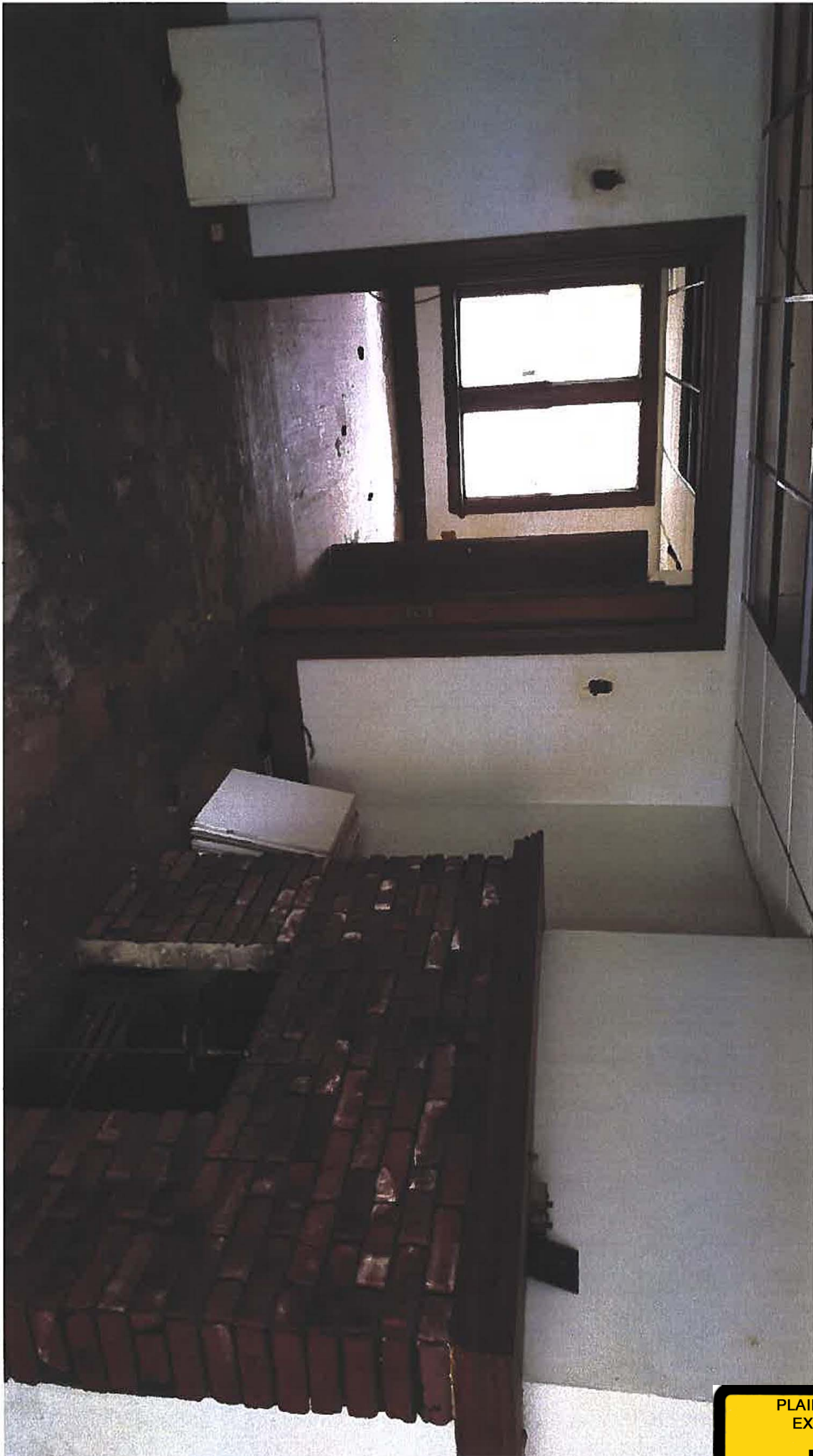


PLAINTIFF'S  
EXHIBIT  
**C**



PLAINTIFF'S  
EXHIBIT  
**D**





PLAINTIFF'S  
EXHIBIT  
**E**

**History Detail Report**

Thursday, May 5, 2022

1/1

Location ID: MASW-000321-0000-01  
 Account #: 104242000  
 Service Address: 321 W MASON ST  
 Customer Name: MAIDLLOW, GEOFFREY

Posted	Created	Action Read	Item - or - User Usage	Amount Other Info	Balance
10/29/10	10/29/10 11:58	Bill Adjustment	Delinquent UB	-\$187.05	\$0.00
02/02/10	02/02/10 15:26	Bill Calculated	10/01/09-01/12/10	DELQ \$67.07	\$187.05
02/01/10	02/01/10 16:31	Final Processed			\$119.98
01/12/10	02/01/10 16:31	Meter Read 31000	Water 1200	A	\$119.98
01/12/10	01/12/10 15:39	Bill Adjustment	SHUT OFF FEES	\$20.00	\$119.98
11/23/09	11/23/09 12:39	Penalty		\$9.09	\$99.98
10/26/09	10/26/09 10:36	Bill Calculated	07/01/09-10/01/09	\$90.89	\$90.89
10/15/09	10/15/09 15:41	Payment Posted	R09-138360	\$87.24	\$0.00
10/13/09	10/13/09 16:25	Bill Adjustment	SHUT OFF FEES	\$20.00	\$87.24
10/01/09	10/01/09 14:26	Meter Read 29800	Water 2200	Auto	\$67.24
08/21/09	08/21/09 12:56	Penalty		\$6.12	\$67.24
07/27/09	07/27/09 12:30	Bill Calculated	04/01/09-07/01/09	\$61.12	\$61.12
07/06/09	07/06/09 12:34	Payment Posted	R09-118863	92 \$98.87	\$0.00
07/01/09	07/01/09 16:19	Meter Read 27600	Water 1100	EQCR Auto	\$98.87

Total Usage: 4,500.00

PLAINTIFF'S  
EXHIBIT

**F**



## Neighborhood & Economic Operations

161 W. Michigan Ave. • Jackson, MI 49201  
Phone: (517) 788-4060, (517) 788-4012 • Facsimile: (866) 971-2151

January 23, 2017

Subject: 1/17/17 Inspection findings- 321-23 W. Mason St. / 903 W. Washington

### 321-23 W. Mason- Exterior:

- Replace roof shingles to requirements of MRC 2015 due to patched/mismatched shingles. Note- Existing open holes through roof deck patched prior to inspection. Shingles and decking need to be opened up to verify extent of water damage to rafters, attic insulation, decking. 14-72(1)(c), 14-26, 28-115(d)(1)(2d)
- Repair 2- exterior detached accessory structures or demolish in accordance with City of Jackson Code of Ordinances Section 5-3- Demolition of Structures. 14-71(5)
- Install second story deck landing outside 2-south second story egress doorways or remove doorways and infill openings with exterior siding to match surrounding materials. 14-61(3)
- Replace damaged SW first story concrete stair landing. 14-72(2)
- Rehang gutters and downspouts at all eaves as needed to provide drainage from roof system. 14-72(1)(d)
- Replace damaged/missing exterior lighting at exterior egress doorways. 14-82(5)(h)(4)
- Paint exterior windows/doors/siding/trims/soffits/fascia as needed to protect all wood surfaces from weather. 14-72(1)(b)
- Install hard surface driveways to E. and W. to provide parking surface for units 321 & 323. 14-71(4), 28-100(4)(d)(1)
- Repair glass in basement windows. Boarded windows. 14-72(3)
- Repair broken masonry knee wall cap at front entry stairway to unit 321. 14-72(2)
- Install address number markings to unit 321 & 323. 14-72(5)

### 321-23 W. Mason- Interior General:

- Operable electrical, HVAC, plumbing and water service systems not in place at time of inspection. Partial electrical wiring repairs commenced at time of inspection.
  - 1 of 2 service upgrades completed
    - New service panel has neutral and ground conductors terminated under the same lugs. Conductors will need to be separated prior to final inspection. 14-82(5)(k)
  - NM cables will need to be *securely fastened and terminated in boxes*. 14-82-(5)(k)
  - Open splices will need to be replaced or placed in boxes 14-82(5)(k)

PLAINTIFF'S  
EXHIBIT

**G**



- Repair/reset all doors for proper installation. 14-81(5)(g)
  - Disable all double sided skeleton door locks. 14-61(3)(c)
- Repair/replace windows. Existing windows could not be opened this date. First floor windows screwed shut and upper windows could not be opened this date. Broken glass in first floor living room windows. 14-101(1)
- Second story egress doorway- See comment noted in exterior conditions.
- Provide 1 hr. fire separation at first floor ceilings. Multiple areas of ceilings missing and/or damaged at date of inspection. 14-111(6), MRC R302.3
- Replace damaged exterior exit door from kitchen. 14-61(3)
- Repair all walls/ceilings. 14-81(5)(g)
- Install screen/storm door on uninsulated exterior door openings. 14-101(5)(a)
- Install smoke detectors to code. 14-61(5)
- Install carbon monoxide detectors to code. 14-61(6)

**903 W. Washington-Exterior:**

- Repair damaged front porch guardrails. 14-72(2)
- Repair trim at main front entry door. 14-72(3)
- Install screen/storm door to uninsulated entry door openings. 14-101(5)(a)
- Repair/finish caulk window sill trims as needed. 14-72(1)
- Repair damaged or missing siding corners as needed. 14-72(1)(b)
- Repair all damaged window storm/screen units. 14-101(5)(b)
- Paint all window and trims as needed. 14-72(1)(b)
- Adjust/repair gutters for positive drainage flow. 14-72(1)(d)
- Install hard surface driveway. 14-71(4), 28-100(4)(d)((1)
- Touch up paint all soffit as needed for finish paint covering. 14-72(b)

**903 W. Washington-interior:**

- Operable electrical, HVAC, plumbing and water service systems not in place at time of inspection.
- Complete bathroom installation and finish (toilet/vanity/walls/ceiling). 14-82(2)
- Install missing interior doors. 14-81(5)(g)
- Disable all double sided skeleton locks. 14-61(3)(c)
- Install operable HVAC system to home. 14-82(4)
- Complete all electrical wiring to home and arrange for final inspection. At time of inspection power had been shut off by the customer at the main disconnect. Unable to verify or test any circuits.



## City of Jackson, Michigan Customer Statement

321 W MASON LLC  
PO BOX 1372  
ANN ARBOR, MI 48106

Property Number 4-052700000  
Property Address 321 W MASON ST  
Customer No: 018103

### Invoice 30 Days or More Outstanding as of 03/07/2022

Invoice Number	Invoice Date	Code	Invoice Charges	Finance Charges	Payments	Balance Due
1800023442	12/13/2018	CODE	31,280.00	156.94	0.00	\$31,436.94

**Total Due \$31,436.94**

PLEASE REMIT THE TOTAL BALANCE DUE, PAYABLE TO THE JACKSON CITY CLERK. PAYMENTS CAN BE MADE BY MAIL OR AT THE CLERK'S OFFICE AT 161 W. MICHIGAN AVENUE, JACKSON, MI 49201 (1ST FLOOR), FROM 8 A.M TO 5 P.M. MONDAY THROUGH FRIDAY. PAYMENTS CAN ALSO BE MADE VIA THE CITY'S WEBSITE AT WWW.CITYOFJACKSON.ORG. WEBSITE PAYMENTS ARE SUBJECT TO A 3% CONVENIENCE FEE WITH A MINIMUM \$1 CHARGE.

INVOICES ARE DUE UPON RECEIPT. UNPAID INVOICE BALANCES, 60 DAYS AFTER THE INVOICE DATE, ARE SUBJECT TO A FINANCE CHARGE OF 1.25% PER MONTH (15% PER ANNUM). TO AVOID ADDITIONAL FINANCE CHARGES, PLEASE SUBMIT YOUR PAYMENT BY THE 25TH DAY OF THE MONTH.

ALL NONASSESSABLE INVOICES WILL BE SUBMITTED TO A COLLECTION AGENCY AFTER 90 DAYS PAST DUE.

IF YOU HAVE BEEN INVOICED FOR A CHARGE FOR SERVICES TO YOUR PROPERTY, THE CITY WILL PLACE THE UNPAID INVOICE ON A SPECIAL ASSESSMENT ROLL (AFTER 3 MONTHS PAST THE INVOICE DATE). THIS WILL RESULT IN A LIEN AGAINST THE PROPERTY.

IF YOU HAVE ANY BILLING QUESTIONS, PLEASE CONTACT THE FOLLOWING MONDAY THROUGH FRIDAY FROM 8:00 A.M. - 5:00 P.M. EST.:

SUE BURT-FINANCE DEPARTMENT (517) 768-6386

IMPORTANT BANKRUPTCY INFORMATION: IF YOU OR YOUR ACCOUNT ARE SUBJECT TO PENDING BANKRUPTCY PROCEEDINGS, OR IF YOU RECEIVED A BANKRUPTCY DISCHARGE, THIS INVOICE IS FOR INFORMATIONAL PURPOSES ONLY AND IS NOT AN ATTEMPT TO COLLECT A DEBT.

Certificate Information

[Back To Top](#)

Number	CFVA1900059	Status	Closed
Type	FVA PROPERTY REGISTRATION		
Description	No Data to Display		
Bldg/Ref #	No Data to Display	Buildings	1
Complex	Multi Family	Billing Class	No Data to Display
Since	06/04/2019	Expires	06/04/2021
Issued	06/04/2019		
Inspector	MARK FISH	Group	No Data to Display
Stipulations	No Data to Display		

Certificate Information

[Back To Top](#)

Number	CFVA1800018	Status	Closed
Type	FVA PROPERTY REGISTRATION		
Description	No Data to Display		
Bldg/Ref #	No Data to Display	Buildings	1
Complex	Multi Family	Billing Class	No Data to Display
Since	01/14/2016	Expires	02/07/2020
Issued	02/07/2018		
Inspector	William Mills	Group	No Data to Display
Stipulations	207 SECOND ST. LLC P.O. BOX 1372 ANN ARBOR, MI 48106 LEAH KALISH 5820 N CANTON CENTER RD #110 CANTON, MI 48187 LMK999@COMCAST.NET		

Certificate Information

[Back To Top](#)

Number	CFVA1600003	Status	Closed
Type	FVA PROPERTY REGISTRATION		
Description	No Data to Display		
Bldg/Ref #	No Data to Display	Buildings	1
Complex	Multi Family	Billing Class	No Data to Display
Since	01/14/2016	Expires	01/14/2018
Issued	06/27/2017		
Inspector	JERRY STACKHOUSE	Group	No Data to Display
Stipulations	SEND ALL NOTICES TO: 207 SECOND ST. LLC P.O. BOX 1372 ANN ARBOR, MI 48106 LEAH KALISH 5820 N CANTON CENTER RD #110 CANTON, MI 48187		



PLAINTIFF'S  
EXHIBIT**J**

1/2

**History Detail Report**

Thursday, May 5, 2022

Location ID: 2ND1-000207-0000-02  
 Account #: 103470100  
 Service Address: 207 SECOND ST  
 Customer Name: WILDWOOD APARTMENTS LLC

Posted	Created	Action	Item - or - User	Amount	Balance
		Read	Usage	Other Info	
06/18/12	06/18/12 15:29	Payment Posted	R12-347734	\$112.74	\$0.00
05/18/12	05/18/12 11:51	Bill Calculated	01/26/12-02/02/12	\$12.74	\$112.74
05/18/12	05/18/12 9:56	Final Processed	Final Processed		\$100.00
04/11/12	04/11/12 12:11	Payment Posted	R12-329935	\$99.84	\$100.00
03/16/12	03/16/12 7:50	Past Due Notice Sen	Past Due=\$199.84		\$199.84
02/22/12	02/22/12 14:11	Penalty		\$17.44	\$199.84
02/02/12	05/18/12 9:56	Meter Read	Water		\$182.40
		176100		Act	
01/26/12	01/26/12 15:34	Bill Calculated	10/03/11-01/26/12	\$182.40	\$182.40
01/26/12	01/26/12 8:39	Meter Read	Water		\$0.00
		176100	3800	Est	
11/03/11	11/03/11 15:50	Payment Posted	R11-289079	\$45.30	\$0.00
10/27/11	10/27/11 9:36	Credit Transfer		\$0.00	\$45.30
10/27/11	10/27/11 9:36	Bill Calculated	07/05/11-10/03/11	\$188.07	\$45.30
10/07/11	10/07/11 10:21	Payment Posted	R11-281880	\$165.05	-\$142.77
10/05/11	10/05/11 15:22	Payment Posted	R11-281371	\$142.77	\$22.28
10/03/11	10/03/11 15:22	Meter Read	Water		\$165.05
		172300	4100	Auto	
09/16/11	09/16/11 8:43	Shutoff Notice Sent	Shutoff=\$142.77		\$165.05
08/23/11	08/23/11 13:01	Penalty		\$14.28	\$165.05
07/27/11	07/27/11 11:16	Bill Calculated	04/01/11-07/05/11	\$150.77	\$150.77
07/05/11	07/05/11 16:20	Meter Read	Water		\$0.00
		168200	3500	Auto	
05/20/11	05/23/11 9:30	Payment Posted	R11-248495	\$142.53	\$0.00
04/26/11	04/26/11 13:34	Credit Transfer		\$0.00	\$142.53
04/26/11	04/26/11 13:34	Bill Calculated	01/04/11-04/01/11	\$162.00	\$142.53
04/01/11	04/01/11 15:11	Meter Read	Water		-\$19.47
		164700	3900	Auto	
02/23/11	02/23/11 10:51	Payment Posted	R11-229770	\$214.24	-\$19.47
01/26/11	01/26/11 10:09	Bill Calculated	10/01/10-01/04/11	\$194.77	\$194.77
01/04/11	01/04/11 15:32	Meter Read	Water		\$0.00
		160800	5100	Auto	
11/29/10	11/29/10 12:55	Payment Posted	R10-213705	\$106.18	\$0.00

11/23/10	11/23/10 10:25	Penalty		\$9.65	\$106.18
10/25/10	10/25/10 9:29	Bill Calculated	07/01/10-10/01/10	\$96.53	\$96.53
10/01/10	10/01/10 16:14	Meter Read	Water		\$0.00
		155700	4200	Auto	
08/12/10	08/12/10 12:25	Payment Posted	R10-193159	\$54.67	\$0.00
07/26/10	07/26/10 15:18	Bill Calculated	05/05/10-07/01/10	\$54.67	\$54.67
07/01/10	07/07/10 8:51	Meter Read	Water		\$0.00
		151500	2000	Auto	
05/05/10	05/06/10 12:39	Meter Read-Initial	Water		\$0.00
		149500		Auto	

---

Total Usage: 26,600.00



## Neighborhood & Economic Operations

161 W. Michigan Ave. • Jackson, MI 49201  
Phone: (517) 788-4060, (517) 788-4012 • Facsimile: (866) 971-2151

### Initial Inspection Notification Letter

August 23, 2021

207 SECOND STREET LLC  
C/O Leah Kalish  
P O BOX 3816  
ANN ARBOR, MI 48106

**Important Notice:**

For the health and safety of housing residents and to mitigate against the risk of COVID-19, all City inspectors will be required to wear a mask and other PPE, as appropriate. Residents/attendees at the inspection are encouraged to wear a face covering and practice social distancing.

SUBJECT: Property: 207 SECOND ST  
Inspector: Michael Brandt

The City of Jackson inspects housing units which are not the primary residence of the property owner on a biennial basis. These regular inspections ensure your property remains in compliance with Chapter 14 - Housing Code City of Jackson Code of Ordinances. The City Assessor's records indicate that you are the current owner of the above referenced property.

The initial inspection of this property is scheduled for:

**Date: September 14, 2021**

**Time: 10:30 AM**

**This is the only notice you will receive. Failure to appear, allow access, or cancel with less than 10 days' notice will be charged one hour at the current hourly rate.**

All utilities must be on for the inspector to complete his/her inspection. Please identify yourself to the Inspector upon arrival; he/she will have City identification and will be driving a clearly marked City vehicle. Please also notify your tenants of the scheduled inspection. It is imperative that you, your registered local agent, or property management company be present at the time and date specified to allow access to all areas of the property.

The Housing Code Inspection Program charges an hourly rate of \$254.81, billed in 15 minute increments including travel time. We have included a brochure itemizing a pre-inspection checklist of common violations allowing you to prepare beforehand and minimize the inspection time. All violations cited must be corrected; a follow-up inspection will occur approximately **90 days** thereafter. Hazardous violations must be corrected immediately and reinspected within **10 days**.

If you no longer own this property, please provide our office with documentation to that effect as soon as possible. If you have any questions prior to your inspection, please call Michael Brandt (business card enclosed).

Brian Taylor  
Chief Building Official

cc: KALISH LEAH, 5820 N Canton Center Rd #110, Canton, MI 48187; [lmk999@comcast.net](mailto:lmk999@comcast.net)

PLAINTIFF'S  
EXHIBIT

**K**



# NOTICE!

Address

207 Second

OUR INSPECTOR WAS AT THE ABOVE ADDRESS FOR

THE FOLLOWING INSPECTIONS:

(lock out)

Date

7-14-21

Time

10:30

- A.M.  
P.M.

Please Notify us when you will be home.

City of Jackson,

Department of Neighborhood & Economic Operations

161 W. Michigan Ave. • Jackson, MI 49201

517-788-4012



PLAINTIFF'S EXHIBIT





## Neighborhood & Economic Operations

161 W. Michigan Ave. • Jackson, MI 49201  
Phone: (517) 788-4060, (517) 788-4012 • Facsimile: (866) 971-2151

### Final Notice Prior to Search Warrant

October 05, 2021

207 SECOND STREET LLC  
P O BOX 3816  
ANN ARBOR MI 48106

**Important Notice:**

For the health and safety of housing residents and to mitigate against the risk of COVID-19, all City inspectors will be required to wear a mask and other PPE, as appropriate. Residents/attendees at the inspection are encouraged to wear a face covering and practice social distancing.

SUBJECT: Property: 207 SECOND ST  
Inspector: Michael Brandt

On **09/14/2021**, an attempt was made to inspect the above property under Chapter 14, Article II – Minimum Housing Standards, of the City of Jackson Code of Ordinances. The inspector was unable to gain access to all areas of the property on that date, requiring another inspection to be scheduled as follows:

**11/02/2021, 9:00 AM**

**This is the only notice you will receive! Failure to appear, allow access, or cancel with less than 10 days' notice will be charged one hour at the current hourly rate.**

**All utilities must be on for the inspector to complete his inspection.**

**It is imperative that you, your responsible local agent, or management company be present at the time and date specified to allow access to all areas of the property. If you or your authorized representative are not present for this inspection, the City will obtain an Administrative Search Warrant to conduct the required inspection.**

If you have any questions prior to your inspection, please call Michael Brandt.

Brian Taylor  
Chief Building Official

cc: KALISH LEAH, 5820 N Canton Center Rd #110, Canton, MI 48187  
cc: lmk999@comcast.net

PLAINTIFF'S  
EXHIBIT

**M**



# NOTICE!

Address 207 Seard St

OUR INSPECTOR WAS AT THE ABOVE ADDRESS FOR THE FOLLOWING INSPECTIONS:

2nd Attempt Initial

Housing Inspection

Date 11-2-21 Time 8:59 - A.M. P.M.

Please Notify us when you will be home.

City of Jackson,

Department of Neighborhood & Economic Operations

161 W. Michigan Ave. • Jackson, MI 49201

517-788-4012



PLAINTIFF'S EXHIBIT

**N**



## Neighborhood & Economic Operations

161 W. Michigan Ave. • Jackson, MI 49201  
Phone: (517) 788-4060, (517) 788-4012 • Facsimile: (866) 971-2151

### Final Notice Prior to Search Warrant

February 15, 2022

207 SECOND STREET LLC  
C/O LOREN ROMAIN  
P O BOX 3816  
ANN ARBOR MI 48106

**Important Notice:**

For the health and safety of housing residents and to mitigate against the risk of COVID-19, all City inspectors will be required to wear a mask and other PPE, as appropriate. Residents/attendees at the inspection are encouraged to wear a face covering and practice social distancing.

SUBJECT:           Property:           207 SECOND ST  
                          Inspector:           Michael Brandt

On **02/16/2022**, an attempt was made to inspect the above property under Chapter 14, Article II – Minimum Housing Standards, of the City of Jackson Code of Ordinances. The inspector was unable to gain access to all areas of the property on that date, requiring another inspection to be scheduled as follows:

**Rescheduled Date/Time**  
**Per your request**  
**03/16/2022, 1:00 PM**

**This is the only notice you will receive! Failure to appear, allow access, or cancel with less than 10 days' notice will be charged one hour at the current hourly rate.**

**All utilities must be on for the inspector to complete his inspection.**

**It is imperative that you, your responsible local agent, or management company be present at the time and date specified to allow access to all areas of the property. If you or your authorized representative are not present for this inspection, the City will obtain an Administrative Search Warrant to conduct the required inspection.**

If you have any questions prior to your inspection, please call Michael Brandt.

Brian Taylor  
Chief Building Official

cc: KALISH LEAH, 5820 N CANTON CENTER RD #110, CANTON, MI 48187 - [lmk999@comcast.net](mailto:lmk999@comcast.net)

PLAINTIFF'S  
EXHIBIT

0

**JACKSON**  
Founded 1829

**Michael Brandt**  
*Code Enforcement Officer*  
DEPARTMENT OF NEIGHBORHOOD  
& ECONOMIC OPERATIONS  
Office: 517-768-6423  
Cell: 517-416-6516  
mbrandt@cityofjackson.org  
161 W. Michigan Ave.  
Jackson, MI 49201  
www.cityofjackson.org

# NOTICE!

Address

207 Second St

OUR REPRESENTATIVE CALLED TO MAKE

THE FOLLOWING INSPECTION

207 Second St

(1 Lock out !!)

second Attempt

Date

3/16-22

Time

A.M.  
P.M.

Please notify us when you will be home.

Respectfully Yours,

*Brandt*

CODE OFFICIAL

PLAINTIFF'S  
EXHIBIT

**P**



## Neighborhood & Economic Operations

161 W. Michigan Ave. • Jackson, MI 49201  
Phone: (517) 788-4060, (517) 788-4012 • Facsimile: (866) 971-2151

**FOLLOW-UP INITIAL INSPECTION LETTER**  
**FINAL NOTICE - EXECUTION OF SEARCH WARRANT**

April 06, 2022

CERTIFIED MAIL NO. : 9214 8901 0661 5400 0174 5038 22

207 SECOND STREET LLC  
P O BOX 3816  
ANN ARBOR MI 48106

SUBJECT: Property: 207 SECOND ST  
Inspector: Michael Brandt

Dear Owner:

The records of the City indicate you are the owner of the above referenced property. If you are not the owner, please provide our office with documentation to that effect immediately. On 03/16/2022, an attempt was made to inspect the above referenced property under the provisions of Chapter 14, Article II of the City of Jackson Code of Ordinances. The inspector was unable to gain access to all areas of the property on that date.

Another inspection for the above referenced property has been scheduled for:

**05/26/2022, 9:00 AM**

**This is the only notice you will receive! Failure to appear, allow access, or cancel with less than 10 days' notice will be charged one hour at the current hourly rate.**

**It is imperative that you, your responsible local agent, or management company be present at time and date specified to allow access to all uninspected areas of the property. Failure by you or your agent to appear and allow voluntary access will require the execution of an **ADMINISTRATIVE SEARCH WARRANT** to gain entry and proceed with the inspection.**

If you have any questions, please call the office at (517) 788-4012.

Brian Taylor  
Chief Building Official

cc: KALISH LEAH, 5820 N Canton Center Rd #110, Canton, MI 48187

PLAINTIFF'S  
EXHIBIT

**Q**



**Neighborhood & Economic Operations**

161 W. Michigan Ave. • Jackson, MI 49201

Phone: (517) 788-4060, (517) 788-4012 • Facsimile: (866) 971-2151

**ADMINISTRATIVE SEARCH WARRANT**

**NOTICE !!**

**207 SECOND ST**

This property will be inspected for Housing Code violations on:

**05/26/2022, 9:00 AM**

Absent voluntary entry, inspectors and officer(s) from the Jackson Police Department will enter the property under authority of an ADMINISTRATIVE SEARCH WARRANT to conduct the required inspection. If necessary, entry will be gained through execution of the warrant.

If you have any questions you may call our office at (517) 788-4060.

Neighborhood and Economic Operations  
City of Jackson

PLAINTIFF'S  
EXHIBIT

**R**



**City of Jackson, Michigan  
Municipal Billing Invoice**

207 SECOND STREET LLC  
P O BOX 3816  
ANN ARBOR MI 48106



**Invoice Date**  
11/04/2021

Invoice Number	Certificate #	Address	Amount Due
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00097786	CR211096	207 SECOND ST	\$ 255.00
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Fee Details:	Quantity	Description	Balance
	60.000	Initial - 9/14/21 LOCKOUT	\$ 255.00

00098963	CR211096	207 SECOND ST	\$ 255.00
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Fee Details:	Quantity	Description	Balance
	60.000	Initial 2nd attempt - 11/2/21 LOCKOUT	\$ 255.00

Total Amount Due

**\$ 510.00**

**PLEASE SEND REMITTANCE TO:**

City of Jackson  
Dept. of Neighborhood & Economic Operations  
161 W Michigan Ave, 3rd Floor, Jackson, MI 49201

~or~

Pay online at [www.cityofjackson.org](http://www.cityofjackson.org)

(Please note that online payments will be assessed a 3% convenience fee with a minimum \$1 charge)

Invoices are due upon receipt. Unpaid invoice balances, 60 days after the invoice date, are subject to a finance charge of 1.25% per month (15% per annum). To avoid additional finance charges, please submit your payment by the 25th of the month.

**ALL NON-ASSESSABLE INVOICES WILL BE SUBMITTED TO A  
COLLECTION AGENCY AFTER 90 DAYS PAST DUE.**

**IMPORTANT BANKRUPTCY INFORMATION:** If you or your account are subject to pending bankruptcy proceedings, or if you received a bankruptcy discharge, this invoice is for informational purposes only and is not an attempt to collect debt.

If you have questions about this invoice, please call the Dept. of Neighborhood & Economic Operations at (517) 788-4012.





STATE OF MICHIGAN  
IN THE ADMINISTRATIVE HEARINGS BUREAU FOR THE CITY OF JACKSON

CITY OF JACKSON,  
a Michigan Municipal Corporation,

Petitioner,

CASE NO. 19-500 HI  
HON. John Kane

vs.

232 W. MASON LLC,

Respondent.

---

JACKSON CITY ATTORNEY'S OFFICE  
BY: MATTHEW M. HAGERTY (P-66015)  
MARK M. PORTERFIELD (P-57917)  
Attorneys for Petitioner  
161 W. Michigan Avenue  
Jackson, MI 49201  
(517) 788-4050

---

LOREN ROMAIN  
Resident Agent for 232 W. Mason LLC  
Respondent  
P.O. Box 1372  
Ann Arbor, MI 48106

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**POST-TRIAL BRIEF ON BEHALF OF  
PETITIONER, CITY OF JACKSON**

**STATEMENT OF FACTS**

Respondent, 232 W. Mason LLC (“Respondent”) is a Michigan limited liability company and is the owner of the real property commonly known as 232 W. Mason Street, Jackson, Michigan (the “Property”). A single family house is located at the Property.

Pursuant to the Home Rule City Act, MCL §117.1, et seq., the City established an Administrative Hearing Bureau (“AHB”) to seek enforcement of blight violations as defined by the Code of Ordinances for the City of Jackson (the “City Code”). The City maintains a housing inspection program under Chapter 14 of the City Code known as the Non-Owner Occupied Residential Property Registry (sometimes referred to “NOORPR”). Under NOORPR, non-owner



occupied residential dwellings are subject to registration and inspection. In April of 2018, the City conducted a housing inspection of the house located at the Property.

On October 11, 2019, a case was commenced in AHB bearing Case No. 19-500 HI based on the Respondent's failure to correct seven (7) housing violations cited under Chapter 14 of the City Code, out of the originally cited fifty-five (55) violations. A trial was eventually held on February 10, 2021. The City called two witnesses to testify and admitted four (4) exhibits into evidence. The Respondent did not call any witnesses and did not admit any exhibits into evidence.

The administrative hearings officer requested that the City submit a brief by March 12, 2021 to cite the authority for the two year inspection cycle used by the Department of Neighborhood and Economic Operations. The Respondent will then have thirty (30) days to submit a reply brief.

### **DISCUSSION**

Section 14-2 of the City Code describes the findings and purpose of the NOORPR:

The city council finds that there are non-owner occupied residential dwellings or units in the city that have become unsafe, unsanitary and unsecure due to deterioration. The city council finds that it is in the best interests of the health, safety and welfare of the city and its residents to require that all non-owner occupied residential dwellings or units be **registered** and **inspected** to ensure safe, secure and sanitary living conditions for those residing in non-owner occupied residential dwellings or units. The city council also finds that by requiring property registration of all non-owner occupied residential dwellings or units in the city, the continuing maintenance of safe and quality non-owner occupied residential dwellings and units will be maintained and property values will be enhanced. . . [emphasis added].

Section 14-4 requires registration of a non-owner occupied residential property. Section 14-9 of the City Code provides that a non-owner occupied residential property must be registered with the



City every two years. Section 14-14 provides the application fees and inspections fees in connection with property registration shall be established by resolution of the city council. Section 14-42 (2) provides that the Chief Building Official shall inspect buildings and structures regulated by Chapter 14. Section 14-42 (3) provides that an inspection shall be conducted in the manner best calculated to secure compliance with Article II of Chapter 14 of the City Code.

Because Chapter 14 of the City Code provides that non-owner occupied residential dwellings are to be registered every two years, the City schedules the inspection cycles to match the registration time periods. This coordination is permitted by Section 14-42 (3). The City Council has approved and confirmed this timing and has not set forth any resolution contradicting it. In the resolutions passed by the City Council setting the hourly inspection rate charged to property owners for the inspections, the formula used by the City expressly provides for a two year inspection cycle. This formula is contained in the last three (3) resolutions passed by the City Council on May 24, 2016, May 2, 2017 and August 11, 2020 [copies of the resolutions are attached hereto as Exhibits 1, 2 and 3]. The formula to determine the hourly cost of the inspection is:

$$\frac{\text{Total Estimated Housing Code Enforcement Fund Inspection-Related Expenditures for a 2-Year Cycle}}{\text{Total Estimated Number of Housing Code Enforcement Billable Inspection Hours for a 2-Year Cycle}}$$

Using this formula and conducting inspections on anything other than a two year inspection cycle would lead to either overcharging or undercharging the owner.

Further evidence for the authority to use a two year cycle can be found in the discussions held by the City Council. At the November 24, 2020 City Council meeting, the Director of the Neighborhood and Economic Operations Department gave a presentation that discussed the two

year inspection cycle and the effect on the City's budget if the NEO Department moved to a three or four year inspection cycle. The presentation was Item 5.A. on the Agenda [copies of the Agenda and the slides presented at the meeting are attached hereto as Exhibits 4 and 5]. At the presentation, the City Council and city staff discussed the possibility of moving to a three or four year inspection cycle and the effect that this move would have on the City's budget and the hourly cost of the inspections.

Respondent's argument that the City is not authorized to use a two year inspection, although it is required to use a two year registration cycle is not logical. The rules of statutory construction also apply to ordinances. *Capitol Properties Group, LLC v. 1247 Center Street, LLC*, 283 Mich. App. 422, 434 (2009). An ordinance must be construed as a whole. *McMillan v. Douglas*, 322 Mich. App. 354, 357 (2017). The Michigan Supreme Court stated in *City of Grand Rapids v. Crocker*, 219 Mich. 178, 186-187 (1922):

This statute was enacted as a whole. It has a definite purpose, apparent from its title and its several provisions. . . All the sections and parts must, if possible, be made to harmonize with each other, and thus constitute a complete and perfect act, consistent with its scope and object. To this end, each section and each part must be construed in connection with every other section and part.

To discern the legislature's intent, statutory provisions are not to be read in isolation; rather, context matters, and thus statutory provisions are to be read as a whole. *Robinson v. City of Lansing*, 486 Mich. 1, 15, (2010).

#### **CONCLUSION**

Chapter 14 of the City Code provides for non-owner occupied property registrations to be completed every two (2) years. Chapter 14 also permits housing inspections of these properties. The City Council, the Department of Neighborhood and Economic Operations and the Chief

Building Official have scheduled the inspection cycle to coincide with the registrations to best implement the goals and purpose of Chapter 14. Any argument by Respondent that the inspection of the Property in this case was not permitted by the City Code is not legally or factually tenable.

DATED: February 25, 2021

Respectfully submitted,

JACKSON CITY ATTORNEY'S OFFICE

BY: /s/ Mark M. Porterfield  
MARK M. PORTERFIELD (P-57917)  
Attorneys for Respondent  
161 W. Michigan Ave.  
Jackson, MI 49201  
(517) 788-4050  
[mporterfield@cityofjackson.org](mailto:mporterfield@cityofjackson.org)

2016.48

**RESOLUTION**

**BY THE CITY COUNCIL:**

**WHEREAS**, the City of Jackson has established a Non-Owner Occupied Residential Property Registry ("NOORPR") and must establish the amount of fees for inspections conducted under the program; and

**WHEREAS**, the City of Jackson desires to change the structure of its fee for NOORPR inspections in order to more closely reflect the actual costs to the City of inspections conducted under the NOORPR program; and

**WHEREAS**, the City of Jackson wishes to have the aforementioned fees retained by the Neighborhood and Economic Operations Department to further the Overall Economic Stabilization Program that was adopted by the City of Jackson;

**NOW, THEREFORE, BE IT RESOLVED** that the City of Jackson establishes the following fees effective July 1, 2016:

**A. Fees for housing inspections:**

1. The fee for an initial housing inspection shall be based on an hourly rate for the time that a building inspector spends preparing for and conducting the inspection. The hourly rate shall be \$208.88 per hour.
2. The hourly rate charged for NOORPR inspections is calculated by using the following formula:

Total Estimated Housing Code Enforcement Fund Inspection-Related  
Expenditures for a 2-Year Cycle  
divided by  
Total Estimated Number of Housing Code Enforcement Billable  
Inspection Hours for a 2-Year Cycle.

3. The fee for subsequent inspections required due to the fault of the owner of the structure or unit shall be also be based on the \$208.88 hourly rate specified above.

**B. Fees for inspections conducted under the authorization of an administrative search warrant:**

1. There shall be a fee of \$208.88 per hour of building inspector time for a housing inspection conducted under the authorization of an administrative search warrant for a dwelling. This fee is in addition to the inspection fee provided in paragraph A above.

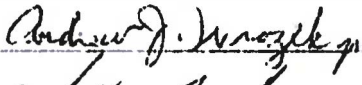
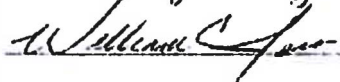
2016.48

- C. All of the above fees that are collected shall be retained by the Neighborhood and Economic Operations Department to be used for the furtherance of the Economic Stabilization Program as adopted by the City of Jackson and no part of the funds derived from the above fees may be transferred to the general operating fund for any purpose.

State of Michigan )  
County of Jackson) ss  
City of Jackson )

I, Randy J. Wrozek, Jr., City Clerk in and for the City of Jackson, County and State of Michigan, do hereby certify that the foregoing is a true and complete copy of a Resolution adopted by the Jackson City Council on the 24<sup>th</sup> day of May, 2016.

IN WITNESS WHEREOF, I have hereto affixed my signature and the seal of the City of Jackson, Michigan, on this 25<sup>th</sup> day of May, 2016.

 City Clerk  
 Mayor

**RESOLUTION**

**BY THE CITY COUNCIL:**

**WHEREAS**, the City of Jackson has established a Non-Owner Occupied Residential Property Registry ("NOORPR") and related housing inspection program, and must establish fees to recover the actual costs of said programs; and

**WHEREAS**, the City of Jackson desires to continue the formula by which housing inspection fees are calculated to more closely reflect the actual costs of the programs to the City and to ensure funding consistency; and

**WHEREAS**, the City of Jackson wishes to have the aforementioned fees which are calculated through a specific formula retained by the Neighborhood and Economic Operations Department to further the Overall Economic Stabilization Program that was adopted by the City of Jackson; and

**WHEREAS**, there is an increase in property owner's, their representative's, and/or occupant's not appearing at, not allowing entry into units, or rescheduling within the 10 day notification period, for properly noticed housing inspections; and

**WHEREAS**, considerable expense is incurred by the City of Jackson for building, housing, and/or other code enforcement officers to prepare for, attend, and document housing inspections; and

**WHEREAS**, it is necessary for the City to recoup reasonable and necessary expenses caused by a property owner, their representative's, and/or occupant's failure to appear for a scheduled and properly noticed inspection, failure to allow entry, and/or failure to reschedule an appointment outside of the 10 day notification period.

**NOW, THEREFORE, BE IT RESOLVED** that the City of Jackson establishes the following fees effective July 1, 2017:

**A. Fees for housing inspections:**

1. The fee for all housing inspections (preparing for, conducting, and following-up) shall be based upon a formula that will be annually evaluated and set automatically by the Finance Department based upon the prior year's actual expenses, projected program expenditures for the next fiscal year, and an amount necessary to sustain a reasonable cash flow for the program.

2. The formula shall be as follows:

$$\frac{\text{Total Estimated Program Cost}}{\text{Divided by}} \\ \frac{\text{Per Inspector Billable Hours x Annual Work Days}}{\text{x Number of Full-Time Equivalent Inspectors x 2 year cycle}}$$

Total estimated program cost includes, but is not limited to, the following: associated cost for all code enforcement officer and employees associated with running and managing the program, all associated overhead costs, all associated equipment costs, and estimated uncollectables.

- B. The fee for an inspection conducted under the authorization of the administrative search warrant shall be same as the hourly rate for housing inspections. This fee is in addition to the inspection fee provided in paragraph A above. This fee is also in addition to administrative and police costs incurred for a housing inspection conducted under the authorization of an administrative search warrant for a dwelling.
- C. Failure to appear for, failure to allow entry, and/or failure to reschedule an appointment no less than 10 day in advance shall result in the property owner being charged a flat one-hour fee of the housing inspectors time based upon the formula provided in paragraph A above.
- D. All of the above fees that are collected shall be retained by the Neighborhood and Economic Operations Department to be used for the sole purpose of furthering the Economic Stabilization Program and the housing inspection program as adopted by the City of Jackson and no part of the funds derived from the above fees may be transferred to the general operating fund for any purpose.

State of Michigan )  
County of Jackson) ss  
City of Jackson )

I, Andrew J. Wrozek, Jr., City Clerk in and for the City of Jackson, County and State of Michigan, do hereby certify that the foregoing is a true and complete copy of a Resolution adopted by the Jackson City Council on the 2<sup>nd</sup> day of May, 2017.

IN WITNESS WHEREOF, I have hereto affixed my signature and the seal of the City of Jackson, Michigan, on this 2<sup>nd</sup> day of May, 2017.

Andrew J. Wrozek, Jr. City Clerk

William Sfor Mayor



**A RESOLUTION SETTING HOUSING INSPECTION RATES  
PURSUANT TO CHAPTER 14 OF THE JACKSON CODE OF ORDINANCES  
FOR THE 2020-2021 FISCAL YEAR**

**BY THE CITY COUNCIL:**

**WHEREAS**, the City of Jackson ~~conducts~~ housing inspections of non-owner occupied residential properties pursuant to Chapter 14 of the Jackson Code of Ordinances and the Housing Law of Michigan, MCL §125.401, et seq.; and,

**WHEREAS**, the City of Jackson ~~currently~~ uses a formula to establish the hourly rate for housing inspections that is annually evaluated and set automatically by the Finance Department based upon the prior year's actual expenses and project program expenditures for the next fiscal year; and,

**WHEREAS**, the formula previously set by resolution was as follows: Total Estimated Program Costs divided by ~~Inspector~~ Billable Hours X Annual Work Days X Number of Full-Time Equivalent Inspectors X a 2 Year Cycle; and,

**WHEREAS**, the hourly rate for housing inspections for the 2019-2020 fiscal year was \$254.81 based on the formula, and was set to ~~increase~~ to approximately \$292.00 for the 2020-2021 fiscal year; and,

**WHEREAS**, due to the COVID-19 ~~pandemic~~ and subsequent economic hardships, the Department of Neighborhood and Economic ~~Operations~~ seeks to keep the hourly rate for housing inspections for the 2020-2021 fiscal year at \$255.00; and,

**NOW, THEREFORE, BE IT RESOLVED**, that the City of Jackson shall establish an hourly rate of \$255.00 for all housing inspections, which shall include the time preparing for, conducting, and following-up, for the 2020-2021 fiscal year.

**IT IS ALSO RESOLVED** that this hourly rate shall be applicable to fees for inspections conducted under the ~~authorization of an administrative search warrant~~.



**IT IS ALSO RESOLVED** that in the event that a property owner, agent, or occupant fails to appear to allow entry at the time of a properly scheduled inspection, the City of Jackson shall charge the above-referenced hourly rate based on one-half hour of the code enforcement officer's time.

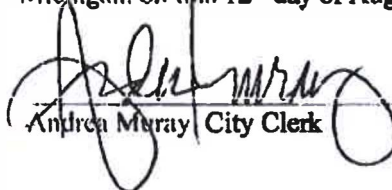
~~**IT IS ALSO RESOLVED** that all of the above fees that are collected shall be retained by~~  
the Department of Neighborhood and Economic Operations to be used for the furtherance of the Economic Stabilization Program as adopted by the City of Jackson and no part of the funds derived from the above fees may be transferred to the general operating fund for any purpose.

\* \* \* \* \*

State of Michigan )  
County of Jackson ) ss  
City of Jackson )

I, Andrea Muray, City Clerk in and for the City of Jackson, County and State of Michigan, do hereby certify that the foregoing is a true and complete copy of a Resolution adopted by the Jackson City Council on the 11<sup>th</sup> day of August, 2020.

IN WITNESS WHEREOF, I have hereto affixed my signature and the seal of the City of Jackson, Michigan, on this 12<sup>th</sup> day of August, 2020.

  
Andrea Muray, City Clerk



IF YOU WISH TO ADDRESS THE CITY COUNCIL,  
PLEASE COMPLETE FORM LOCATED ON DESK AT ENTRANCE AND PASS TO MAYOR.

## AGENDA - CITY COUNCIL MEETING

November 24, 2020

6:30 p.m.

1. **CALL TO ORDER.**
2. **PLEDGE OF ALLEGIANCE - Invocation will be given by the guest of the 1<sup>st</sup> Ward, Councilmember Arlene Robinson**
3. **ROLL CALL.**
4. **ADOPTION OF AGENDA.**
5. **PRESENTATIONS/PROCLAMATIONS.**
  - A. **Non Owner Occupied Property Registration Presentation**
6. **PUBLIC HEARINGS.**
7. **CITIZEN COMMENTS. (3-Minute Limit)**
8. **PETITIONS & COMMUNICATION FROM CITY STAFF AND OTHER GOVERNMENTAL ENTITIES. (Accept & Place on File).**
9. **CONSENT CALENDAR.**
  - A. **Meeting Minutes of November 10, 2020 City Council Meeting**  
**Recommendation:** *Approve the regular Meeting Minutes of the November 10th, 2020 City Council meeting.*
  - B. **Special Event Application for Kiwanis News Paper Sale**  
**Recommendation:** *Approve a request from the Kiwanis Club of Jackson, Michigan to host the Kiwanis Newspaper Sale on December 11, 2020 from 8:00 am to 4:00 pm on the streets and sidewalks of downtown Jackson.*

- C. Approve the Corrective Resolution for the 2020-2021 CDBG and HOME Budgets and Authorize the Mayor to Sign and Resubmit HUD Form SF-424.**  
**Recommendation:** *Approve the Corrective Resolution for the 2020-2021 CDBG and HOME budgets and authorize the Mayor to sign HUD Form SF-424 (corrected application).*
- D. Receive the Draft Consolidated Annual Performance and Evaluation Report (CAPER) and Authorize Dissemination for Public Comment.**  
**Recommendation:** *Receive the draft CAPER and authorize dissemination for public comment.*
- E. Traffic Control Order 2329, Southwest Avenue at West Morrell Street.**  
**Recommendation:** *Approval of Traffic Control Order (TCO) 2329 to rescind TCO 2283 and remove a "No Turn On Red" for south bound traffic on South West Avenue at the intersection of South West Avenue at West Morrell Street.*

**10. NEW BUSINESS.**

- A. First Reading: Adoption of Amendments to Chapter 16, Article XVIII of the Jackson Code of Ordinances.**  
**Recommendation:** *Approve amendments to Chapter 16, Article XVIII of the Jackson Code of Ordinances and advance to Second Reading.*
- B. First reading: Adoption of Amendments to Chapter 28, Article I, Sec. 28-5, Article III, Sec. 28-71, Article IV, see 28-100, Article V, Sec 28-140 of the Code of Ordinance.**  
**Recommendation:** *Approve first reading and advance for second read/final approval the attached Ordinance amendments to Chapter 28, Article I, Sec. 28-5, Article III, Sec. 28-71, Article IV, Sec. 28-100 and Article V, sec. 28-140 of the Code of Ordinances and Advance to Second Reading*
- C. Special Assessment**  
**Recommendation:** *Consideration of resolution regarding currently existing Special Assessments.*
- D. Marihuana License Approval**  
**Recommendation:** *Approval of a conditional Marihuana License for Attitude Wellness LLC d/b/a Lume Cannabis Co.*

**11. OLD BUSINESS.**

- A. Approve the Accounts Receivable Write-Off Request.**  
**Recommendation:** *Consideration of the request to write off certain Attorney's Office Accounts Receivables.*

**12. CITY COUNCILMEMBER'S COMMENTS**

**13. MANAGER'S COMMENTS**

**14. ADJOURNMENT**



### Jackson City Council Meeting, November 24th 2020

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**SUMMARY OF THE CURRENT HOURLY RATE FORMULA**

2021 Housing Code Enforcement

Includes (FY19, FY20, and FY21) with a number of inspectors ± 2 years

**Current Assumptions**

- 6 inspectors @ 3 hours per day to housing code enforcement
- 6 inspectors work 215 days per year doing only housing code enforcement
- 6 inspectors are only paid from housing code enforcement
- Cycle remains fixed at 2 years (timeframe for certification)
- Uncollectibles are included in the total program costs

FY 18/19 actual = 28%    FY 19/20 actual = 17%    FY 20/21 budget = 23%  
[COVID-19 Year]



### Jackson City Council Meeting, November 24th 2020



**LIMITATIONS OF THE CURRENT HOURLY RATE FORMULA**

- The fiscal 2 year cycle does not contemplate the increased number of cancellations and lockouts (50-125 in the prior 2 years)
  - Result: inability to complete the inspection cycle in 2 years
- Not all of the inspectors work exclusively in housing code
  - Result: Inaccurate number of billable hours used in the current formula
- Administrative Housing Bureau (AHB); Foreclosed, Vacant, and Abandoned (FVA) inspections; vacancies/condemns; and blight enforcements each have separate fee structures
  - Result: inclusion of non NOORP revenues in the current formula













### Jackson City Council Meeting, November 24th 2020



**SUMMARY**

- Switching to a 3 year inspection cycle aligns with the resulting timetable for certification
- Base faculty rate can be utilized ONLY if
  - all net revenues remain at budgeted levels
  - uncollectibles remain at or below budgeted levels

Contingency needed to address potential budget shortfalls (otherwise General fund will have to offset the deficiencies)  
Continue to actively address the level of uncollectibles



STATE OF MICHIGAN  
IN THE ADMINISTRATIVE HEARINGS BUREAU FOR THE CITY OF JACKSON

CITY OF JACKSON,  
a Michigan Municipal Corporation,

Petitioner,

CASE NO. 19-500 HI  
HON. John Kane

vs.

232 W. MASON LLC,

Respondent.

---

JACKSON CITY ATTORNEY'S OFFICE  
BY: MATTHEW M. HAGERTY (P-66015)  
MARK M. PORTERFIELD (P-57917)  
Attorneys for Petitioner  
161 W. Michigan Avenue  
Jackson, MI 49201  
(517) 788-4050

LOREN ROMAIN  
Resident Agent for 232 W. Mason LLC  
Respondent  
P.O. Box 1372  
Ann Arbor, MI 48106

---

**CERTIFICATE OF SERVICE**

STATE OF MICHIGAN            )  
  )  
COUNTY OF JACKSON        )        ss

The undersigned certifies under penalty of perjury that on February 26, 2021, he served a copy of **Petitioner's Post-Trial Brief** upon the following interested party by electronic mail to:

Loren Romain  
232 W. Mason LLC  
P.O. Box 1372  
Ann Arbor, MI 48106  
[loren@provide.net](mailto:loren@provide.net)

DATED: February 26, 2021

  /s/ Mark M. Porterfield    
MARK M. PORTERFIELD (P-57917)  
JACKSON CITY ATTORNEY'S OFFICE

**STATE OF MICHIGAN  
IN THE ADMINISTRATIVE HEARING BUREAU CITY OF JACKSON**

**City of Jackson,  
A Municipal Entity,**

**Petitioner,**

**Case No. 19-500**

**v**

**Hon. John Kane**

**232 WEST MASON LLC,  
a Michigan Limited Liability Company**

**Respondent.**

---

**MARK PORTERFIELD  
Attorney for Complainant  
Jackson, MI. 49201  
(517) 788.4050**

**232 W. MASON LLC/Loren Romain,  
Respondent  
P.O. Box 3816  
Ann Arbor, MI. 48106  
(734) 216.1822**

**POST TRIAL BRIEF RESPONSE ON BEHALF OF THE RESPONDENT TO THE BRIEF  
PRAPRED BY THE PETITIONER, THE CITY OF JACKSON**

**RESPONDENTS RESPONSE TO PETITIONERS STATEMENT OF FACTS**

The Respondent will stipulate to the facts as presented by the petitioner excepting the petitioner’s assertion that seven housing violations remained at the time of trial on 10 February 2021 when only two alleged violations remained “uncorrected” to the housing inspector’s satisfaction, the Exterior building 14-72 (1) c - the main home and garage roof.



**RESPONDENT RESPONSE TO THE PETITIONER'S DISCUSSION**

The petitioner argues in their brief that “Because Chapter 14 of the City Code provides that non-owner-occupied residential dwellings are to be registered every two years; the City schedules the inspection cycles to match the registration time periods” and has statutory authority to do so pursuant to Chapter 14 code. As supporting evidence for the validity of this assertion, the Petitioner relies upon a vague, arbitrary, and capricious Chapter 14 Section 14-42 of the code and inspection fee establishment resolutions passed by City council, for budgetary purposes, as prima facie evidence that statutory authority exists that explicitly and unambiguously authorizes and mandates a two-year inspection cycle of non-owner-occupied rental properties. **The Petitioner’s reasoning that a two-year (2) year property registration requirement equates to statutory authority for the city to conduct property inspections on a two-year inspection cycle, in which the Petitioner supports his argument with vague and ambiguous Chapter 14 Inspection code and council resolutions that only address an hourly fee rate for inspection costs, is flawed and illogical.**

The Petitioner further explicates in their argument that the statutory authority of the city to conduct inspections on a two-year cycle, is, pursuant to an ambiguous, vague, arbitrary, and capricious section of Chapter 14 code, section 14-42 (3), that “**inspections shall be conducted in the manner best calculated to secure compliance with this article**”, that the city unequivocally has the statutory authority to conduct property inspections on an two-year inspection cycle identical to the two year registration cycle. An equally vague, arbitrary, and capricious section of the Chapter 14 code addressing the inspection timing issue is Section 14-42 (1) that prescribes the inspection schedule is “**...to make or cause to**

**be made such inspections of dwellings or dwelling units as are necessary to enforce the provisions of this article ....**". Any reasonable person of common intelligence is undeniably unable to determine from such vague, arbitrary, and capricious phrases "**as are necessary**", or as cited by the petitioner in their brief to justify the inspection time cycle, that "**inspections shall be conducted in the manner best calculated ....**" that a statutorily mandated two-year inspection cycle exists and which the city has deployed, without statutory authority. This inability, by any reasonably intelligent person, to be able to decipher an applicable and required statutory two-year inspection cycle, as alleged by the Petitioner is authorized in the Chapter 14 code from the vague verbiage of Section 14-42, Inspections, effectively renders Section 14-42 as unconstitutionally void and unenforceable for its lack of specificity and its vagueness.

In **Northgate Towers Assocs. v. Royal Oak Charter Twp., 214 Mich. App. 501, 543 N.W.2d 351, 1995 Mich. App.** the defendants, township and trustees, challenged an order of the trial court which entered judgment for the plaintiff landlord in the landlord's action to declare unconstitutional a township ordinance that required all residential rental units to be licensed and inspected. The ordinance required residential rental units to be licensed on an annual basis for a set fee. The Royal Oak Charter Township ordinance was vague as to whether the inspection fee was to be paid twice a year or once every two years. In affirming the trial court's judgment in favor of the landlord in its action to declare the ordinance unconstitutional, **the court held that the ordinance was vague, (quoting Northgate Towers Assocs. v. Royal Oak Charter Twp.) "as a person of common intelligence would be forced to guess at the applicable terms of the ordinance". Id.** The court affirmed the trial court's judgment in favor of the landlord in its action to declare

unconstitutional a vague township ordinance that required all residential rental units to be licensed and inspected.

With **West Bloomfield Charter Twp. v. Karchon, 209 Mich. App. 43, 530 N.W.2d 99, 1995 Mich. App.**, an appellant township sought review of a Michigan trial court in favor of appellee individuals in an action involving enforcement of a woodlands ordinances. The township sought to enforce its woodlands ordinance against the individuals. **The trial court granted the individuals' motion for summary judgment on the basis that the ordinances were unconstitutionally vague, overbroad and lacking in definite standards. *Id.*** The court affirmed, holding that the ordinances' definition of the term's "woodland" and "woodland edge" were unconstitutionally vague. The court further held that the ordinances lacked the standards necessary to govern their enforcement, thus providing **unlimited discretion and power** to those charged with their administration and enforcement. The court also noted that such **unstructured, unlimited, overbroad, arbitrary, and capricious power was constitutionally repugnant. *Id.***

The Petitioner enhances and bolsters the ordinance vagueness argument of the Respondent with the Petitioner's brief and exhibits as the Petitioner flails for any "evidence" available that demonstrates a statutorily mandated two year inspection schedule, by departing beyond the vague confines of the verbiage in the Chapter 14-42 Inspection ordinance, " **...as are necessary...**" and "**inspections shall be conducted in the manner best calculated....**", by introducing so called "discussions" amongst city council members on the impact on the city's budget of collecting inspection fees at different time periods as "further evidence for the authority to use a two-year cycle" ("*for inspections*").

Emphasis added by Respondent). The assertion by the Respondent that, somehow, under some theory, that “chatter” among city council persons and the resolution by city council of an hourly fee rate for inspections constitutes statutory authority to conduct inspections on a two-year cycle is beyond ridiculous and transcends the limits of reality.

### **CONCLUSION**

Section 14-42, of the city of Jackson Chapter 14 code, addressing the applicability of the conducting of inspections, is vague, broad, and lacking in any time frame codification to statutorily conduct inspections by city housing inspectors on a two-year cycle and provides unlimited discretion and power to those administering and enforcing it. Therefore, pursuant to precedent decisions in **West Bloomfield Charter Twp. v. Karchon, 209 Mich. App. 43, 530 N.W.2d 99, 1995 Mich. App.**, and **Northgate Towers Assocs. v. Royal Oak Charter Twp., 214 Mich. App. 501, 543 N.W.2d 351, 1995 Mich. App.**, Chapter 14-42 Inspections - is void for its vagueness.

The city of Jackson de facto recognizes their lack of statutory authority to lawfully conduct inspections on a two-year cycle as indicated by the actions of their housing inspectors who appear to conduct an initial Chapter 14 inspection by requiring that the property owner executes a “consent to inspect the property” document. A property owner who refuses to sign a consent document for inspection is then placed on notice by the housing inspector that the property owner will be penalized if they refuse to provide consent to inspect the non-owner-occupied property by being invoiced at the current inspection fee rate for a “lock out” charge of one hour. The hourly fee inspection rate that is invoiced to the property owner is at a hourly rate that many small businesses in Jackson, including law offices, would envy.

The true purpose of the Petitioner's alleged statutorily mandated two-year inspection cycle, that mirrors the two-year statutory registration cycle, is for revenue generation for the city's budget to fund the building department, as evidenced by the Respondents own exhibits provided within their brief, of discussions among city council members on the effects of inspections if conducted at greater time periods than two years on the building department's budget.

As precedent has demonstrated, an ordinance with vague language is constitutionally void for vagueness. Any reasonable person of common intelligence who reads Chapter 14 Section 42, "Inspections", is unable to determine the timing of any alleged statutorily required inspection schedule as the verbiage addressing timing of an inspection is vague, arbitrary, capricious, and provides unlimited discretion and power to those enforcing it of the timing of when an inspection will occur.

WHEREFORE, the Respondent has demonstrated beyond reasonable doubt that the inspection which occurred at 232 West Mason, was arbitrarily, capriciously, and unlawfully conducted by the city of Jackson without statutory authority to do so, that the Respondent was unduly influenced by the housing inspector with the assertion by the housing inspector of the levying of a monetary penalty upon the Respondent if the Respondent did not consent to the inspection. Therefore, the Respondent prays that this unlawful inspection be quashed and Administrative Housing Bureau Case No. 19-500, be dismissed, forthwith, by the honorable AHB officer John Kane.



Respectfully Submitted,

/s/ Loren Romain

Loren Romain  
232 West Mason LLC  
P.O. Box 1372  
Ann Arbor, MI 48106  
(734) 216.1822

Dated: 26 March 2021

**PROOF OF SERVICE**

The undersigned certifies that a copy of the foregoing instrument was served upon the attorneys of record of all parties to the above cause at their respective addresses disclosed in the pleadings via electronic filing. I declare under the penalty of perjury that the statement above is true to the best of my information, knowledge and belief.

Signature: /s/ Loren Romain

STATE OF MICHIGAN  
IN THE ADMINISTRATIVE HEARINGS BUREAU FOR THE CITY OF JACKSON

CITY OF JACKSON,  
A Michigan Municipal Corporation,

Petitioner,

Case No. 19-500-HI  
Hearing Officer John S. Kane

vs.

232 W. Mason, LLC,  
Respondent

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JACKSON CITY ATTORNEY'S OFFICE  
BY:MARK M. PORTERFIELD (P57917)  
MATTHEW HAGERTY (P66015)  
Attorneys for Petitioner  
161 W Michigan Ave  
Jackson, MI 49201  
(517) 788-4050

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LOREN ROMAIN  
Resident Agent for Respondent  
P.O. Box 1372  
Ann Arbor, MI 48106

**ORDER**

A trial was held in this matter on February 10, 2021. Pursuant to his request, Mr. Romain appeared on behalf of Respondent telephonically. Mark Porterfield represented the City.

Mr. Porterfield first offered Code Enforcement Officer John O'Connor as a witness.<sup>1</sup> Mr. Connor testified to having visually inspected the subject property from adjacent City-owned property before issuing the violation notices here at issue, which pertain to the roofs on the home and garage located at 232 W. Mason St. He stated that he found each roof to be in violation of Housing Code sections 14-71 and 14-72, as stated in the violation notices. He found the shingles to be curled and deteriorated and thus had the potential to allow water to enter the structures. Mr. Porterfield offered photographs that Mr. O'Connor took of the roofs, and these were admitted as Petitioner's Exhibits 1 and 2. They clearly showed shingles on both structures that were very worn and warped with age.

On cross-examination, Mr. Romain elicited testimony from Mr. O'Connor establishing that Mr. O'Connor could not say that he had seen any signs of leakage inside the home and that to the best of his knowledge, no tenant of the property had complained about any water leaks attributable to the roofs' deteriorated condition. Mr. Romain asked about the application of Section 14-72(1) to the subject property, suggesting that the roofs in question were "reasonably weatherproof [and] waterproof," inasmuch as they were not known to be actually leaking. This was a theme Mr. Romain continued to revisit throughout the proceeding.

Mr. Porterfield also offered the testimony of Brian Taylor, Chief Building Official and

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<sup>1</sup> At Mr. Romain's request, Respondent's other witness, Brian Taylor, was sequestered while Mr. O'Connor testified.

PLAINTIFF'S  
EXHIBIT

V

Assistant Director of the Neighborhood & Economic Operations Department for the City. It was established that Mr. Taylor has also been both a licensed builder and Code Officer for over twenty years and has extensive experience in the construction industry. Mr. Taylor testified that his inspection of the subject property from roughly the same exterior vantage point as Mr. O'Connor's revealed shingles on both structures that were curling and deteriorated in violation of Sections 14-71 and 14-72. He also stated that the roofs had missing shingles and that he saw several shingles on the ground of the subject property that appeared to be missing from the roofs in question. He stated that curling shingles do not perform their proper function and are defective, as they must lie flat to maintain a proper seal that would prevent moisture from rain, snow, or ice entering the structure and damaging insulation, drywall, or wiring – the latter being an obvious fire hazard. He testified that their curled and deteriorated condition constituted a violation of Sections 14-71 and 14-72, even though he did not know of any actual leakage occurring. He mentioned that Section 14-26 was violated in that the roofs were not maintained in a “workmanlike manner.” There was also a discussion of Section 14-28, which states the purpose of the Housing Code as protection of the “health, safety, and welfare of occupants of buildings ... [and] [e]stablishing standards ... designed to be reasonably high but at the same time practical and attainable.”

On cross-examination, Mr. Taylor stated that shingles curling typically indicates that they are at the end of their useful life. Mr. Romain queried whether such shingles could nonetheless repel water and Mr. Taylor confirmed that they could. When challenged as to how curling shingles that apparently had not yet leaked could constitute a “menace” within the meaning of Section 14-29, Mr. Taylor explained that when shingles curl, they can admit water that can cause various types of structural damage and lead to fires. When asked why roofs that have not been shown to leak are not “reasonably weatherproof”, Mr. Taylor responded that because the shingles do not provide a seal in accordance with the manufacturer's specifications, they were not in good repair and not reasonably weatherproof, even if they might still have some life left in them. He further opined that curling of shingles constitutes a “defect” within the meaning of Section 14-71(c) because such shingles no longer function as they were designed to.

In his closing argument, Mr. Romain repeated his thesis that the Code did not -- and in fact, could not -- prohibit what he termed “anticipatory breach.” His position is that because the roofs in question do not yet leak, they do not constitute a threat to the tenants' health, safety, or welfare that the City has authority to sanction. He is essentially relying on the adage that, “If it ain't broke, don't fix it.”

While this is surely common sense in many contexts, the City Housing Code is not one of those contexts. To the contrary, the Code takes a much more precautionary and prophylactic approach. City Council has deemed it prudent to prevent certain harms, rather than wait for a problem to cause potentially serious damage before taking corrective action. Section 14-27 requires rental properties to be maintained in a “workmanlike manner,” which includes the use of materials that are “undamaged”.<sup>2</sup> The testimony and exhibits conclusively demonstrate that the roofs in question were not maintained in a workmanlike manner.

Mr. Romain's interpretation of Section 14-29's language regarding what constitutes a

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<sup>2</sup> Because the term “workmanlike” is defined in Section 14-26 to mean “executed in a skillful manner,” Mr. Romain contended at one point (in the Taylor cross-examination) that workmanlike quality was limited to the initial construction or installation process. The term is used in Section 14-27, however, to refer explicitly to maintenance as well. And Mr. Taylor testified that the shingles in question failed to meet this standard.

“menace” is unquestionably mistaken. That Section provides in pertinent part:

The provisions of this article shall apply to all existing structures used, designed and constructed for the purpose of or intended to be used for human habitation. The minimum standards required under this Code are designed to prevent fire hazards, structural deterioration, inadequate light, air and heat, and unsanitary and overcrowded conditions which constitute a menace to the safety, health and welfare of the occupants.

It clearly states that it is intended to “prevent” conditions that constitute a “menace”. It does not state an intent to wait until such conditions have caused damage to “the health, safety, and welfare of occupants.” Moreover, the term “menace” itself does not denote harm, but the threat of harm.<sup>3</sup> The testimony of both witnesses clearly established that the deteriorated shingles at 232 W. Mason St. constitute a threat of harm to the occupants because they could, at any time, admit moisture that could cause structural damage and a fire hazard.

For the same reasons, there is a violation of Section 14-71, which requires accessory structures like the subject garage to be “maintained in a structurally sound condition and good repair.” Testimony and the Exhibits established that the garage shingles were not in “good repair,” but were instead “defective”.

The violation of Section 14-72(1)(c) is even more patent. There is no question that the home’s “roof system” is *not* “free of defects of any kind, including, but not limited to, deflection that is not a consequence of, or results in, an unsafe condition, the admission of moisture, damage to structural members, [etc.]” The shingles in question are defective and constitute an unsafe condition that they may lead to structural damage or a fire.

Section 14-28 indicates an intent to establish “reasonably high” but “practical and attainable” standards to protect residential tenants. Replacing defective and missing components of a roof before it leaks falls squarely within this intent.

Under Section 2.5-19(j), the City must prove the existence of a violation by a preponderance of the evidence, and “a violation notice issued and signed in accordance with Section 2.5-18 constitutes prima facie evidence of the correctness of the facts specified therein.” Not only was this prima facie presumption not rebutted, but the City has demonstrated by a great preponderance of the evidence that the cited violations exist.

Mr. Romain also alleged that the requirement of biennial housing inspections is only implicitly and vaguely expressed in the Code. After reviewing post-hearing briefs on the issue, it is clear that his argument is that this constitutes a violation of the Due Process Clause. As an Administrative Hearings Officer for the AHB, I do not believe I have jurisdiction to decide such claims, though he is free to pursue them elsewhere.

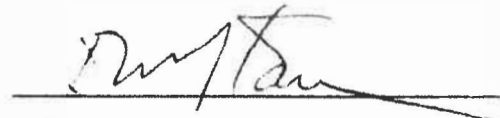
Pursuant to the Administrative Hearings Bureau Fines Chart, the costs and fines appropriate for the existing violations are as follows: \$320 costs and \$2,000 in fines, but if the

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<sup>3</sup> See, e.g., Cambridge Dictionary (online), <https://dictionary.cambridge.org/dictionary/english/menace> (“something that is likely to cause harm”)(last consulted 2/12/21).

Respondent corrects the violations, as verified by a City Inspector within 60 days, the fine is reduced to \$1,000.

Respondent has the right to seek judicial review of this Order, pursuant to Code section 2.5-25, by filing in the Jackson County Circuit Court within 28 days of entry of this Order

A handwritten signature in black ink, appearing to read "John S. Kane", is written over a horizontal line.

John S. Kane,  
Administrative Hearings Officer

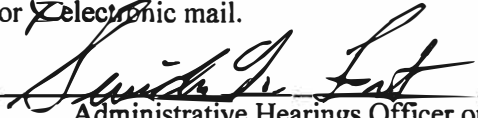
Dated: 4/20/21

**CERTIFICATE OF SERVICE**

I certify that on this date, a copy of this Judgment/Final Order was served upon the parties or their attorney(s) by  personal service or  ordinary mail at the address shown or  electronic mail.

April 20, 2021

Date

  
\_\_\_\_\_  
Administrative Hearings Officer or AHB Clerk



# Neighborhood & Economic Operations

161 W. Michigan Ave. • Jackson, MI 49201  
Phone: (517) 788-4060, (517) 788-4012 • Facsimile: (866) 971-2151

## Initial Inspection Notification Letter

February 17, 2021

MAD DOG HOLDINGS LLC  
5820 N CANTON CENTER RD  
# 110  
CANTON, MI 48187

**Important Notice:**

For the health and safety of housing residents and to mitigate against the risk of COVID-19, all City inspectors will be required to wear a mask and other PPE, as appropriate. Residents/attendees at the inspection are encouraged to wear a face covering and practice social distancing.

SUBJECT:           Property:           1604 FLORAL AVE  
                          Inspector:           Lydell Tanner

The City of Jackson inspects housing units which are not the primary residence of the property owner on a biennial basis. These regular inspections ensure your property remains in compliance with Chapter 14 - Housing Code City of Jackson Code of Ordinances. The City Assessor's records indicate that you are the current owner of the above referenced property.

The initial inspection of this property is scheduled for:

**Date: March 12, 2021**  
**Time: 10:00 AM**

**This is the only notice you will receive. Failure to appear, allow access, or cancel with less than 10 days' notice will be charged one hour at the current hourly rate.**

**All utilities must be on for the inspector to complete his/her inspection.** Please identify yourself to the Inspector upon arrival; he/she will have City identification and will be driving a clearly marked City vehicle. Please also notify your tenants of the scheduled inspection. It is imperative that you, your registered local agent, or property management company be present at the time and date specified to allow access to all areas of the property.

The Housing Code Inspection Program charges an hourly rate of \$254.81, billed in 15 minute increments including travel time. We have included a brochure itemizing a pre-inspection checklist of common violations allowing you to prepare beforehand and minimize the inspection time. All violations cited must be corrected; a follow-up inspection will occur approximately **90 days** thereafter. Hazardous violations must be corrected immediately and reinspected within **10 days**.

If you no longer own this property, please provide our office with documentation to that effect as soon as possible. If you have any questions prior to your inspection, please call Lydell Tanner (business card enclosed).

Brian Taylor  
Chief Building Official

cc: MAD DOG HOLDINGS LLC, PO Box 1372, Ann Arbor, MI 48106; [lmk999@comcast.net](mailto:lmk999@comcast.net)





loren@provide.net

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**From:** loren@provide.net  
**Sent:** Wednesday, March 31, 2021 8:59 AM  
**To:** 'Matthew M. Hagerty'  
**Cc:** 'Debra Noga'; 'Mark M. Porterfield'; 'Brian Taylor'  
**Subject:** RE: 1604 Floral Inspection-EIGHTH REQUEST THAT YOU PLEASE ACKNOWLEDGE THAT YOU WILL PLACE ME ON REASONABLE NOTICE OF THE DAY, DATE, LOCATION AND TIME OF THE HEARING TO REQUEST AN ADMINISTRATIVE SEARCH WARRANT TO INSPECT 1604 FLORAL

Good Morning Matt,

Thank you for responding to my numerous requests to **definitively** define the position of the city vis-a-vi the administrative search warrant process. I truly appreciate it.

I respectfully disagree with your interpretation of case law and your deployment of the false analogy equating the request to obtain a criminal search as analogous to the non-criminal administrative search warrant process. Nonetheless, I recognize you have a professional duty to **represent** the city's, in my humble opinion, tenuous position, to the best of your ability. I suspect, that our conflicting positions of the administrative search warrant process will ultimately be resolved by a neutral decision-maker.

Respectfully,

Loren Romain

**From:** Matthew M. Hagerty <mhagerty@cityofjackson.org>  
**Sent:** Tuesday, March 30, 2021 6:37 PM  
**To:** 'loren@provide.net' <loren@provide.net>  
**Cc:** Debra Noga <dnoga@cityofjackson.org>; Mark M. Porterfield <mporterfield@cityofjackson.org>; Brian Taylor <btaylor@cityofjackson.org>  
**Subject:** RE: 1604 Floral Inspection-EIGHTH REQUEST THAT YOU PLEASE ACKNOWLEDGE THAT YOU WILL PLACE ME ON REASONABLE NOTICE OF THE DAY, DATE, LOCATION AND TIME OF THE HEARING TO REQUEST AN ADMINISTRATIVE SEARCH WARRANT TO INSPECT 1604 FLORAL

Loren,

Good afternoon. I respectfully disagree **with your interpretation** of the law. Your case citations do not at all address the specific question as to whether or not you are **entitled to notice** and an opportunity to be heard at a hearing held for the purpose of obtaining an administrative **search warrant**, after you have refused an inspection of your non-owner occupied residential property. The **answer is most assuredly no**. Please cite to me any US Supreme Court precedent, Michigan case law, or statute that **supports your contention that a hearing compelling your attendance & opportunity to be heard by the court is required at the time of the issuance of an administrative search warrant**. Your referenced case law does not so hold.

The 1967 *Camara* decision of the US Supreme Court dealt **with** warrantless inspections of rental properties, and the Supreme Court held that government **inspectors** must **generally** obtain search warrants before compelling an individual to submit to an inspection in compliance **with the 4<sup>th</sup> Amendment**. The Supreme Court's 2015 *Patel* decision also specifically dealt with **warrantless inspections of guest registries required to be kept by hotel/motel operators under Los**



Angeles City Ordinance. It did not at all involve the issuance of an administrative search warrant. In fact, the *Patel* Opinion issued by Justice Sotomayor made clear that an officer remained free to conduct an inspection “if they have a proper administrative search warrant – including one that was issued ex parte...”

Accordingly, the “pre-compliance” procedure to which you repeatedly refer *is* the administrative search warrant process. The City’s obtaining of an administrative search warrant affords the opportunity for a neutral decision-maker to review a code enforcement officer’s request and the factual predicates to a search before the search occurs. It requires the City to show proof of owner non-compliance for a scheduled inspection and that the property is subject to NOORPR registration/inspection prior to entry.

Moreover, your argument that the City (in the administrative housing code context or otherwise) is obligated to provide notice to a property owner of the time/date of the request for a search warrant is incorrect as a practical matter. The entire point of an administrative search warrant in this instance is for City to obtain access to property to ascertain compliance with the relevant law building code (to ensure the residence is safe for tenant occupancy) because the owner has already failed to do so voluntarily. In a different context, do the police invite suspected criminals to the hearing on their request for a search warrant before serving it and entering a premises to confirm their suspicions they are running a meth lab? Of course not. They obtain the search warrant ex parte and no 4<sup>th</sup> Amendment rights are violated if lawfully issued and executed.

Lastly, semantics aside the non-owner occupied residential property registration (NOORPR) process under the City Code is clearly for non-owner occupied residential dwelling units. You are the property owner. You do not occupy it as your residence. You intend it to be used for residential purposes, vacant or not. It is subject to inspection accordingly under the City Code:

- **Sec. 14-13. - Presumption of non-owner occupied residential dwelling or unit.**
- 
- **Whenever a residential dwelling or unit used for or intended for residential purposes is vacant or occupied by anyone other than the owner of record as shown in the records of the city assessor, there shall exist a presumption that the dwelling or a portion of the dwelling is a non-owner occupied residential dwelling or unit regardless of whether monetary compensation is exchanged between the owner and the person(s) occupying the residential dwelling or unit.** In addition, there shall be a presumption that the dwelling is non-owner occupied if the property or unit was rented, leased, let, or registered under this article within the last six (6) months, and the owner has not properly applied for a change of use.

(Ord. No. 2012-03, § 1, 2-21-12; Ord. No. 2015-19, § 2, 12-15-15)

As I stated previously in response to your 2<sup>nd</sup> and 4<sup>th</sup> emails to me, you will be provided with written notice of the next re-scheduled inspection of your property at a date of the City’s choosing, which may be conducted via administrative search warrant if you again refuse entry by the City’s Code Enforcement Officers. It is my sincere hope that you will fully comply with the Code’s NOORPR requirements and permit the inspection of your property in both your own interest and for the safety of your prospective tenants.

Respectfully,

**Matthew M. Hagerty**  
Jackson City Attorney  
[mhagerty@cityofjackson.org](mailto:mhagerty@cityofjackson.org)  
161 W. Michigan Ave.  
Jackson, MI 49201  
Office: (517) 788-4050  
Direct Dial: (517) 990-6282



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**From:** [loren@provide.net](mailto:loren@provide.net) <[loren@provide.net](mailto:loren@provide.net)>  
**Sent:** Tuesday, March 30, 2021 2:00 PM  
**To:** Matthew M. Hagerty <[mhagerty@cityofjackson.org](mailto:mhagerty@cityofjackson.org)>  
**Cc:** Matthew M. Hagerty <[mhagerty@cityofjackson.org](mailto:mhagerty@cityofjackson.org)>; Debra Noga <[dnoga@cityofjackson.org](mailto:dnoga@cityofjackson.org)>; Mark M. Porterfield <[mporterfield@cityofjackson.org](mailto:mporterfield@cityofjackson.org)>; Brian Taylor <[btaylor@cityofjackson.org](mailto:btaylor@cityofjackson.org)>  
**Subject:** 1604 Floral Inspection-EIGHTH REQUEST THAT YOU PLEASE ACKNOWLEDGE THAT YOU WILL PLACE ME ON REASONABLE NOTICE OF THE DAY, DATE, LOCATION AND TIME OF THE HEARING TO REQUEST AN ADMINISTRATIVE SEARCH WARRANT TO INSPECT 1604 FLORAL

Good Afternoon Matt,

Once again Matt, I am entreating of you that you respond to my request, pursuant to Patel and Camara (please see below), that I receive reasonable notice from the city of the hearing date that is to be scheduled to request the administrative search warrant of which either myself or counsel, are lawfully allowed to attend.

I will continue to electronically mail you everyday, until I either receive an affirmative or negative response to my aforementioned request.

Loren Romain

**From:** [loren@provide.net](mailto:loren@provide.net) <[loren@provide.net](mailto:loren@provide.net)>  
**Sent:** Wednesday, March 24, 2021 12:17 PM  
**To:** 'Matthew M. Hagerty' <[mhagerty@cityofjackson.org](mailto:mhagerty@cityofjackson.org)>  
**Cc:** 'Matthew M. Hagerty' <[mhagerty@cityofjackson.org](mailto:mhagerty@cityofjackson.org)>; 'Debra Noga' <[dnoga@cityofjackson.org](mailto:dnoga@cityofjackson.org)>; 'Mark M. Porterfield' <[mporterfield@cityofjackson.org](mailto:mporterfield@cityofjackson.org)>; 'Brian Taylor' <[btaylor@cityofjackson.org](mailto:btaylor@cityofjackson.org)>  
**Subject:** FW: 1604 Floral Inspection-FIFTH REQUEST THAT YOU PLEASE ACKNOWLEDGE THAT YOU WILL PLACE ME ON REASONABLE NOTICE OF THE DAY, DATE, LOCATION AND TIME OF THE HEARING TO REQUEST AN ADMINISTRATIVE SEARCH WARRANT TO INSPECT 1604 FLORAL

Good Afternoon Matt,

I apologize for my tardy response to your affirmation in your electronic mail correspondence of 22 March that the city of Jackson is under no obligation to provide me with notice of any hearing to obtain an Administrative Search Warrant to allow myself or counsel to make reasonable objections to the issuance of said warrant. I respectfully disagree with your interpretation of the law.

Pursuant to your request, I am providing you with Supreme court rulings that buttress my position that the city of Jackson is obligated to provide me with notice of the hearing to obtain an administrative search warrant as this exercise has been mandated by the Supreme Court of the United States as *bi parte* and not *ex parte*, as you allege.

The Fourth Amendment provides for "The right of the people to be secure in their persons, house, papers and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized." U.S. Const. Amend. IV.

Premised upon this constitutional text, the Supreme Court has repeatedly held that 'searches conducted outside the judicial process, without prior approval by [a] judge or [a] magistrate [judge], are per se unreasonable ...subject only to a few specifically established and well-delineated exceptions.' "*City of Los Angeles v. Patel*, 135 S.Ct.2443, 2452, 192 L.Ed.2d 435 (2015) (alteration in original) (quoting *Arizona v. Gant*, 556 U.S.332,338,129 S. Ct.1710,173 L. Ed. 2d 485 (2009)).

Searches "serving a 'special need', other than conducting criminal investigations," are referred to as "administrative searches." *Id.* (quoting *Camara v. Mun. Court of City & City. Of S.F.*, "**the subject of the search must be afforded an opportunity to obtain pre-compliance review before a neutral decisionmaker.**" *Id.*

Two Supreme Court cases explain this doctrine. In *Camara*, the Court invalidated parts of a housing code that permitted City of San Francisco employees to enter any premises to perform any function required by the city code. 387 U.S. at 525-26. The Supreme Court reasoned that the administrative searches were a "significant intrusion upon the interests protected by the Fourth Amendment." *Id.* at 534. Specifically, the Court explained that:

"when the Inspector demands entry, the occupant has no way of knowing whether enforcement of the municipal code involved requires inspection of his premises, no way of knowing the lawful limits of the inspector's power to search, and no way of knowing whether the inspector himself is acting under proper authorization." *Id.* at 532. **Accordingly, a pre-compliance procedure was necessary for this housing code to comply with the Fourth Amendment. *Id.***

In their second ruling on this subject matter, the Supreme Court voided a city of Los Angeles ordinance requiring hotel operators to record and provide police their guest lists, as the ordinance subjected noncompliant hotel operators to a criminal misdemeanor prior to any pre-compliance review.

*Patel*, 135 S. Ct. at 2452. The Supreme Court observed that "[a] hotel owner who refuses to give an officer access to his or her registry can be arrested on the spot," and that "[t]he Court has held that business owners cannot reasonably be put to this kind of choice." *Id.* (citing *Camara*, 387 U.S. at 533)

On a final note, I would also argue that the verbiage contained within the city of Jackson ordinance 14-42 (5) that "in a nonemergency situation where the owner or occupant of any dwelling demands a warrant for the inspection of the premises, the chief building official, chief of police, or fire official shall obtain a warrant from a competent court of jurisdiction" is void on its face as it makes no allowance for a pre-compliance *bi parte* review as mandated by the U.S. Supreme Court precedent and deprives rental property owners and occupants of their constitutional rights to due process and unreasonable searches.

It is my sincere hope that after reviewing the information I have sent to you referencing administrative search warrant condition precedent pre-compliance procedural requirements, that the city of Jackson's position of placing me on notice of the hearing to obtain an Administrative Search Warrant will be irrevocably altered for myself and any other future requests for an Administrative Search Warrants from property owners that the city may receive on this issue. **You may consider this my fifth request to please place me on notice of the day, date, time and location of the city's attempt to obtain an Administrative Search Warrant that is to be scheduled to be heard and reviewed by a neutral party so that I may appear or send counsel on my behalf, if I choose to do so.** I would also like to remind you that the Chapter 14

code, pursuant to Section 14-1, is titled, the "Non-Owner Occupied Residential Property Registry", and, as this property is not currently occupied, does not require a Chapter 14 inspection at this time.

Have a wonderful day and please feel free to address me as "Loren", in any future correspondence we may have.

Loren Romain

**From:** Matthew M. Hagerty <[mhagerty@cityofjackson.org](mailto:mhagerty@cityofjackson.org)>

**Sent:** Monday, March 22, 2021 2:38 PM

**To:** 'loren@provide.net' <[loren@provide.net](mailto:loren@provide.net)>

**Cc:** Debra Noga <[dnoga@cityofjackson.org](mailto:dnoga@cityofjackson.org)>; Mark M. Porterfield <[mporterfield@cityofjackson.org](mailto:mporterfield@cityofjackson.org)>; Brian Taylor <[btaylor@cityofjackson.org](mailto:btaylor@cityofjackson.org)>

**Subject:** RE: 1604 Floral Inspection-FOURTH REQUEST THAT YOU PLEASE ACKNOWLEDGE THAT YOU WILL PLACE ME ON REASONABLE NOTICE OF THE DAY, DATE, LOCATION AND TIME OF THE HEARING TO REQUEST AN ADMINISTRATIVE SEARCH WARRANT TO INSPECT 1604 FLORAL

Mr. Romain,

It is a beautiful spring day. I hope you are enjoying it. Administrative search warrants are obtained ex parte. Accordingly, there is no statutory basis under which you are entitled to notice thereof prior to its issuance. If you have contrary authority you can cite to me please do so. Had you simply accommodated Mr. Tanner's scheduled inspection in the first place when you showed up on site and allowed it to take place, the necessity of obtaining an ex parte administrative search warrant would be moot. You were given notice for the original inspection, made your argument (albeit incorrect) to the inspector who was there to do his job and refused entry. This has now resulted in the necessity of an administrative search warrant to complete the inspection process in accordance with the City Code. The date/time will be at the City's choosing unless, of course, you reconsider your refusal to allow entry.

Matt

**Matthew M. Hagerty**  
Jackson City Attorney  
[mhagerty@cityofjackson.org](mailto:mhagerty@cityofjackson.org)  
161 W. Michigan Ave.  
Jackson, MI 49201  
Office: (517) 788-4050  
Direct Dial: (517) 990-6282



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**From:** [loren@provide.net](mailto:loren@provide.net) <[loren@provide.net](mailto:loren@provide.net)>

**Sent:** Monday, March 22, 2021 12:00 PM

**To:** Matthew M. Hagerty <[mhagerty@cityofjackson.org](mailto:mhagerty@cityofjackson.org)>  
**Cc:** Matthew M. Hagerty <[mhagerty@cityofjackson.org](mailto:mhagerty@cityofjackson.org)>; Debra Noga <[dnoga@cityofjackson.org](mailto:dnoga@cityofjackson.org)>; Mark M. Porterfield <[mporterfield@cityofjackson.org](mailto:mporterfield@cityofjackson.org)>; Brian Taylor <[btaylor@cityofjackson.org](mailto:btaylor@cityofjackson.org)>  
**Subject:** FW: 1604 Floral Inspection-FOURTH REQUEST THAT YOU PLEASE ACKNOWLEDGE THAT YOU WILL PLACE ME ON REASONABLE NOTICE OF THE DAY, DATE, LOCATION AND TIME OF THE HEARING TO REQUEST AN ADMINISTRATIVE SEARCH WARRANT TO INSPECT 1604 FLORAL

Good Morning Matt,

I hope this beautiful Spring day finds you doing well.

Once again, as I will do daily until I receive a response from you, **I am requesting of you that I receive reasonable notice from the city of the hearing date that is to be scheduled to request the administrative search warrant of which either myself or counsel, are lawfully allowed to attend.**

Please confirm that you will honor this reasonable request of mine to obtain from you this notice of the hearing date to request the search warrant. Please serve this notice by electronic mail to [loren@provide.net](mailto:loren@provide.net).

Respectfully,

Loren Romain

**From:** [loren@provide.net](mailto:loren@provide.net) <[loren@provide.net](mailto:loren@provide.net)>  
**Sent:** Friday, March 19, 2021 10:32 PM  
**To:** 'Matthew M. Hagerty' <[mhagerty@cityofjackson.org](mailto:mhagerty@cityofjackson.org)>  
**Cc:** 'Debra Noga' <[dnoga@cityofjackson.org](mailto:dnoga@cityofjackson.org)>; 'Mark M. Porterfield' <[mporterfield@cityofjackson.org](mailto:mporterfield@cityofjackson.org)>; 'Brian Taylor' <[btaylor@cityofjackson.org](mailto:btaylor@cityofjackson.org)>  
**Subject:** FW: 1604 Floral Inspection-THIRD REQUEST THAT YOU PLEASE ACKNOWLEDGE THAT YOU WILL PLACE ME ON REASONABLE NOTICE OF THE DAY, DATE, LOCATION AND TIME OF THE HEARING TO REQUEST AN ADMINISTRATIVE SEARCH WARRANT TO INSPECT 1604 FLORAL

Good Afternoon,

Please see my electronic mail communication below dated 17 March.

Have a good weekend,

Loren

**From:** [loren@provide.net](mailto:loren@provide.net) <[loren@provide.net](mailto:loren@provide.net)>  
**Sent:** Thursday, March 18, 2021 10:25 AM  
**To:** 'Matthew M. Hagerty' <[mhagerty@cityofjackson.org](mailto:mhagerty@cityofjackson.org)>  
**Cc:** 'Debra Noga' <[dnoga@cityofjackson.org](mailto:dnoga@cityofjackson.org)>; 'Matthew M. Hagerty' <[mhagerty@cityofjackson.org](mailto:mhagerty@cityofjackson.org)>; 'Brian Taylor' <[btaylor@cityofjackson.org](mailto:btaylor@cityofjackson.org)>  
**Subject:** FW: 1604 Floral Inspection-SECOND REQUEST THAT YOU PLEASE ACKNOWLEDGE THAT YOU WILL PLACE ME ON REASONABLE NOTICE OF THE DAY, DATE, LOCATION AND TIME OF THE HEARING TO REQUEST AN ADMINISTRATIVE SEARCH WARRANT TO INSPECT 1604 FLORAL



Good Morning Matt,

Please see below.

Loren Romain

**From:** [loren@provide.net](mailto:loren@provide.net) <[loren@provide.net](mailto:loren@provide.net)>  
**Sent:** Wednesday, March 17, 2021 12:16 PM  
**To:** 'Matthew M. Hagerty' <[mhagerty@cityofjackson.org](mailto:mhagerty@cityofjackson.org)>  
**Cc:** 'Debra Noga' <[dnoga@cityofjackson.org](mailto:dnoga@cityofjackson.org)>; 'Mark M. Porterfield' <[mporterfield@cityofjackson.org](mailto:mporterfield@cityofjackson.org)>; 'Brian Taylor' <[btaylor@cityofjackson.org](mailto:btaylor@cityofjackson.org)>  
**Subject:** RE: 1604 Floral Inspection-FIRST REQUEST FOR CLARIFICATION OF RESPONSE DATED 16 MARCH

Thank you Matt for your response. I truly appreciate it.

Nonetheless, to be abundantly clear and to avoid any confusion, **I am requesting of you that I receive reasonable notice from the city of the hearing date that is to be scheduled to request the administrative search warrant of which either myself or counsel, are lawfully allowed to attend.**

Please confirm that you will honor this reasonable request of notice of the hearing date to request the search warrant or I will be left with no other alternative but to continuously communicate with you vis-a-vis electronic mail until I am certain you fully comprehend the nature of my request.

Respectfully,

Loren Romain

**From:** Matthew M. Hagerty <[mhagerty@cityofjackson.org](mailto:mhagerty@cityofjackson.org)>  
**Sent:** Tuesday, March 16, 2021 8:37 AM  
**To:** 'loren@provide.net' <[loren@provide.net](mailto:loren@provide.net)>  
**Cc:** Debra Noga <[dnoga@cityofjackson.org](mailto:dnoga@cityofjackson.org)>; Mark M. Porterfield <[mporterfield@cityofjackson.org](mailto:mporterfield@cityofjackson.org)>; Brian Taylor <[btaylor@cityofjackson.org](mailto:btaylor@cityofjackson.org)>  
**Subject:** RE: 1604 Floral Inspection-SECOND REQUEST TO PLEASE CONFIRM RECEIPT

Mr. Romain,

I am in receipt of your email. You will be **provided** notice of any forthcoming inspection conducted via administrative search warrant in the same manner as **all other landlords**.

Have a good day.

Matt

**Matthew M. Hagerty**  
Jackson City Attorney  
[mhagerty@cityofjackson.org](mailto:mhagerty@cityofjackson.org)  
161 W. Michigan Ave.

Jackson, MI 49201  
Office: (517) 788-4050  
Direct Dial: (517) 990-6282



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**From:** [loren@provide.net](mailto:loren@provide.net) <[loren@provide.net](mailto:loren@provide.net)>  
**Sent:** Tuesday, March 16, 2021 8:33 AM  
**To:** Matthew M. Hagerty <[mhagerty@cityofjackson.org](mailto:mhagerty@cityofjackson.org)>  
**Cc:** Debra Noga <[dnoga@cityofjackson.org](mailto:dnoga@cityofjackson.org)>; Mark M. Porterfield <[mporterfield@cityofjackson.org](mailto:mporterfield@cityofjackson.org)>; Brian Taylor <[btaylor@cityofjackson.org](mailto:btaylor@cityofjackson.org)>  
**Subject:** FW: 1604 Floral Inspection-SECOND REQUEST TO PLEASE CONFIRM RECEIPT

Please see the electronic mail communication below and **confirm** receipt thereof.

**From:** [loren@provide.net](mailto:loren@provide.net) <[loren@provide.net](mailto:loren@provide.net)>  
**Sent:** Monday, March 15, 2021 9:34 AM  
**To:** 'Matthew M. Hagerty' <[mhagerty@cityofjackson.org](mailto:mhagerty@cityofjackson.org)>  
**Cc:** 'Debra Noga' <[dnoga@cityofjackson.org](mailto:dnoga@cityofjackson.org)>; 'Mark M. Porterfield' <[mporterfield@cityofjackson.org](mailto:mporterfield@cityofjackson.org)>; 'Brian Taylor' <[btaylor@cityofjackson.org](mailto:btaylor@cityofjackson.org)>  
**Subject:** 1604 Floral Inspection-PLEASE CONFIRM RECEIPT

Good Morning Matthew,

On Friday 12 March, Code Enforcement Officer Lydell Tanner appeared at the above referenced property for the purpose of conducting a Chapter 14 property inspection. **At that time**, I made a simple and reasonable query of Lydell to direct me to which section of the city of Jackson Chapter **14** non owner-occupied housing code that unequivocally and unambiguously empowers the city to conduct inspections on a regularly scheduled two-year inspection cycle. Lydell responded to my question by stating "it was not his job to educate me on the code". As Lydell was either unable or unwilling to respond to my reasonable inquiry, no inspection occurred.

As you know, Section 14-2 of the Chapter 14 Code, Findings and Purpose, is "....to ensure safe, secure, and sanitary living conditions for those residing in non-owner occupied residential dwellings or units". This property is currently vacant and pursuant to Section 14-42 Inspections, which vaguely asserts without any proscribed timeline that inspections are to be conducted "as are necessary" to enforce the code, an inspection is therefore not necessary nor required as there are no individuals currently living in the **property**.

Nonetheless, if it is the intent of the city to seek and obtain an administrative search warrant, I fully expect to be placed on reasonable notice of the day, date, time and location of the hearing to obtain the administrative search warrant. You may electronically serve that notice to [loren@provide.net](mailto:loren@provide.net).



Respectfully,  
Loren Romain  
734.216.1822.

Click [here](#) to report this email as spam.



This email has been checked for viruses by Avast antivirus software.  
[www.avast.com](http://www.avast.com)



## Neighborhood & Economic Operations

161 W. Michigan Ave. • Jackson, MI 49201  
Phone: (517) 788-4060, (517) 788-4012 • Facsimile: (866) 971-2151

### Final Notice Prior to Search Warrant

May 21, 2021

Mad Dog Holdings LLC  
c/o Loren Romain  
PO Box 1372  
Ann Arbor, MI 48106

**Important Notice:**

For the health and safety of housing residents and to mitigate against the risk of COVID-19, all City inspectors will be required to wear a mask and other PPE, as appropriate. Residents/attendees at the inspection are encouraged to wear a face covering and practice social distancing.

SUBJECT: Property: 1604 FLORAL AVE  
Inspector: Lydell Tanner

On **03/12/2021**, an attempt was made to inspect the above property under Chapter 14, Article II – Minimum Housing Standards, of the City of Jackson Code of Ordinances. The inspector was unable to gain access to all areas of the property on that date, requiring another inspection to be scheduled as follows:

**06/18/2021, 10:00 AM**

**This is the only notice you will receive! Failure to appear, allow access, or cancel with less than 10 days' notice will be charged one hour at the current hourly rate.**

**All utilities must be on for the inspector to complete his inspection.**

**It is imperative that you, your responsible local agent, or management company be present at the time and date specified to allow access to all areas of the property. If you or your authorized representative are not present for this inspection, the City will obtain an Administrative Search Warrant to conduct the required inspection.**

If you have any questions prior to your inspection, please call Lydell Tanner.

Brian Taylor  
Chief Building Official

cc: [lmk999@comcast.net](mailto:lmk999@comcast.net); [Loren@provide.net](mailto:Loren@provide.net)

PLAINTIFF'S  
EXHIBIT

**Y**



**City of Jackson, Michigan  
Municipal Billing Invoice**

MAD DOG HOLDINGS LLC  
PO Box 1372  
Ann Arbor MI 48106



**Invoice Date**  
06/28/2021

Invoice Number	Certificate #	Address	Amount Due								
00094374	CR210291	1604 FLORAL AVE	\$ 255.00								
<table border="0"> <thead> <tr> <th>Fee Details:</th> <th>Quantity</th> <th>Description</th> <th>Balance</th> </tr> </thead> <tbody> <tr> <td></td> <td>60.000</td> <td>Initial - 03/12/2021 (Lockout)</td> <td>\$ 255.00</td> </tr> </tbody> </table>				Fee Details:	Quantity	Description	Balance		60.000	Initial - 03/12/2021 (Lockout)	\$ 255.00
Fee Details:	Quantity	Description	Balance								
	60.000	Initial - 03/12/2021 (Lockout)	\$ 255.00								
00095542	CR210291	1604 FLORAL AVE	\$ 255.00								
<table border="0"> <thead> <tr> <th>Fee Details:</th> <th>Quantity</th> <th>Description</th> <th>Balance</th> </tr> </thead> <tbody> <tr> <td></td> <td>60.000</td> <td>Initial 2nd attempt - 06/18/2021 (Lockout)</td> <td>\$ 255.00</td> </tr> </tbody> </table>				Fee Details:	Quantity	Description	Balance		60.000	Initial 2nd attempt - 06/18/2021 (Lockout)	\$ 255.00
Fee Details:	Quantity	Description	Balance								
	60.000	Initial 2nd attempt - 06/18/2021 (Lockout)	\$ 255.00								
<b>Total Amount Due</b>			<b>\$ 510.00</b>								

**PLEASE SEND REMITTANCE TO:**

**City of Jackson  
Dept. of Neighborhood & Economic Operations  
161 W Michigan Ave, 3rd Floor, Jackson, MI 49201**

~or~

**Pay online at [www.cityofjackson.org](http://www.cityofjackson.org)**

(Please note that online payments will be assessed a 3% convenience fee with a minimum \$1 charge)

**Invoices are due upon receipt. Unpaid invoice balances, 60 days after the invoice date, are subject to a finance charge of 1.25% per month (15% per annum). To avoid additional finance charges, please submit your payment by the 25th of the month.**

**ALL NON-ASSESSABLE INVOICES WILL BE SUBMITTED TO A  
COLLECTION AGENCY AFTER 90 DAYS PAST DUE.**

**IMPORTANT BANKRUPTCY INFORMATION: If you or your account are subject to pending bankruptcy proceedings, or if you received a bankruptcy discharge, this invoice is for informational purposes only and is not an attempt to collect debt.**

*If you have questions about this invoice, please call the Dept. of Neighborhood & Economic Operations at (517) 788-4012.*





## Neighborhood & Economic Operations

161 W. Michigan Ave. • Jackson, MI 49201

Phone: (517) 788-4060, (517) 788-4012 • Facsimile: (866) 971-2151

### Final Notice Prior to Search Warrant

March 11, 2021

903 W WASHINGTON LLC  
C/O Loren Romain  
P O BOX 1372  
ANN ARBOR MI 48106

**Important Notice:**

For the health and safety of housing residents and to mitigate against the risk of COVID-19, all City inspectors will be required to wear a mask and other PPE, as appropriate. Residents/attendees at the inspection are encouraged to wear a face covering and practice social distancing.

SUBJECT:      Property:      903 W WASHINGTON AVE  
                 Inspector:      William Mills

On **03/04/2021**, an attempt was made to inspect the above property under Chapter 14, Article II – Minimum Housing Standards, of the City of Jackson Code of Ordinances. The inspector was unable to gain access to all areas of the property on that date, requiring another inspection to be scheduled as follows:

**04/01/2021, 10:00 AM**

**This is the only notice you will receive! Failure to appear, allow access, or cancel with less than 10 days' notice will be charged one hour at the current hourly rate.**

All utilities must be on for the Inspector to complete his inspection.

It is imperative that you, your responsible local agent, or management company be present at the time and date specified to allow access to all areas of the property. If you or your authorized representative are not present for this inspection, the City will obtain an Administrative Search Warrant to conduct the required inspection.

If you have any questions prior to your inspection, please call William Mills.

Brian Taylor  
Chief Building Official

cc: [loren@provide.net](mailto:loren@provide.net)

PLAINTIFF'S  
EXHIBIT

**AA**



**City of Jackson, Michigan  
Municipal Billing Invoice**

903 W WASHINGTON LLC  
P O BOX 3816  
ANN ARBOR MI 48106



**Invoice Date**  
11/02/2021

**Invoice Number    Certificate #    Address    Amount Due**

00092080    CR210234    903 W WASHINGTON AVE    \$ 255.00

Fee Details:	Quantity	Description	Balance
	60.000	Initial - Locked out 3/3/21	\$ 255.00

00093947    CR210234    903 W WASHINGTON AVE    \$ 255.00

Fee Details:	Quantity	Description	Balance
	60.000	Initial 2nd attempt - 4/1/21 lockout	\$ 255.00

00096062    CR210234    903 W WASHINGTON AVE    \$ 382.50

Fee Details:	Quantity	Description	Balance
	60.000	Search Warrant (Admin) - 7/14/21	\$ 255.00
	28.000	Search Warrant (Inspector Mills) - 7/14/21	\$ 127.50

00098868    CR210234    903 W WASHINGTON AVE    \$ 255.00

Fee Details:	Quantity	Description	Balance
	60.000	90-day reinspection - 10/25/21 Locked out	\$ 255.00

**Total Amount Due    \$ 1,147.50**



CONSENT FORM / REGISTRY OF PROPERTY/OWNER

903 W WASHINGTON AVE
Address of Property

3/4/21 @ 1pm
Scheduled Date/Time

903 W WASHINGTON LLC at P O BOX 1372 ANN ARBOR MI 48106
Owner Name/Address

loren@provide.net
Owner's email address

Owner's Name/Mailing Address - If Different Than Above

Owner' Home Phone Owner's Work Phone

903 W WASHINGTON LLC at P O BOX 1372, ANN ARBOR, MI 48106
Agent Name/Address

Agent's Home Phone Agent's Work Phone

\*\*\*\*\*

I, \_\_\_\_\_, consent to allow the City of Jackson to
Owner \ Agent \ Tenant

inspect the above-referenced property to insure compliance with the Housing Code of the City of Jackson.

Signature

Phone Number

\*\*\*\*\*

THIS SECTION TO BE COMPLETED BY INSPECTOR

/
Inspection Start/End Time

1.00
Total # of Structures

1.00
Total Number of Units

# OF UNITS:

Rental Owner-Occ Commercial Disabled

Is Property Occupied? [ ] Yes [ ] No Comments: \_\_\_\_\_

(1) Single Family [String.Property.Zoning]

(2) Two-Family Zoning District

(3) Multiple (3+) Time needed for follow up if in excess of 1 hour

(4) Rooming House

(5) Multiple Structures

Is building in a hazardous condition? \_\_\_ Y \_\_\_ N (Supply date referred for CMD in appropriate section)

Plmbg Heat Elec Struc Cleanliness

Comments: \_\_\_\_\_

(Inspector Signature)



STATE OF MICHIGAN  
12th DISTRICT COURT

ADMINISTRATIVE  
SEARCH WARRANT

CASE NO.

I, William Mills, Code Enforcement Officer, Department Neighborhood and Economic Operations, has sworn to the attached affidavit regarding the following:

1. The building or place to be viewed, photographed, or videotaped is described as and is located at:

A residential dwelling located at 903 W WASHINGTON AVE, Jackson, Michigan.

2. The PROPERTY to be viewed, photographed, or videotaped, if found, is specifically described as:

All interior and exterior areas of the structure(s) located at 903 W WASHINGTON AVE, Jackson, Michigan. An exterior inspection of the above referenced property was partially conducted on 3/4/2021, from the public sidewalk only and violations of the City of Jackson Housing Code were cited and are enumerated in the attached Inspection Report.

IN THE NAME OF THE PEOPLE OF THE STATE OF MICHIGAN: I have found that probable cause exists and you are commanded to make an inspection by viewing, photographing, or videotaping the above described property. You are to leave a copy of this warrant and attached affidavit with the owner, agent of the property owner, or at the premises.

Issued: 7-14-21  
(date)

[Signature]  
Judge/Magistrate 8:30 AM

RETURN

Search was made 14<sup>TH</sup> day of July, 2021, and the following property was viewed, photographed, or videotaped-no items were seized.

\_\_\_\_\_  
Officer

[Signature]  
Witness

**COPY OF VIOLATIONS WILL BE SENT BY CERTIFIED MAIL.**

COPY of affidavit and warrant served:

\_\_\_\_\_  
Name



STATE OF MICHIGAN  
12th DISTRICT COURT

AFFIDAVIT FOR  
ADMINISTRATIVE SEARCH WARRANT

CASE NO.

I, William Mills, Code Enforcement Officer, Department Neighborhood and Economic Operations, Affiant, states that:

1. The building or place to be viewed, photographed, or videotaped is described as and is located at:

A residential dwelling located at 903 W WASHINGTON AVE, Jackson, Michigan.

2. The PROPERTY to be viewed, photographed, or videotaped, if found, is specifically described as all interior and exterior areas of the structure(s) located at 903 W WASHINGTON AVE, Jackson, Michigan.

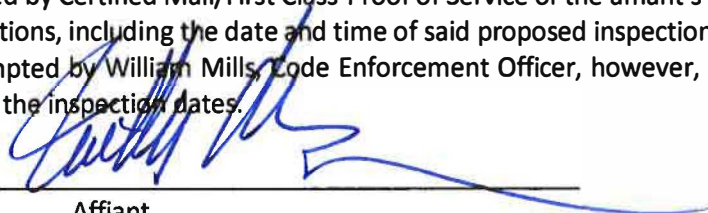
3. The FACTS establishing probable cause or the grounds for search are:

The above described property has been selected for inspection pursuant to the Systematic Code Enforcement Inspection Program adopted by The Jackson City Commission. The purpose of the inspection is to ascertain health, safety and welfare threatening violations existing on or within the property that may be contrary to Chapter 14 of the City Code. Absent such entry, no determination of the property's interior condition can be had, thereby precluding Code Enforcement or abatement of unsafe conditions, as well as prevention of future violations.

An exterior inspection of the above referenced property was partially conducted 3/4/2021, from the public sidewalk only and violations of the City of Jackson Housing Code were cited and are enumerated in the attached Inspection Report.

The owner has been notified by Certified Mail/First Class-Proof of Service of the affiant's intention to inspect the property for code violations, including the date and time of said proposed inspection. On 3/4/2021 and 4/1/2021, entry was attempted by William Mills, Code Enforcement Officer, however, there was no entry into the premises at any of the inspection dates.

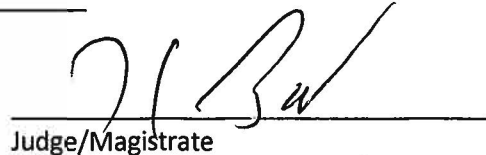
This affidavit consists of one page.



Affiant

Reviewed on \_\_\_\_\_ by \_\_\_\_\_  
(date) Prosecuting Official

Subscribed and sworn to before me on 7-14-21  
(date)

  
Judge/Magistrate

8:30 AM



INSPECTION REPORT  
903 W WASHINGTON AVE  
William Mills

Exterior

BUILDING: HOUSE AREA: East Exterior

**Damaged or missing screen**

14-101(5)b Minimum Requirements. Screen is missing or damaged.

INSPECTOR COMMENTS: two screens missing

**Roof - Soffit and Fascia - repair**

14-72(1)c Exterior Building Envelope. The soffit and fascia are not maintained in sound condition and good repair.

INSPECTOR COMMENTS: soffit sagging and not attached in center of structure

AREA: North Exterior

**Damaged or missing screen**

14-101(5)b Minimum Requirements. Screen is missing or damaged.

INSPECTOR COMMENTS: upper level 2 screens

**Gutters - not in good repair**

14-72(1)c Exterior Building Envelope. The roof gutter system is not maintained in sound condition and good repair capable of operating as intended.

INSPECTOR COMMENTS: gutter and downspout not connected on east side of porch

AREA: West Exterior

**Gutters - not in good repair**

14-72(1)c Exterior Building Envelope. The roof gutter system is not maintained in sound condition and good repair capable of operating as intended.

INSPECTOR COMMENTS: low hanging in center not sloped towards downspout



- Building:** HOUSE  
Uncorrected  
**Area:** Kitchen **Unit:**  
14-82(5)(k) Basic Facility Requirements - Unsafe Wiring. Receptacle cover plate(s) are missing.
- Building:** HOUSE  
Uncorrected  
**Area:** Basement **Unit:**  
14-61(1) Fire Safety Regulations. The furnace filter is dirty or missing.
- Building:** HOUSE  
Uncorrected  
**Area:** Basement **Unit:**  
14-82(3)b Basic Facility Requirements. The water heater is not maintained in sound condition and good repair.  
INSPECTOR COMMENTS: water around base of water heater
- Building:** HOUSE  
Uncorrected  
**Area:** Main Stairway **Unit:**  
14-81(5)g Interior Structure. The floor is not maintained in sound condition and good repair.  
INSPECTOR COMMENTS: floor and stairs are smeared with dog feces and urine needs cleaned
- Building:** HOUSE  
Uncorrected  
**Area:** Northeast Bedroom **Unit:**  
14-101(1) Minimum Requirements. Window is not maintained in sound condition and good repair or does not operate as intended.  
INSPECTOR COMMENTS: north window missing lower pin
- Building:** HOUSE  
Uncorrected  
**Area:** Northeast Bedroom **Unit:**  
14-101(5)b Minimum Requirements. Screen is missing or damaged.  
INSPECTOR COMMENTS: north
- Building:** HOUSE  
Uncorrected  
**Area:** Bathroom **Unit:**  
14-101(5)b Minimum Requirements. Screen is missing or damaged.

**Passed Inspection Items:**

This Location Had No Violations on 7/14/2021 9:23:56 AM

**Area:** Porch **Unit:**

This Location Had No Violations on 7/14/2021 9:23:56 AM

**Area:** Living Room **Unit:**

This Location Had No Violations on 7/14/2021 9:23:56 AM

**Area:** Dining Room **Unit:**

**Search Warrant Posting Inspection | William Mills**

**Status:** Completed **Result:** Violation(s)  
**Scheduled:** 06/14/2021 12:00 AM **Completed:** 06/15/2021 09:39 AM

**Area:** **Unit:**

**Init:2 (2nd attempt Initial) Inspection | William Mills**

**Status:** Completed **Result:** Locked Out  
**Scheduled:** 04/01/2021 10:00 AM **Completed:** 04/01/2021 10:02 AM

**Area:** **Unit:**

**Initial Inspection | William Mills**

**Status:** Completed **Result:** Locked Out  
**Scheduled:** 03/04/2021 12:00 AM **Completed:** 03/04/2021 01:15 PM

**Violations:**

**Building:** HOUSE  
Uncorrected  
**Area:** North Exterior **Unit:**  
14-101(5)b Minimum Requirements. Screen is missing or damaged.

INSPECTOR COMMENTS: upper level 2 screens

**Building:** HOUSE  
**Area:** West Exterior **Unit:**

Uncorrected

14-72(1)c Exterior Building Envelope. The roof gutter system is not maintained in sound condition and good repair capable of operating as intended.

INSPECTOR COMMENTS: lowhanging in center not sloped towards downspout

**Building:** HOUSE

**Area:** East Exterior

**Unit:**

Uncorrected

14-101(5)b Minimum Requirements. Screen is missing or damaged.

INSPECTOR COMMENTS: two screens missing

**Building:** HOUSE

**Area:** North Exterior

**Unit:**

Corrected

14-72(1)c Exterior Building Envelope. The roof gutter system is not maintained in sound condition and good repair capable of operating as intended.

INSPECTOR COMMENTS: gutter and downspout not connected on east side of porch

**Building:** HOUSE

**Area:** East Exterior

**Unit:**

Corrected

14-72(1)c Exterior Building Envelope. The soffit and fascia are not maintained in sound condition and good repair.

INSPECTOR COMMENTS: soffit sagging and not attached in center of structure

**Area:**

**Unit:**

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**City of Jackson  
Fiscal Year 2021/22 Adopted Budget  
Revenue Detail**

***Fund 251 Housing Code Enforcement Fund***

<b>Account Description</b>	<b>2018/19 Actual</b>	<b>2019/20 Actual</b>	<b>2020/21 Budget</b>	<b>2020/21 Projected</b>	<b>2021/22 Proposed</b>	<b>2021/22 Adopted</b>
251-000-000-607.001 Rental Registry Fees	117,700	33,569	100,000	150,000	100,000	<b>100,000</b>
251-000-000-607.002 Foreclosure Reg. Fees	55,625	19,475	40,000	15,000	20,000	<b>20,000</b>
251-000-000-627.002 Property Monitoring Fees	153,033	126,791	130,000	40,000	75,000	<b>75,000</b>
251-000-000-628.001 Code Enforcement - Housing	757,260	535,609	700,000	600,000	650,000	<b>650,000</b>
251-000-000-628.002 Code Enforcement - Blight	24,440	17,620	35,000	35,000	35,000	<b>35,000</b>
251-000-000-664.000 Interest	8,025	5,077	7,500	3,500	3,000	<b>3,000</b>
251-000-000-683.002 Property Boardups	0	1,488	0	2,500	0	<b>0</b>
251-000-000-687.676 Refunds & Rebates-W/Comp	0	0	12,330	12,330	0	<b>0</b>
251-000-000-687.677 Refunds & Rebates-Healthcar	0	0	40,219	40,219	0	<b>0</b>
251-000-000-688.000 Miscellaneous	68,905	49,911	60,000	43,000	60,000	<b>60,000</b>
251-000-000-699.249 Contribution-Bldg Insp Fd	0	166,000	212,300	225,000	225,000	<b>225,000</b>
	<b>1,184,988</b>	<b>955,540</b>	<b>1,337,349</b>	<b>1,166,549</b>	<b>1,168,000</b>	<b>1,168,000</b>



**City of Jackson**  
**Fiscal Year 2020/21 Adopted Budget**  
**Revenue Detail**

***Fund 251 Housing Code Enforcement Fund***

<b>Account Description</b>	<b>2017/18 Actual</b>	<b>2018/19 Actual</b>	<b>2019/20 Budget</b>	<b>2019/20 Projected</b>	<b>2020/21 Proposed</b>	<b>2020/21 Adopted</b>
251-000-000-607.001 N.O.O.R.P. Fees	87,950	117,700	100,000	42,000	100,000	100,000
251-000-000-607.002 Foreclosure Reg. Fees	49,088	55,625	50,000	25,000	40,000	40,000
251-000-000-627.002 Property Monitoring Fees	105,217	153,033	100,000	130,000	130,000	130,000
251-000-000-628.001 CE - Housing	674,323	757,260	735,000	660,000	700,000	700,000
251-000-000-628.002 CE - Blight	54,715	24,440	35,000	20,000	35,000	35,000
251-000-000-664.000 Interest	15,456	8,025	7,500	5,000	7,500	7,500
251-000-000-683.002 Property Cleanups	-360	0	0	0	0	0
249-000-000-687.676 Refunds & Rebates-W/Comp	0	0	0	0	0	12,330
249-000-000-687.677 Refunds & Rebates-Healthcar	0	0	0	0	0	40,219
251-000-000-688.000 Miscellaneous	60,176	68,905	50,000	50,000	60,000	60,000
251-000-000-699.249 Contribution-Bldg Insp Fd	0	0	116,000	209,700	212,300	212,300
	<b>1,046,565</b>	<b>1,184,988</b>	<b>1,193,500</b>	<b>1,141,700</b>	<b>1,284,800</b>	<b>1,337,349</b>

**City of Jackson**  
**Fiscal Year 2019/20 Adopted Budget**  
**Revenue Detail**

***Fund 251 Housing Code Enforcement Fund***

<b>Account Description</b>	<b>2016/17 Actual</b>	<b>2017/18 Actual</b>	<b>2018/19 Budget</b>	<b>2018/19 Projected</b>	<b>2019/20 Proposed</b>	<b>2019/20 Adopted</b>
251-000-000-607.001 N.O.O.R.P. Fees	58,328	87,950	50,000	140,000	100,000	<b>100,000</b>
251-000-000-607.002 Foreclosure Reg. Fees	36,450	49,088	-40,000	60,000	50,000	<b>50,000</b>
251-000-000-627.002 Property Monitoring Fees	76,433	105,217	60,000	100,000	100,000	<b>100,000</b>
251-000-000-628.001 CE - Housing	366,969	674,323	700,000	700,000	735,000	<b>735,000</b>
251-000-000-628.002 CE - Blight	38,070	54,715	25,000	35,000	35,000	<b>35,000</b>
251-000-000-664.000 Interest	11,613	15,456	10,000	7,500	7,500	<b>7,500</b>
251-000-000-683.002 Property Cleanups	-220	-360	0	0	0	<b>0</b>
251-000-000-688.000 Miscellaneous	58,026	60,176	25,000	50,000	50,000	<b>50,000</b>
251-000-000-699.249 Contribution-Bldg Insp Fd	0	0	0	0	116,000	<b>116,000</b>
	<b>645,669</b>	<b>1,046,565</b>	<b>910,000</b>	<b>1,092,500</b>	<b>1,193,500</b>	<b>1,193,500</b>



**City of Jackson**  
**Fiscal Year 2018/19 Adopted Budget**  
**Revenue Detail**

***Fund 251 Housing Code Enforcement Fund***

<b>Account Description</b>	<b>2015/16 Actual</b>	<b>2016/17 Actual</b>	<b>2017/18 Budget</b>	<b>2017/18 Projected</b>	<b>2018/19 Proposed</b>	<b>2018/19 Adopted</b>
251-000-000-607.001 N.O.O.R.P. Fees	159,249	58,328	120,000	150,000	50,000	<b>50,000</b>
251-000-000-607.002 Foreclosure Reg. Fees	37,286	36,450	25,000	40,000	40,000	<b>40,000</b>
251-000-000-607.002 Property Monitoring Fees	64,752	76,433	55,000	90,000	60,000	<b>60,000</b>
251-000-000-627.001 CE - Housing	565,388	366,969	350,000	700,000	700,000	<b>700,000</b>
251-000-000-628.002 CE - Blight	17,234	38,070	25,000	10,000	25,000	<b>25,000</b>
251-000-000-664.000 Interest	6,790	11,613	10,000	15,000	10,000	<b>10,000</b>
251-000-000-683.002 Property Cleanups	-70	-220	0	0	0	<b>0</b>
251-000-000-688.000 Miscellaneous	25,371	58,026	25,000	50,000	25,000	<b>25,000</b>
251-000-000-699.101 Contribution-General Fund	0	0	61,500	0	0	<b>0</b>
	<b>876,000</b>	<b>645,669</b>	<b>671,500</b>	<b>1,055,000</b>	<b>910,000</b>	<b>910,000</b>



**City of Jackson**  
**Fiscal Year 2017/18 Adopted Budget**  
**Revenue Detail**

***Fund 251 Housing Code Enforcement Fund***

<b>Account Description</b>	<b>2014/15 Actual</b>	<b>2015/16 Actual</b>	<b>2016/17 Budget</b>	<b>2016/17 Projected</b>	<b>2017/18 Proposed</b>	<b>2017/18 Adopted</b>
251-000-000-607.001 N.O.O.R.P. Fees	173,324	159,249	148,000	85,000	120,000	<b>120,000</b>
251-000-000-607.002 Foreclosure Reg. Fees	42,660	37,286	18,000	25,000	25,000	<b>25,000</b>
251-000-000-607.003 Property Monitoring Fees	73,875	64,752	66,600	75,000	55,000	<b>55,000</b>
251-000-000-608.000 CE - Housing	257,665	565,388	427,790	340,000	350,000	<b>350,000</b>
251-000-000-608.003 CE - Blight	16,590	17,234	24,000	30,000	25,000	<b>25,000</b>
251-000-000-664.000 Interest	15,422	6,790	15,000	10,000	10,000	<b>10,000</b>
251-000-000-683.002 Property Cleanups	0	-70	0	0	0	<b>0</b>
251-000-000-698.002 Miscellaneous	87,449	25,371	30,000	45,000	25,000	<b>25,000</b>
251-000-000-699.101 Contribution-General Fund	0	0	1,900	43,000	61,500	<b>61,500</b>
	<b>666,985</b>	<b>876,000</b>	<b>731,290</b>	<b>653,000</b>	<b>671,500</b>	<b>671,500</b>

**City of Jackson**  
**Fiscal Year 2016/17 Adopted Budget**  
**Revenue Detail**

***Fund 251 Housing Code Enforcement Fund***

<b>Account Description</b>	<b>2013/14 Actual</b>	<b>2014/15 Actual</b>	<b>2015/16 Adopted</b>	<b>2015/16 Projected</b>	<b>2016/17 Proposed</b>	<b>2016/17 Adopted</b>
251-000-000-607.001 N.O.O.R.P. Fees	52,518	173,324	25,000	27,000	148,000	<b>148,000</b>
251-000-000-607.002 Foreclosure Reg. Fees	58,630	42,660	15,000	25,000	18,000	<b>18,000</b>
251-000-000-607.003 Property Monitoring Fees	45,834	73,875	90,000	45,000	66,600	<b>66,600</b>
251-000-000-608.000 CE - Housing	384,213	257,665	508,000	420,000	427,790	<b>427,790</b>
251-000-000-608.003 CE - Blight	0	16,590	0	7,500	24,000	<b>24,000</b>
251-000-000-664.000 Interest	13,691	15,422	15,000	5,000	15,000	<b>15,000</b>
251-000-000-683.002 Property Cleanups	-120	0	0	0	0	<b>0</b>
251-000-000-698.002 Miscellaneous	15,780	87,449	30,000	25,000	30,000	<b>30,000</b>
251-000-000-699.101 Contribution-General Fund	0	0	33,000	110,200	1,900	<b>1,900</b>
	<b>570,546</b>	<b>666,985</b>	<b>716,000</b>	<b>664,700</b>	<b>731,290</b>	<b>731,290</b>

**City of Jackson**  
**Fiscal Year 2015/16 Adopted Budget**  
**Revenue Detail**

***Fund 251 Housing Code Enforcement Fund***

<b>Account Description</b>	<b>2012/13 Actual</b>	<b>2013/14 Actual</b>	<b>2014/15 Adopted</b>	<b>2014/15 Projected</b>	<b>2015/16 Proposed</b>	<b>2015/16 Adopted</b>
251-000-000-607.001 N.O.O.R.P. Fees	142,516	52,518	80,000	135,000	25,000	<b>25,000</b>
251-000-000-607.002 Foreclosure Reg. Fees	46,005	58,630	7,500	35,000	15,000	<b>15,000</b>
251-000-000-607.003 Property Monitoring Fees	0	45,834	63,000	100,000	90,000	<b>90,000</b>
251-000-000-608.000 CE - Housing	443,220	384,213	564,000	270,000	508,000	<b>508,000</b>
251-000-000-664.000 Interest	3,512	13,691	10,000	15,000	15,000	<b>15,000</b>
251-000-000-683.002 Property Cleanups	5,074	-120	0	0	0	<b>0</b>
251-000-000-698.002 Miscellaneous	5,560	15,780	5,000	100,000	30,000	<b>30,000</b>
251-000-000-699.101 Contribution-General Fund	0	0	0	0	33,000	<b>33,000</b>
	<b>645,887</b>	<b>570,546</b>	<b>729,500</b>	<b>655,000</b>	<b>716,000</b>	<b>716,000</b>

**City of Jackson**  
**Fiscal Year 2014/15 Adopted Budget**  
**Revenue Detail**

***Fund 251 Housing Code Enforcement Fund***

<b>Account Description</b>	<b>2011/12 Actual</b>	<b>2012/13 Actual</b>	<b>2013/14 Adopted</b>	<b>2013/14 Projected</b>	<b>2014/15 Proposed</b>	<b>2014/15 Adopted</b>
251-000-000-607.001 N.O.O.R.P. Fees	13,440	142,516	35,000	47,000	80,000	<b>80,000</b>
251-000-000-607.002 Foreclosure Reg. Fees	0	46,005	7,500	45,000	7,500	<b>7,500</b>
251-000-000-607.003 Property Monitoring Fees	0	0	45,000	30,000	63,000	<b>63,000</b>
251-000-000-608.000 CE - Housing	3,480	443,220	602,000	320,000	564,000	<b>564,000</b>
251-000-000-664.000 Interest	3	3,512	1,000	12,000	10,000	<b>10,000</b>
251-000-000-683.002 Property Cleanups	6,990	5,074	0	0	0	<b>0</b>
251-000-000-698.002 Miscellaneous	0	5,560	0	6,500	5,000	<b>5,000</b>
	<b>23,913</b>	<b>645,887</b>	<b>690,500</b>	<b>460,500</b>	<b>729,500</b>	<b>729,500</b>

**City of Jackson**  
**Fiscal Year 2013/14 Adopted Budget**  
**Revenue Detail**

***Fund 251 Housing Code Enforcement Fund***

<b>Account Description</b>	<b>2010/11 Actual</b>	<b>2011/12 Actual</b>	<b>2012/13 Adopted</b>	<b>2012/13 Projected</b>	<b>2013/14 Proposed</b>	<b>2013/14 Adopted</b>
251-000-000-607.001 N.O.O.R.P. Fees	0	13,440	157,250	124,075	35,000	<b>35,000</b>
251-000-000-607.002 Foreclosure Reg. Fees	0	0	15,000	29,775	7,500	<b>7,500</b>
251-000-000-607.003 Property Monitoring Fees	0	0	60,000	5,000	45,000	<b>45,000</b>
251-000-000-608.000 CE - Housing	0	3,480	629,000	335,000	602,000	<b>602,000</b>
251-000-000-664.000 Interest	0	3	0	1,300	1,000	<b>1,000</b>
251-000-000-683.002 Property Cleanups	0	6,990	0	4,735	0	<b>0</b>
251-000-000-698.002 Miscellaneous	0	0	0	0	0	<b>0</b>
	<b>0</b>	<b>23,913</b>	<b>861,250</b>	<b>499,885</b>	<b>690,500</b>	<b>690,500</b>

**City of Jackson  
Fiscal Year 2012/13 Adopted Budget  
Revenue Detail**

***Fund 251 Housing Code Enforcement Fund***

<b>Account Description</b>	<b>2009/10 Actual</b>	<b>2010/11 Actual</b>	<b>2011/12 Budget</b>	<b>2011/12 Projected</b>	<b>2012/13 Proposed</b>	<b>2012/13 Adopted</b>
251-000-000-607.001 N.O.O.R.P. Fees	0	0	0	0	157,250	157,250
251-000-000-607.002 Foreclosure Reg. Fees	0	0	0	0	15,000	15,000
251-000-000-607.003 Property Monitoring Fees	0	0	0	0	60,000	60,000
251-000-000-608.000 CE - Housing	0	0	0	0	629,000	629,000
251-000-000-664.000 Interest	0	0	0	0	0	0
251-000-000-698.000 Miscellaneous	0	0	0	0	0	0
	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>861,250</b>	<b>861,250</b>

**City of Jackson  
Fiscal Year 2012/13 Adopted Budget  
Personnel Schedule**

<b>Class Grade</b>	<b>Position</b>	<b># Positions</b>		<b>Budgeted Salaries &amp; Wages</b>
		<b>Permanent</b>	<b>Temporary</b>	
<i>Department: Housing Code Enforcement - Inspection</i>				
<i>Fund-Activity: 251-371</i>				
006	Administrative Secretary II	2		61,384
010	Code Enforcement Officer	5		214,113
		<b>7</b>		<b>275,497</b>
Add:	1/4 Deputy City Manager/Dir. Comm. Dev. from CDBG			28,147
	1/4 Accounting Manager			16,367
				<b>320,011</b>