

*Aug 19*

**KAPLIN STEWART MELOFF REITER & STEIN, P.C.**

**By:** Marc B. Kaplin, Esquire (Atty. I.D. No. 04465)  
Michael P. Coughlin, Esquire (Atty. I.D. No. 43793)  
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Attorneys for Plaintiff

**MT ESTATE REALTY, LLC**  
**701 W. Market Street**  
**Perkasie, PA 18944**

**Plaintiff,**

**v.**

**BOROUGH OF QUAKERTOWN**  
**Quakertown Borough Hall**  
**35 North Third Street**  
**Quakertown, PA 18951**

**and**

**SCOTT McELREE**  
**Borough of Quakertown**  
**Quakertown Borough Hall**  
**35 North Third Street**  
**Quakertown, PA 18951**

**and**

**DOUGLAS C. WILHELM**  
**Borough of Quakertown**  
**Quakertown Borough Hall**  
**35 North Third Street**  
**Quakertown, PA 18951**

**Defendants.**

**COURT OF COMMON PLEAS OF  
BUCKS COUNTY**

**NO. 2021-06027**



Case #: 2021-06027-0001 12979937  
Main (Public)  
Code: 755 Judge:35  
Rpt: S2564326 11/19/2021 1:12:03 PM

**RECEIVED**  
**2021 NOV 19 P 12:48**  
**PROthonary**  
**OF BUCKS COUNTY**

**SPECIAL INJUNCTION**

**AND NOW**, this \_\_\_\_\_ day of \_\_\_\_\_, 2021, upon consideration of the Complaint and Petition Special and Preliminary Injunction filed by Plaintiff, MT Estate Realty LLC

(“MTER”), it is hereby **ORDERED** and **DECREED** that a Special Injunction is hereby issued directing and ordering that:

1. Defendants are hereby ordered to immediately turn over to MTER all documents, inspection reports, photographs, and videotapes in their possession evidencing or reflecting the alleged building violations referenced in the Notice of Condemnation, Notice of Violation and revised Notice of Condemnation and Notice of Violation referenced in, and attached as exhibits to, MTER’s Complaint, including all photographs, recordings and evidence obtained during the November 10, 2021 “search” conducted in connection with the Application for Search Warrant referenced in the Complaint;

2. Defendants are hereby directed to immediately restore all utility service, including electrical and water service, to MTER’s properties located at (a) 100 & 200 West Broad Street, Bucks County TMP # 35-008-311-001; (b) 17 S. 2nd Street, Bucks County TMP # 35-008-311-003; and (c) 8 Front Street, Bucks County TMP # 35-008-311-002 (collectively “**the Properties**”);

3. Defendants and all persons acting by or through them are hereby enjoined from preventing or interfering with MTER’s representatives and professionals’ efforts to enter the Properties in order to conduct inspections of the current conditions of the Properties and to abate any alleged issues referenced in the revised Notice of Violation;

4. MTER shall post security in the sum of \$\_\_\_\_\_ no later than 5:00 p.m. on \_\_\_\_\_, 2021;

5. This Special Injunction shall remain in effect pending further order of this Court;  
and

6. Pursuant to Pa.R.C.P. 1531(d), a hearing on the continuation of this Special Injunction shall be held at \_\_\_\_\_ a.m./p.m. on \_\_\_\_\_, 2021 in Courtroom\_\_\_\_\_, Bucks County Courthouse, Doylestown, Pennsylvania.

**BY THE COURT:**

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**J.**

**KAPLIN STEWART MELOFF REITER & STEIN, P.C.**

**By:** Marc B. Kaplin, Esquire (Atty. I.D. No. 04465)  
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**BOROUGH OF QUAKERTOWN** :  
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**Borough of Quakertown** :  
**Quakertown Borough Hall** :  
**35 North Third Street** :  
**Quakertown, PA 18951** :

**Defendants.** :

**PETITION FOR SPECIAL AND PRELIMINARY INJUNCTION**

Plaintiff, MT Estate Realty, LLC, by its attorneys, hereby petitions the Court for a special and preliminary injunction pursuant to Pa.R.C.P. 1531(a) against Defendants, the Borough of Quakertown, Scott McElree, and Douglas C. Wilhelm, and, in support hereof, avers as follows:

## INTRODUCTION

1. Plaintiff, MT Estate Realty, LLC (“**MTER**”), has commenced this action against Defendants, the Borough of Quakertown (“**the Borough**”), Scott McElree (“**McElree**”), and Douglas C. Wilhelm (“**Wilhelm**”) as a result of their illegal condemnation of MTER’s properties based upon alleged building code violations, their illegal summary eviction of all tenants at the properties, and their complete refusal to restore electrical power and water service to the properties and to allow MTER’s representatives and professionals to access the properties in order to properly evaluate and abate the alleged violations.

2. A true and correct copy of MTER’s Complaint is attached hereto as **Exhibit “A”** and incorporated herein by reference.

3. MTER hereby moves the Court for a special and preliminary injunction pursuant to Pa.R.C.P. 1531(a) which provides:

“(a) A court shall issue a preliminary or special injunction only after written notice and hearing unless it appears to the satisfaction of the court that immediate and irreparable injury will be sustained before notice can be given or a hearing held, in which case the court may issue a preliminary or special injunction without a hearing or without notice. In determining whether a preliminary or special injunction should be granted and whether notice or a hearing should be required, the court may act on the basis of the averments of the pleadings or petition and may consider affidavits of parties or third persons or any other proof which the court may require.”

## PARTIES

4. MTER is a Pennsylvania limited liability company with a business address at the above-stated address.

5. The Borough is a borough located in Bucks County, Pennsylvania and organized under the laws of Pennsylvania with a business address at the above-stated address.

6. McElree is an adult individual with a place of business at the above-stated address. McElree is the Borough Manager and Police Chief of the Borough.

7. Wilhelm is an adult individual with a place of business at the above-stated address. Wilhelm is the Building Code Official & Zoning Officer of the Borough.

### THE PROPERTIES

8. MTER is the record owner of the following three properties located in the Borough of Quakertown (collectively, “the **Properties**”):

(a) 100 & 200 West Broad Street, Bucks County TMP # 35-008-311-001 (“**West Broad Property**”);

(b) 17 S. 2nd Street, Bucks County TMP # 35-008-311-003 (“**2<sup>nd</sup> Street Property**”); and

(c) 8 Front Street, Bucks County TMP # 35-008-311-002 (“**Front Street Property**”).

9. MTER acquired the Properties in 2004.

10. The West Broad Property is improved by a multi-story mix-use building comprised of approximately 101 boarding rooms, 2 apartments, and approximately 1,800 square feet of commercial retail space which is currently leased to a tenant which operates a restaurant known as “Tijuana Tacos”.

11. The 2nd Street Property is improved by a multi-story building comprised of 6 apartments and 6 garages.

12. The Front Street Property is improved by a multi-story building comprised of 2 apartments and 6 boarding rooms.

13. For the past 60 years, the apartments and rooms at the Properties have been leased to low-income residents, many of whom suffer from mental and/or physical disabilities and are

referred by and financed by various non-profit agencies and/or religious organizations, who may otherwise be homeless.

**THE BOROUGH'S DESIRE TO REDEVELOP THE  
PROPERTIES AND "GENTRIFY" THE BOROUGH'S DOWNTOWN**

14. For the past 10 years, the Borough has been redeveloping the Borough's downtown area surrounding the Properties.

15. As part of those plans, the Borough has demanded that MTER redevelop the Properties and cease using the Properties as apartments for low-income residents, which the Borough sees as a use that is incompatible with its redevelopment plans.

16. Approximately 8 years ago, the Borough requested that MTER sell the Properties to a developer that would redevelop the Properties in accordance with the Borough's plans.

17. MTER told the Borough that MTER would sell the Properties if the financial terms were acceptable and the Borough secured a location to house the 160 residents staying at the Properties.

18. The Borough told MTER that it would permit MTER to develop another property to house the residents so long as it would not be in the downtown area.

19. The Borough presented MTER with a buyer for the Properties, but the buyer's offer was conditioned upon the Borough's contribution of \$750,000.00 to the purchase price.

20. The Borough refused to contribute to the purchase price and, as a result, the Borough's proposed Buyer refused to consummate the sale.

21. As a result, MTER has invested over \$750,000.00 in the past 3 years to improve the Properties, including the following:

- (a) Completely renovated 15-20 boarding rooms;
- (b) Upgraded the electrical system throughout the Properties (including new

lines, electrical boxes and fuse boxes);

- (c) Renovated the common areas, including the lobby and hallways;
- (d) Replaced approximately 125 windows;
- (e) Replaced approximately 80 interior doors;
- (f) Replaced approximately 7 exterior doors; and
- (g) Renovated a common bathroom.

22. Recognizing that MTER's renovations would impede the ability to sell and redevelop the Properties and Borough's unwillingness to contribute to the purchase thereof, the Borough crafted a scheme to interfere with MTER's business operations to coerce MTER to sell the Properties at a reduced price so that the Properties could be redeveloped for a use desired by the Borough.

23. Specifically, the Borough has engaged in a series of "surprise" inspections and condemnation efforts, all of which to date have failed.

### THE RECENT CONDEMNATION

24. On November 9, 2021, McElree on behalf of the Borough filed with Magistrate District 07-2-05 an "Application for Search Warrant and Authorization" ("**Search Warrant Application**") seeking an administrative search warrant to conduct a search of the West Broad Property for evidence of alleged code violations.

25. A true and correct copy of the Application is attached to MTER's Complaint as Exhibit "1" and incorporated herein by reference.

26. The Search Warrant Application seeks evidence of violations of the following Codes adopted by the Borough – International Fire Code, International Residential Code, International Building Code, International Existing Building Code, and the Pennsylvania



Uniform Construction Code, including evidence related to proper fire prevention, protection and safety mechanisms, mold growth, proper functioning and clear methods of ingress and egress, properly functioning electrical systems, and infestation of insects and other pests.

27. The Search Warrant Application also incorrectly identifies the owner of the Properties as “Tom Skiffington” (“**Skiffington**”).

28. The Search Warrant Application was premised upon an Affidavit of Probable Cause which details issues with 1 particular apartment (Apartment 4) in June of 2021 and 2 incidents of malfunction with a fire alarm on the 3<sup>rd</sup> floor of the West Broad Property.

29. The Search Warrant Application sought an administrative search warrant to search the West Broad Property only.

30. The Search Warrant Application did ***not*** seek an administrative search warrant to search the 2nd Street Property or the Front Street Property.

31. The Magistrate District issued the search warrant on November 9, 2021.

32. The search warrant issued was limited to a search of the structures and rooms at the West Broad Property only.

33. No search warrant was issued for the 2nd Street Property or the Front Street Property.

34. On November 10, 2021, at approximately 9:45 a.m., McElree, Wilhelm, and various other officials acting on behalf of the Borough purported to conduct a search *of all three of the Properties*, notwithstanding the search warrant authorized a search of the West Broad Property *only*.

35. While claiming to be “conducting a search for evidence”, the Borough officials did not do a search, but simply posted notice of condemnation and proceeded to remove all

occupants from the Properties.

36. McElree, Wilhelm, and various other officials acting on behalf of the Borough never notified MTER's representatives that they were conducting a search of the three Properties.

37. After posting notice of the condemnation, McElree, Wilhelm, and various other officials acting on behalf of the Borough forcibly evicted all of the residents (approximately 160 residents) in all three Properties, leaving them essentially homeless, as well as the commercial tenant at the West Broad Property.

38. After posting notice of the condemnation, McElree, Wilhelm, and various other officials acting on behalf of the Borough kicked in and destroyed numerous doors in the buildings in all three Properties, notwithstanding that they had in their possession keys to open those doors. Those officials could have also requested MTER, who was present earlier, to provide access to all of the rooms.

39. In some instances, McElree, Wilhelm, and various other officials kicked in doors to apartments and boarding rooms instead of asking the residents located therein to open the door.

40. After posting notice of the condemnation, McElree, Wilhelm, and various other officials acting on behalf of the Borough intentionally left open windows in the buildings at the Properties knowing that winter was approaching and that the pipes in those buildings would eventually freeze and burst.

41. During the search, McElree, Wilhelm, and various other officials acting on behalf of the Borough cut off electrical power, and water supply, to the buildings at the three Properties.

42. During the search, McElree, Wilhelm, and various other officials acting on behalf

of the Borough were observed “high fiving” one another and bragging that “we got him” [referencing MTER’s principal, Skiffington].

43. During the search, a representative from one of the non-profit agencies that sponsor residents at the Properties notified Skiffington that the search was taking place.

44. Skiffington went to the Properties and he was immediately confronted by Wilhelm and McElree who told him that a “Notice of Condemnation” dated November 10, 2021 (“**Notice of Condemnation**”) had been posted on the West Broad Property and told him that he was not permitted to enter the Properties and that, if he attempted to do so, he would be immediately arrested.

45. A true and correct copy of the Notice of Condemnation is attached to MTER’s Complaint as Exhibit “2” and incorporated herein by reference.

46. The Notice of Condemnation pertained to the West Broad Property only.

47. The Notice of Condemnation did not pertain to, or even reference, the 2nd Street Property or the Front Street Property.

48. As required by the International Property Maintenance Code (“**IPMC**”) as adopted by the Bureau, the Notice of Condemnation specifically states that “[u]pon Condemnation, the Condemned Property may not be occupied except... Adults may occupy this dwelling during the hours of 7:00 a.m to 5:00 p.m. only for the sole purpose of abating the violations.”

49. The Notice of Condemnation also provided that:

“This Notice of Condemnation is based upon all of the violations listed in the attached Notice of Violation issued against this Condemned Property. The Condemned Property shall not be reoccupied until all of these violations have been corrected. A compliance re-inspection shall be conducted by this office before

the building is re-occupied. Permission shall be obtained from this office before entry into the structure for repairs or cleaning”

50. The IPMC expressly requires Notices of Condemnation to include a list of violations.

51. Despite the foregoing language in the Notice of Condemnation and the requirements of the IPMC, no Notice of Violation was attached to the Notice of Condemnation.

52. Despite the language in the Notice of Condemnation and the provisions of the IPMC specifically stating that MTER’s representatives may enter upon and occupy the condemned property for purposes of abating the alleged violations, McElree adamantly refused to allow Skiffington or any other representatives from MTER to enter upon the Properties and threatened to have them arrested if they attempted to do so.

53. The Notice of Condemnation directed MTER to take the “following action immediately” – – “respond to me in writing within five (5) days acknowledging receipt of this Notice and stating what actions you have taken or will take to bring your property into compliance with the code”.

54. The Notice of Condemnation provided no evidence of any violations of any of the codes referenced in the search warrant.

**MTER’S EFFORTS TO GAIN ACCESS TO THE  
PROPERTIES TO ABATE THE ALLEGED VIOLATIONS**

55. On November 11, 2021, MTER’s counsel telephoned Wilhelm and advised him that MTER intended to retain independent professionals, including a professional exterminator, electrician, and alarm system inspector, to evaluate the current condition of the Properties and to address any corrective action that the professionals deem necessary as required by the Notice of Condemnation. Counsel also advised Wilhelm that, in order to conduct proper inspections of the

Properties, electrical power would have to be restored to the buildings at the Properties. Wilhelm responded that the Borough would not restore the electrical power to the Properties or allow MTER or its professionals to enter upon the Properties unless and until the Borough's solicitor, William D. Oettinger, Esquire, authorized such entry.

56. Immediately following that telephone call, MTER's counsel attempted to contact Mr. Oettinger but he was unavailable.

57. On November 12, 2021, as required by the Notice of Condemnation, MTER's counsel sent a letter to Wilhelm (with a copy to Mr. Oettinger) stating:

"Please accept this letter as MTER's written acknowledgement requested in the Notice and to memorialize our telephone call on November 11, 2021.

As an initial matter, the Notice is defective in that it fails to include a list or reference of any violations (despite the reference to an alleged attached list). The only documents provided by your office to MTER referencing any alleged issues was a search warrant premised upon an Affidavit of Probable Cause that simply references historical problems that occurred months ago, which your office knew have since been abated. Regardless, that is the only information provided with the Notice, so MTER can only presume that the information detailed in the Affidavit is the sole basis for the Notice.

As I explained in our telephone call, MTER intends to have its independent professionals inspect and evaluate the current condition of the Property and address any corrective action that those professionals deem required in accordance with the Notice. Those professionals include a professional exterminator, electrician and alarm system inspector (collectively the "**Professionals**").

I explained that those Professionals cannot perform proper inspections until the electrical power is restored to the Property. You told me that you would not restore the electrical power to the Property or allow MTER or its Professionals to enter the Property unless and until your counsel – William D. Oettinger, Esquire – authorized such an entry. I tried to reach Mr. Oettinger, but have not been able to connect with him.

I find it remarkable that your current position directly contradicts the clear language of the Notice and is impeding MTER's ability to remediate any of the alleged issues. Not only does the Notice threaten the issuance of fines for each day the issues referenced in the Notice are not addressed, but the Notice expressly authorizes MTER to occupy the Property for the purpose of abating the referenced violations.

By preventing MTER from accessing the Property, you and the Borough are actively preventing MTER from complying with the terms of the Notice. I hereby demand that you rescind your position, restore the power to the Property and grant MTER and the Professionals immediate access to inspect and ascertain the condition of the Property.”

58. A true and correct copy of MTER's counsel's letter dated November 12, 2021 is attached to MTER's Complaint as Exhibit "3" and incorporated herein by reference.

59. On November 12, 2021, Mr. Oetinger telephoned and advised MTER's counsel that MTER's representatives would be not be permitted to access the Properties without the Borough's prior approval and that electrical power would not be restored to the buildings at the Properties until an electrical inspector, approved and licensed by the Borough, inspected the electrical systems in the buildings and determined that it would be safe to restore electrical power.

60. Thereafter, Mr. Oetinger emailed to MTER's counsel a written list of "Approved 3<sup>rd</sup> Party Electrical Inspection Agencies" acceptable to the Borough. A true and correct copy of that list is attached to MTER's Complaint as Exhibit "4" and incorporated herein by reference.

61. Skiffington contacted several of the inspectors on the Borough's "approved" list but was told by those inspectors that they "did not want to get involved".

62. One inspector, United Inspection Agency, agreed to conduct an inspection and the inspection was scheduled for the morning of November 15, 2021.

## THE NOTICE OF VIOLATION

63. On November 12, 2021, after business hours, Mr. Oetinger emailed to MTER's counsel a "Notice of Violation" ("**Notice of Violation**"), a true and correct copy of which is attached to MTER's Complaint as Exhibit "5" and incorporated herein by reference.

64. The Notice of Violation describes in very general terms the alleged violations which included:

- (a) insect infestation and resultant damage to the fire and electrical systems;
- (b) improper maintenance of fire detection facilities;
- (c) trash and debris;
- (d) holes in ceilings; and
- (e) exposed wires.

65. The Notice of Violation on its face pertains to the West Broad Property only. It does not pertain to, or reference, any portion of the 2nd Street Property or the Front Street Property.

66. The Notice of Violation also provided no "evidence" of any violations of the codes listed in the search warrant, such as pictures, reports from professionals, etc.

67. Similar to the Notice of Condemnation, the Notice of Violation states:

"You are to commence corrections of these violations within seventy-two (72) hours of the date of the issuance of this Notice and correct all violations within twenty (20) days of the date of issuance. Random spot inspections of this property for compliance will be conducted throughout this period. A Full Inspection will take place twenty (20) days from the date of issuance to check on the status of the repairs and compliance."

68. Similar to the Notice of Condemnation, the Notice of Violation also directed MTER to take the "following action immediately" -- "respond to me in writing within five (5)

days acknowledging receipt of this Notice and stating what actions you have taken or will take to bring your property into compliance with the code”.

69. By letter dated November 15, 2021, MTER’s counsel advised Mr. Oetinger that that the Borough has illegally condemned the 2nd Street Property and the Front Street Property and illegally evicted the tenants from those properties because neither the Notice of Condemnation or the Notice of Violation pertain to, or reference, the 2nd Street Property or the Front Street Property.

70. A true and correct copy of MTER’s counsel’s November 15, 2021 letter is attached to MTER’s Complaint as Exhibit “6” and incorporated herein by reference.

**THE ELECTRICAL “INSPECTION” ON NOVEMBER 15, 2021**

71. On November 15, 2021, a representative from United Inspection Agency, the Borough’s “approved” code inspector, visited the West Broad Property in order to conduct an inspection of the electrical systems therein to determine if it was safe to restore the electrical power.

72. Wilburn, Skiffington, Christian Skiffington, and MTER’s electrician, Kirk Knight of K&L Energy (“**Electrician**”), were also in attendance.

73. Shortly upon arriving, Wilhelm had a private conversation with the inspector and, immediately following that conversation, the inspector stated that he “was no longer willing to conduct the inspection”.

74. Wilhelm also stated that no approval will be accepted unless the code inspector inspects every single outlet and light switch throughout the West Broad Property.

75. During that site visit, MTER’s Electrician removed the cover plates and inspected *every* outlet and switch in all of the buildings at the West Broad Property and found no evidence



of insect infestation or that the electrical system was malfunctioning or unsafe to operate.

76. As a result, MTER's counsel sent a letter dated November 16, 2021 to the Borough summarizing Wilhelm's intimidation of the inspector and enclosing an email from the Electrician confirming the lack of evidence of any bug infestation in any of the electrical boxes.

77. A true and correct copy of MTER's counsel's November 16, 2021 letter is attached to MTER's Complaint as Exhibit "7" and incorporated herein by reference.

78. To date, the Borough has failed to produce a report by an electrician or other professional or any other evidence supporting its claims that restoring the electrical service to the Properties would pose a safety hazard.

#### **THE "REVISED" NOTICE OF CONDEMNATION AND NOTICE OF VIOLATION**

79. Recognizing that the Notice of Condemnation and Notice of Violation only pertained to the West Broad Property and that its condemnation of, and evictions of the residents from, the 2<sup>nd</sup> Street Property and Front Street Property were illegal, the Borough through its counsel attempted to *retroactively* correct its error by issuing on November 16, 2021 a *revised* Notice of Condemnation and Notice of Violation.

80. A true and correct copy of the revised Notice of Condemnation and Notice of Violation is attached to MTER's Complaint as Exhibit "8" and incorporated by reference.

81. The revised Notice of Condemnation and Notice of Violation purport to apply to all three Properties.

82. However, the revised Notice of Condemnation fails to specifically identify any particular area in the Properties, such as apartment number "X" in the 2<sup>nd</sup> Street Property.

83. Notwithstanding the purpose of the search warrant and the opportunity during the hours long process of removing the occupants, the Borough did not conduct any search for

“evidence”.

84. The Borough’s inability to obtain evidence is evidenced by the revised Notice of Condemnation, which also fails to present any “evidence” to support its general allegations, such as pictures, reports from professionals, etc.

85. The revised Notice of Condemnation and Notice of Violation, similar to the original notices, expressly state that MTER’s representatives and professionals shall have the right to access the Properties for purposes of evaluating and abating the alleged violations.

86. Notwithstanding that express language in the Notice of Condemnation and Notice of Violation, the Borough, McElree and Wilhelm continue to refuse to restore electrical power to the buildings at the Properties to allow MTER’s representatives and professionals to conduct proper inspections of the current conditions of the Properties for purposes of evaluating and abating the alleged violations.

87. Late on November 17, 2021, the Borough’s solicitor sent a letter dated November 17, 2021 in response to MTER’s counsel’s November 16, 2021 letter.

88. The solicitor’s letter completely ignores the Electrician’s findings and again reiterates that the Borough will not reconnect the utilities or permit MTER to perform the proper inspections to verify the allegations in the Notice of Condemnation, the revised Notice of Condemnation or any of the Notice of Violations relating thereto unless MTER hires another code inspector “approved” by the Borough.

89. That letter also fails to dispute the contention that Wilhelm held a private conversation that led to the inspector’s refusal to conduct an inspection.

90. The Borough, rather, contends that the inspector would not conduct the inspection because payment arrangements had not been made with the inspection company.

91. That allegation is categorically false as MTER had previously made arrangements with the inspector's company to cover all costs associated with the required inspection.

92. Considering no independent code inspector was present during the November 10, 2021 condemnation whereat the Borough allegedly concluded that multiple violations existed, the Borough has failed to explain why the Borough will not rely upon the representations of the Electrician or why the Borough cannot conduct its own inspection.

93. The Borough's request for multiple inspections at MTER's costs is simply part of the Borough's plan to squeeze MTER financially and to force a sale of the Properties.

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

94. All paragraphs above are hereby incorporated by reference.

95. Defendants have violated, and continue to violate, MTER's substantive due process rights guaranteed by the Fourteenth Amendment to the United States Constitution by (a) conducting an illegal search of the 2<sup>nd</sup> Street Property and the Front Street Property and unlawfully evicting the tenants from those properties, (b) failing to comply with the express provisions of the IPMC, (c) failing and refusing to provide evidence substantiating any alleged violation, (d) preventing access and refusing to restore electrical power and water service to the Properties so that MTER's representatives and professionals can conduct proper inspections of the current conditions of the Properties for purposes of evaluating and abating the alleged violations, and (e) refusing to give MTER a reasonable opportunity to evaluate and remedy the alleged violations.

96. MTER's right to relief is clear.

97. MTER will suffer irreparable harm unless preliminary and permanent injunctive relief is granted to MTER to enjoin Defendants' repeated and continued violations of the

MTER's substantive due process rights guaranteed by the Fourteenth Amendment to the United States Constitution.

98. Greater injury will result from the denial of the injunction than from the grant of the injunction.

99. Without utility services, the Properties cannot be adequately protected. For example, without power, the sump pump system cannot operate to protect the Properties from underground stormwater infiltration, and the heating system cannot work to protect the water pipes from bursting.

100. Considering an electrical expert has already determined that there is no insect infestation within the electrical system, there is no harm or risk of harm to the Defendants or the public by restoring power to the Properties.

101. MTER has no adequate remedy at law and, unless it obtains immediate equitable and injunctive relief, it will continue to suffer immediate and irreparable harm.

**WHEREFORE**, MTER respectfully requests the Court to enter preliminary and permanent injunctive relief in favor of MTER and against Defendants:

(a) ordering Defendants to immediately turn over to MTER all documents, inspection reports, photographs, and video evidencing or reflecting the alleged building violations referenced in the Notice of Condemnation, Notice of Violation and revised Notice of Condemnation and Notice of Violation, including all photographs, recordings and evidence obtained during the November 10, 2021 "search" conducted in connection with the search warrant;


(b) ordering Defendants to immediately restore all utility services, including electrical power and water, to the Properties;

(c) enjoining Defendants and all persons acting by or through them from preventing or interfering with MTER's representatives and professionals' efforts to enter the Properties in order to conduct proper inspections of the current conditions of the Properties and abating any of the alleged building code violations; and

(d) grant such other relief as the Court deems appropriate.

Respectfully submitted,

**KAPLIN STEWART MELOFF REITER & STEIN, P.C.**

By:   
\_\_\_\_\_  
Marc B. Kaplin, Esquire  
Michael P. Coughlin, Esquire  
Daniel R. Utain, Esquire  
Attorneys for Plaintiff

Dated: November 19, 2021

VERIFICATION

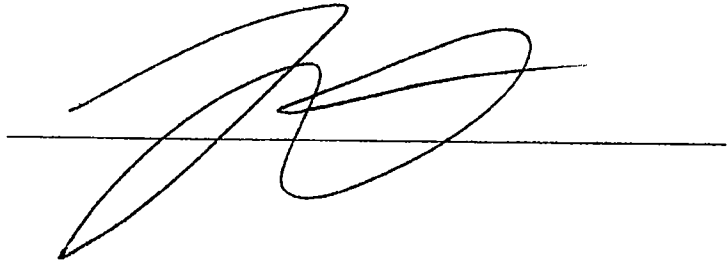
I, THOMAS SKIFFINGTON, hereby verify that:

- I am an authorized representative of Plaintiff, MT Real Estate, LLC;
- am therefore authorized to execute this Verification on its behalf; and
- the facts set forth in the foregoing Petition for Special Injunction are true and correct to the best of my knowledge, information and belief.

I acknowledge that I am subject to the penalties of 18 Pa. C.S.A. § 4904 relating to unsworn falsification to authorities.

Dated:

11/19/21



**EXHIBIT "A"**



COURT OF COMMON PLEAS OF BUCKS COUNTY, PENNSYLVANIA

MT ESTATE REALTY LLC

vs.

QUAKERTOWN BOROUGH

NO. 2021-06027

**CIVIL COVER SHEET**

State Rule 205.5 requires this form be attached to any document commencing an action in the Bucks County Court of Common Pleas. The information provided herein is used solely as an aid in tracking cases in the court system. This form does not supplement or replace the filing and service of pleadings or other papers as required by law or rules of court.

Name of Plaintiff/Appellant's Attorney: Marc B. Kaplin, Esq., ID: 4465

Self-Represented (Pro Se) Litigant

Class Action Suit  Yes  No

MDJ Appeal  Yes  No

Money Damages Requested

Commencement of Action:  
Complaint

Amount in Controversy:  
\_\_\_\_\_

**Case Type and Code**

Miscellaneous: \_\_\_\_\_

Other \_\_\_\_\_

Other: DECLARATORY/INJUNCTIVE RELIEF



**KAPLIN STEWART MELOFF REITER & STEIN, P.C.**

By: Marc B. Kaplin, Esquire (Atty. I.D. No. 04465)  
Michael P. Coughlin, Esquire (Atty. I.D. No. 43793)  
Daniel R. Utain, Esquire (Atty. I.D. No. 85619)

910 Harvest Drive  
P.O. Box 3037  
Blue Bell, PA 19422-0765  
(610) 260-6000  
Fax (610) 260-1240

Attorneys for Plaintiff

**MT ESTATE REALTY, LLC** :  
**701 W. Market Street** :  
**Perkasie, PA 18944** :  
**Plaintiff,** :

**COURT OF COMMON PLEAS OF**  
**BUCKS COUNTY**

v. :

**NO.**

**BOROUGH OF QUAKERTOWN** :  
**Quakertown Borough Hall** :  
**35 North Third Street** :  
**Quakertown, PA 18951** :

and :

**SCOTT McELREE** :  
**Borough of Quakertown** :  
**Quakertown Borough Hall** :  
**35 North Third Street** :  
**Quakertown, PA 18951** :

and :

**DOUGLAS C. WILHELM** :  
**Borough of Quakertown** :  
**Quakertown Borough Hall** :  
**35 North Third Street** :  
**Quakertown, PA 18951** :

**Defendants.** :

**NOTICE TO DEFEND**

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by an attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so, the case may proceed without you and a judgment may

be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

**YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.**

**IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.**

**The Bucks County Bar Association Lawyer Referral Service  
135 East State Street, P.O. Box 300  
Doylestown, PA 18901  
888-991-9922  
Fax: 215-348-3277**

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**Defendants.**

**COURT OF COMMON PLEAS OF  
BUCKS COUNTY**

**NO.**

**COMPLAINT**

Plaintiff, MT Estate Realty, LLC, by its attorneys, hereby complains of Defendants,  
Borough of Quakertown, Scott McElree, and Douglas C. Wilhelm, as follows:

## PARTIES

1. Plaintiff, MT Estate Realty, LLC (“**MTER**”), is a Pennsylvania limited liability company with a business address at the above-stated address.

2. Defendant, Borough of Quakertown (“**the Borough**”), is a borough located in Bucks County, Pennsylvania and organized under the laws of Pennsylvania with a business address at the above-stated address.

3. Defendant, Scott McElree (“**McElree**”), is an adult individual with a place of business at the above-stated address. McElree is the Borough Manager and Police Chief of the Borough.

4. Defendant, Douglas C. Wilhelm (“**Wilhelm**”), is an adult individual with a place of business at the above-stated address. Wilhelm is the Building Code Official & Zoning Officer of the Borough.

## THE PROPERTIES

5. MTER is the record owner of the following three properties located in the Borough of Quakertown (collectively, “**the Properties**”):

(a) 100 & 200 West Broad Street, Bucks County TMP # 35-008-311-001 (“**West Broad Property**”);

(b) 17 S. 2nd Street, Bucks County TMP # 35-008-311-003 (“**2<sup>nd</sup> Street Property**”); and

(c) 8 Front Street, Bucks County TMP # 35-008-311-002 (“**Front Street Property**”).

6. MTER acquired the Properties in 2004.

7. The West Broad Property is improved by a multi-story mix-use building comprised of approximately 101 boarding rooms, 2 apartments, and approximately 1,800 square feet of commercial retail space which is currently leased to a tenant which operates a restaurant known as "Tijuana Tacos".

8. The 2<sup>nd</sup> Street Property is improved by a multi-story building comprised of 6 apartments and 6 garages.

9. The Front Street Property is improved by a multi-story building comprised of 2 apartments and 6 boarding rooms.

10. For the past 60 years, the apartments and rooms at the Properties have been leased to low-income residents, many of whom suffer from mental and/or physical disabilities and are referred by and financed by various non-profit agencies and/or religious organizations, who may otherwise be homeless.

**THE BOROUGH'S DESIRE TO REDEVELOP THE  
PROPERTIES AND "GENTRIFY" THE BOROUGH'S DOWNTOWN**

11. For the past 10 years, the Borough has been redeveloping the Borough's downtown area surrounding the Properties.

12. As part of those plans, the Borough has demanded that MTER redevelop the Properties and cease using the Properties as apartments for low-income residents, which the Borough sees as a use that is incompatible with its redevelopment plans.

13. Approximately 8 years ago, the Borough requested that MTER sell the Properties to a developer that would redevelop the Properties in accordance with the Borough's plans.

14. MTER told the Borough that MTER would sell the Properties if the financial terms were acceptable and the Borough secured a location to house the 160 residents staying at the Properties.

15. The Borough told MTER that it would permit MTER to develop another property to house the residents so long as it would not be in the downtown area.

16. The Borough presented MTER with a buyer for the Properties, but the buyer's offer was conditioned upon the Borough's contribution of \$750,000.00 to the purchase price.

17. The Borough refused to contribute to the purchase price and, as a result, the Borough's proposed Buyer refused to consummate the sale.

18. As a result, MTER has invested over \$750,000.00 in the past 3 years to improve the Properties, including the following:

- (a) Completely renovated 15-20 boarding rooms;
- (b) Upgraded the electrical system throughout the Properties (including new lines, electrical boxes and fuse boxes);
- (c) Renovated the common areas, including the lobby and hallways;
- (d) Replaced approximately 125 windows;
- (e) Replaced approximately 80 interior doors;
- (f) Replaced approximately 7 exterior doors; and
- (g) Renovated a common bathroom.

19. Recognizing that MTER's renovations would impede the ability to sell and redevelop the Properties and Borough's unwillingness to contribute to the purchase thereof, the Borough crafted a scheme to interfere with MTER's business operations to coerce MTER to sell the Properties at a reduced price so that the Properties could be redeveloped for a use desired by the Borough.

20. Specifically, the Borough has engaged in a series of "surprise" inspections and condemnation efforts, all of which to date have failed.

### THE RECENT CONDEMNATION

21. On November 9, 2021, McElree on behalf of the Borough filed with Magistrate District 07-2-05 an “Application for Search Warrant and Authorization” (“**Search Warrant Application**”) seeking an administrative search warrant to conduct a search of the West Broad Property for evidence of alleged code violations.

22. A true and correct copy of the Application is attached hereto as **Exhibit “1”** and incorporated herein by reference.

23. The Search Warrant Application seeks evidence of violations of the following Codes adopted by the Borough – International Fire Code, International Residential Code, International Building Code, International Existing Building Code, and the Pennsylvania Uniform Construction Code, including evidence related to proper fire prevention, protection and safety mechanisms, mold growth, proper functioning and clear methods of ingress and egress, properly functioning electrical systems, and infestation of insects and other pests.

24. The Search Warrant Application also incorrectly identifies the owner of the Properties as “Tom Skiffington” (“**Skiffington**”).

25. The Search Warrant Application was premised upon an Affidavit of Probable Cause which details issues with 1 particular apartment (Apartment 4) in June of 2021 and 2 incidents of malfunction with a fire alarm on the 3<sup>rd</sup> floor of the West Broad Property.

26. The Search Warrant Application sought an administrative search warrant to search the West Broad Property only.

27. The Search Warrant Application did not seek an administrative search warrant to search the 2nd Street Property or the Front Street Property.

28. The Magistrate District issued the search warrant on November 9, 2021.

29. The search warrant issued was limited to a search of the structures and rooms at the West Broad Property only.

30. No search warrant was issued for the 2nd Street Property or the Front Street Property.

31. On November 10, 2021, at approximately 9:45 a.m., McElree, Wilhelm, and various other officials acting on behalf of the Borough purported to conduct a search *of all three of the Properties*, notwithstanding the search warrant authorized a search of the West Broad Property *only*.

32. While claiming to be “conducting a search for evidence”, the Borough officials did not do a search, but simply posted notice of condemnation and proceeded to remove all occupants from the Properties.

33. McElree, Wilhelm, and various other officials acting on behalf of the Borough never notified MTER’s representatives that they were conducting a search of the three Properties.

34. After posting notice of the condemnation, McElree, Wilhelm, and various other officials acting on behalf of the Borough forcibly evicted all of the residents (approximately 160 residents) in all three Properties, leaving them essentially homeless, as well as the commercial tenant at the West Broad Property.

35. After posting notice of the condemnation, McElree, Wilhelm, and various other officials acting on behalf of the Borough kicked in and destroyed numerous doors in the buildings in all three Properties, notwithstanding that they had in their possession keys to open those doors. Those officials could have also requested MTER, who was present earlier, to provide access to all of the rooms.



36. In some instances, McElree, Wilhelm, and various other officials kicked in doors to apartments and boarding rooms instead of asking the residents located therein to open the door.

37. After posting notice of the condemnation, McElree, Wilhelm, and various other officials acting on behalf of the Borough intentionally left open windows in the buildings at the Properties knowing that winter was approaching and that the pipes in those buildings would eventually freeze and burst.

38. During the search, McElree, Wilhelm, and various other officials acting on behalf of the Borough cut off electrical power, and water supply, to the buildings at the three Properties.

39. During the search, McElree, Wilhelm, and various other officials acting on behalf of the Borough were observed “high fiving” one another and bragging that “we got him” [referencing MTER’s principal, Skiffington].

40. During the search, a representative from one of the non-profit agencies that sponsor residents at the Properties notified Skiffington that the search was taking place.

41. Skiffington went to the Properties and he was immediately confronted by Wilhelm and McElree who told him that a “Notice of Condemnation” dated November 10, 2021 (“**Notice of Condemnation**”) had been posted on the West Broad Property and told him that he was not permitted to enter the Properties and that, if he attempted to do so, he would be immediately arrested.

42. A true and correct copy of the Notice of Condemnation is attached hereto as **Exhibit “2”** and incorporated herein by reference.

43. The Notice of Condemnation pertained to the West Broad Property only.

44. The Notice of Condemnation did not pertain to, or even reference, the 2nd Street Property or the Front Street Property.

45. As required by the International Property Maintenance Code (“IPMC”) as adopted by the Bureau, the Notice of Condemnation specifically states that “[u]pon Condemnation, the Condemned Property may not be occupied except... Adults may occupy this dwelling during the hours of 7:00 a.m to 5:00 p.m. only for the sole purpose of abating the violations.”

46. The Notice of Condemnation also provided that:

“This Notice of Condemnation is based upon all of the violations listed in the attached Notice of Violation issued against this Condemned Property. The Condemned Property shall not be reoccupied until all of these violations have been corrected. A compliance re-inspection shall be conducted by this office before the building is re-occupied. Permission shall be obtained from this office before entry into the structure for repairs or cleaning”

47. The IPMC expressly requires Notices of Condemnation to include a list of violations.

48. Despite the foregoing language in the Notice of Condemnation and the requirements of the IPMC, no Notice of Violation was attached to the Notice of Condemnation.

49. Despite the language in the Notice of Condemnation and the provisions of the IPMC specifically stating that MTER’s representatives may enter upon and occupy the condemned property for purposes of abating the alleged violations, McElree adamantly refused to allow Skiffington or any other representatives from MTER to enter upon the Properties and threatened to have them arrested if they attempted to do so.

50. The Notice of Condemnation directed MTER to take the “following action immediately” – – “respond to me in writing within five (5) days acknowledging receipt of this Notice and stating what actions you have taken or will take to bring your property into compliance with the code”.

51. The Notice of Condemnation provided no evidence of any violations of any of the codes referenced in the search warrant.

**MTER'S EFFORTS TO GAIN ACCESS TO THE  
PROPERTIES TO ABATE THE ALLEGED VIOLATIONS**

52. On November 11, 2021, MTER's counsel telephoned Wilhelm and advised him that MTER intended to retain independent professionals, including a professional exterminator, electrician, and alarm system inspector, to evaluate the current condition of the Properties and to address any corrective action that the professionals deem necessary as required by the Notice of Condemnation. Counsel also advised Wilhelm that, in order to conduct proper inspections of the Properties, electrical power would have to be restored to the buildings at the Properties. Wilhelm responded that the Borough would not restore the electrical power to the Properties or allow MTER or its professionals to enter upon the Properties unless and until the Borough's solicitor, William D. Oettinger, Esquire, authorized such entry.

53. Immediately following that telephone call, MTER's counsel attempted to contact Mr. Oettinger but he was unavailable.

54. On November 12, 2021, as required by the Notice of Condemnation, MTER's counsel sent a letter to Wilhelm (with a copy to Mr. Oettinger) stating:

"Please accept this letter as MTER's written acknowledgement requested in the Notice and to memorialize our telephone call on November 11, 2021.

As an initial matter, the Notice is defective in that it fails to include a list or reference of any violations (despite the reference to an alleged attached list). The only documents provided by your office to MTER referencing any alleged issues was a search warrant premised upon an Affidavit of Probable Cause that simply references historical problems that occurred months ago, which your office knew have since been abated. Regardless, that is the only information provided with the Notice, so MTER can only presume that the information detailed in the Affidavit is the sole basis for the Notice.

As I explained in our telephone call, MTER intends to have its independent professionals inspect and evaluate the current condition

of the Property and address any corrective action that those professionals deem required in accordance with the Notice. Those professionals include a professional exterminator, electrician and alarm system inspector (collectively the “Professionals”).

I explained that those Professionals cannot perform proper inspections until the electrical power is restored to the Property. You told me that you would not restore the electrical power to the Property or allow MTER or its Professionals to enter the Property unless and until your counsel – William D. Oetinger, Esquire – authorized such an entry. I tried to reach Mr. Oetinger, but have not been able to connect with him.

I find it remarkable that your current position directly contradicts the clear language of the Notice and is impeding MTER’s ability to remediate any of the alleged issues. Not only does the Notice threaten the issuance of fines for each day the issues referenced in the Notice are not addressed, but the Notice expressly authorizes MTER to occupy the Property for the purpose of abating the referenced violations.

By preventing MTER from accessing the Property, you and the Borough are actively preventing MTER from complying with the terms of the Notice. I hereby demand that you rescind your position, restore the power to the Property and grant MTER and the Professionals immediate access to inspect and ascertain the condition of the Property.”

55. A true and correct copy of MTER’s counsel’s letter dated November 12, 2021 is attached hereto as **Exhibit “3”** and incorporated herein by reference.

56. On November 12, 2021, Mr. Oetinger telephoned and advised MTER’s counsel that MTER’s representatives would be not be permitted to access the Properties without the Borough’s prior approval and that electrical power would not be restored to the buildings at the Properties until an electrical inspector, approved and licensed by the Borough, inspected the electrical systems in the buildings and determined that it would be safe to restore electrical power.

57. Thereafter, Mr. Oetinger emailed to MTER’s counsel a written list of “Approved 3<sup>rd</sup> Party Electrical Inspection Agencies” acceptable to the Borough. A true and correct copy of that list is attached hereto as **Exhibit “4”** and incorporated herein by reference.

58. Skiffington contacted several of the inspectors on the Borough's "approved" list but was told by those inspectors that they "did not want to get involved".

59. One inspector, United Inspection Agency, agreed to conduct an inspection and the inspection was scheduled for the morning of November 15, 2021.

### THE NOTICE OF VIOLATION

60. On November 12, 2021, after business hours, Mr. Oetinger emailed to MTER's counsel a "Notice of Violation" ("**Notice of Violation**"), a true and correct copy of which is attached hereto as **Exhibit "5"** and incorporated herein by reference.

61. The Notice of Violation describes in very general terms the alleged violations which included:

- (a) insect infestation and resultant damage to the fire and electrical systems;
- (b) improper maintenance of fire detection facilities;
- (c) trash and debris;
- (d) holes in ceilings; and
- (e) exposed wires.

62. The Notice of Violation on its face pertains to the West Broad Property only. It does not pertain to, or reference, any portion of the 2nd Street Property or the Front Street Property.

63. The Notice of Violation also provided no "evidence" of any violations of the codes listed in the search warrant, such as pictures, reports from professionals, etc.

64. Similar to the Notice of Condemnation, the Notice of Violation states:

"You are to commence corrections of these violations within seventy-two (72) hours of the date of the issuance of this Notice and correct all violations within twenty (20) days of the date of issuance. Random spot inspections of this property for compliance will be conducted throughout this period. A Full Inspection will take place

twenty (20) days from the date of issuance to check on the status of the repairs and compliance.”

65. Similar to the Notice of Condemnation, the Notice of Violation also directed MTER to take the “following action immediately” – – “respond to me in writing within five (5) days acknowledging receipt of this Notice and stating what actions you have taken or will take to bring your property into compliance with the code”.

66. By letter dated November 15, 2021, MTER’s counsel advised Mr. Oetinger that that the Borough has illegally condemned the 2nd Street Property and the Front Street Property and illegally evicted the tenants from those properties because neither the Notice of Condemnation or the Notice of Violation pertain to, or reference, the 2nd Street Property or the Front Street Property.

67. A true and correct copy of MTER’s counsel’s November 15, 2021 letter is attached hereto as **Exhibit “6”** and incorporated herein by reference.

**THE ELECTRICAL “INSPECTION” ON NOVEMBER 15, 2021**

68. On November 15, 2021, a representative from United Inspection Agency, the Borough’s “approved” code inspector, visited the West Broad Property in order to conduct an inspection of the electrical systems therein to determine if it was safe to restore the electrical power.

69. Wilburn, Skiffington, Christian Skiffington, and MTER’s electrician, Kirk Knight of K&L Energy (“**Electrician**”), were also in attendance.

70. Shortly upon arriving, Wilhelm had a private conversation with the inspector and, immediately following that conversation, the inspector stated that he “was no longer willing to conduct the inspection”.

71. Wilhelm also stated that no approval will be accepted unless the code inspector

inspects every single outlet and light switch throughout the West Broad Property.

72. During that site visit, MTER's electrician removed the cover plates and inspected *every* outlet and switch in all of the buildings at the West Broad Property and found no evidence of insect infestation or that the electrical system was malfunctioning or unsafe to operate.

73. As a result, MTER's counsel sent a letter dated November 16, 2021 to the Borough summarizing Wilhelm's intimidation of the inspector and enclosing an email from the Electrician confirming the lack of evidence of any bug infestation in any of the electrical boxes.

74. A true and correct copy of MTER's counsel's November 16, 2021 letter is attached hereto as **Exhibit "7"** and incorporated herein by reference.

**THE "REVISED" NOTICE OF  
CONDEMNATION AND NOTICE OF VIOLATION**

75. Recognizing that the Notice of Condemnation and Notice of Violation only pertained to the West Broad Property and that its condemnation of, and evictions of the residents from, the 2<sup>nd</sup> Street Property and Front Street Property were illegal, the Borough through its counsel attempted to *retroactively* correct its error by issuing on November 16, 2021 a *revised* Notice of Condemnation and Notice of Violation.

76. A true and correct copy of the revised Notice of Condemnation and Notice of Violation is attached hereto as **Exhibit "8"** and incorporated by reference.

77. The revised Notice of Condemnation and Notice of Violation purport to apply to all three Properties.

78. However, the revised Notice of Condemnation fails to specifically identify any particular area in the Properties, such as apartment number "X" in the 2<sup>nd</sup> Street Property.

79. Notwithstanding the purpose of the search warrant and the opportunity during the hours long process of removing the occupants, the Borough did not conduct any search for

“evidence”.

80. The Borough’s inability to obtain evidence is evidenced by the revised Notice of Condemnation, which also fails to present any “evidence” to support its general allegations, such as pictures, reports from professionals, etc.

81. The revised Notice of Condemnation and Notice of Violation, similar to the original notices, expressly state that MTER’s representatives and professionals shall have the right to access the Properties for purposes of evaluating and abating the alleged violations.

82. Notwithstanding that express language in the Notice of Condemnation and Notice of Violation, the Borough, McElree and Wilhelm continue to refuse to restore electrical power to the buildings at the Properties to allow MTER’s representatives and professionals to conduct proper inspections of the current conditions of the Properties for purposes of evaluating and abating the alleged violations.

83. Late on November 17, 2021, the Borough’s solicitor sent a letter dated November 17, 2021 in response to MTER’s counsel’s November 16, 2021 letter.

84. The solicitor’s letter completely ignores the Electrician’s findings and again reiterates that the Borough will not reconnect the utilities or permit MTER to perform the proper inspections to verify the allegations in the Notice of Condemnation, the revised Notice of Condemnation or any of the Notice of Violations relating thereto unless MTER hires another code inspector “approved” by the Borough.

85. That letter also fails to dispute the contention that Wilhelm held a private conversation that led to the inspector’s refusal to conduct an inspection.

86. The Borough, rather, contends that the inspector would not conduct the inspection because payment arrangements had not been made with the inspection company.



87. That allegation is categorically false as MTER had previously made arrangements with the inspector's company to cover all costs associated with the required inspection.

88. Considering no independent code inspector was present during the November 10, 2021 condemnation whereat the Borough allegedly concluded that multiple violations existed, the Borough has failed to explain why the Borough will not rely upon the representations of the Electrician or why the Borough cannot conduct its own inspection.

89. The Borough's request for multiple inspections at MTER's costs is simply part of the Borough's plan to squeeze MTER financially and to force a sale of the Properties.

90. All conditions precedent have occurred or have been performed.

#### **COUNT I – DECLARATORY RELIEF**

91. All paragraphs above are hereby incorporated by reference.

92. §7533 of the Pennsylvania Declaratory Judgments Act, 42 Pa.C.S.A. §7531, et seq.

(the "Act") provides:

"Any person interested under a deed, will, written contract, or other writings constituting a contract, or whose rights, status, or other legal relations are affected by a statute, municipal ordinance, contract, or franchise, may have determined any question of construction or validity arising under the instrument, statute, ordinance, contract, or franchise, and obtain a declaration of rights, status, or other legal relations thereunder."

93. An actual controversy exists between MTER and Defendants regarding the validity of the Borough's conduct, the Borough's right to search, inspect and condemn the 2nd Street Property and the Front Street Property, the Notice of Condemnation, the revised Notice of Condemnation, the Notices of Violation relating thereto and the Borough's ability to prevent MTER from exercising its right to properly inspect and abate any issues at the Properties.

**WHEREFORE**, MTER respectfully requests the Court to:

(a) Declare that:

(i) the Borough had no valid basis to search, inspect and/or condemn the 2nd Street Property and the Front Street Property;

(ii) the condemnation of the 2nd Street Property and the Front Street Property is invalid and that Borough shall take immediate steps to permit MTER and its guests and invitees to reoccupy those properties;

(iii) the condemnation of the West Broad Property was invalid and that Borough shall take immediate steps to permit MTER and its guests and invitees to reoccupy that property;

(iv) the Notice of Condemnation, the revised Notice of Condemnation and all Notices of Violations issued in connection therewith fail to comply with the IPMC;

(v) the Notice of Condemnation, the revised Notice of Condemnation and all Notices of Violations issued in connection therewith are null and void; and

(vi) the Borough shall immediately restore all utilities to the Properties; and

(vii) the Borough is enjoined from preventing or interfering with MTER's representatives and professionals' efforts to enter upon and repair any portion of the Properties;

(b) award reasonable attorney's fees and costs in favor of MTER and against Defendants, and

(c) grant such other relief as the Court deems appropriate.

**COUNT II – FOURTEENTH AMENDMENT**  
**VIOLATIONS OF SUBSTANTIVE DUE PROCESS**

94. All paragraphs above are incorporated herein by reference.

95. Defendants have violated, and continue to violate, MTER's substantive due process rights guaranteed by the Fourteenth Amendment to the United States Constitution by (a) conducting an illegal search of the 2<sup>nd</sup> Street Property and the Front Street Property and unlawfully evicting the tenants from those properties, (b) failing to comply with the express provisions of the IPMC, (c) failing to provide evidence substantiating any alleged violation, (d) preventing access and refusing to restore electrical power and water supply to the Properties so that MTER's representatives and professionals can conduct proper inspections of the current conditions of the Properties for purposes of evaluating and abating the alleged violations, and (e) refusing to give MTER a reasonable opportunity to evaluate and remedy the alleged violations.

96. MTER's right to relief is clear.

97. MTER will suffer irreparable harm unless preliminary and permanent injunctive relief is granted to MTER to enjoin Defendants' repeated and continued violations of the MTER's substantive due process rights guaranteed by the Fourteenth Amendment to the United States Constitution.

**WHEREFORE**, MTER respectfully requests the Court to:

(a) enter preliminary and permanent injunctive relief in favor of MTER and against Defendants ordering them to immediately restore electrical power and water supply to the Properties and enjoining them from preventing or interfering with MTER's representatives and professionals' efforts to enter the Properties in order to conduct proper inspections of the current conditions of the Properties for purposes of evaluating and abating the alleged violations,

(b) any further future inspections of the Properties by the Borough must be conducted via independent third-party inspectors with no prior relationship to the Borough;

(c) award reasonable attorney's fees and costs in favor of MTER and against

Defendants, and

(d) grant such other relief as the Court deems appropriate.

Respectfully submitted,

**KAPLIN STEWART MELOFF REITER & STEIN, P.C.**

By: 

\_\_\_\_\_  
Marc B. Kaplin, Esquire  
Michael P. Coughlin, Esquire  
Daniel R. Utain, Esquire  
Attorneys for Plaintiff

Dated: November 18, 2021

**VERIFICATION**

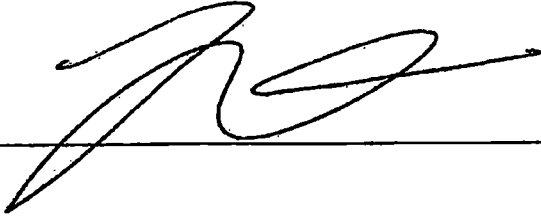
I, THOMAS SKIFFINGTON, hereby verify that:

- I am and authorized representative of Plaintiff, MT Real Estate, LLC;
- am therefore authorized to execute this Verification on its behalf; and
- the facts set forth in the foregoing Complaint are true and correct to the best of my knowledge, information and belief.

I acknowledge that I am subject to the penalties of 18 Pa. C.S.A. § 4904 relating to unsworn falsification to authorities.

Dated:

11/18/21



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# EXHIBIT "1"

Case# 2021-06027-0 - JUDGE:35 Received at County of Bucks Prothonotary on 11/18/2021 2:36 PM, Fee = \$258.50. The filer certifies that this filing complies with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts that require filing confidential information and documents differently than non-confidential information and documents. E-Filed by: Daniel Ray Utain, Esq.

Commonwealth of Pennsylvania



APPLICATION FOR SEARCH WARRANT AND AUTHORIZATION

COUNTY OF BUCKS

Docket Number

Police Incident Number:

Warrant Control Number:

(Issuing Authority): Lisa J. Gaier

Scott McElree  
Quakertown Borough Manager

Quakertown Borough

215-536-5001

November 9, 2021

AFFIANT NAME AGENCY PHONE NUMBER DATE OF APPLICATION

IDENTIFY ITEMS TO BE SEARCHED FOR AND SEIZED (Be as specific as possible):

Evidence of violations the Quakertown Borough Code, including the following codes adopted by the Quakertown Borough: International Fire Code, the International Residential Code, the International Building Code, the International Plumbing Code, the International Fuel Gas Code, the International Property Maintenance Code, the International Existing Building Code, and the Pennsylvania Uniform Construction Code. Quakertown Borough seeks to inspect all structures, common areas, outbuildings, rooms, and utility areas of the Bush House Hotel at 100-200 W. Broad Street, Quakertown, PA 18951 ("Property"). Quakertown Borough seeks evidence related to proper fire prevention, protection, and safety mechanisms, mold growth, proper functioning and clear methods of ingress and egress, properly functioning electrical systems, infestation of insects and other pests, and all other code deficiencies which endanger the health and safety of the occupants.

SPECIFIC DESCRIPTION OF PREMISES AND/OR PERSON TO BE SEARCHED (Street and No., Apt. No., Vehicle, Safe Deposit Box, etc.):

All structures, common areas, outbuildings, rooms, and utility areas at the Bush House Hotel at 100-200 W. Broad Street but not the personal effects of any occupants of the structure.

NAME OF OWNER, OCCUPANT OR POSSESSOR OF SAID PREMISES TO BE SEARCHED (If proper name is unknown, give alias and/or description):

Tom Skiffington

VIOLATION OF (Describe conduct or specify statute):

International Fire Code, the International Residential Code, the International Building Code, the International Plumbing Code, the International Fuel Gas Code, the International Property Maintenance Code, the International Existing Building Code, and the Pennsylvania Uniform Construction Code.

DATE(S) OF VIOLATION:

Ongoing.

Warrant Application Approved by District Attorney -- DA File No.

(If DA approval required per Pa.R.C.P., 202A with assigned File No.)

Additional Pages Attached (Other than Affidavit of Probable Cause)

Probable Cause Affidavit(s) MUST be attached (unless sealed below) Total number of pages: 9

TOTAL NUMBER OF PAGES IS SUM OF ALL APPLICATION, PROBABLE CAUSE AND CONTINUATION PAGES EVEN IF ANY OF THE PAGES ARE SEALED

The below named Affiant, being duly sworn (or affirmed) before the Issuing Authority according to law, deposes and says that there is probable cause to believe that certain property is evidence of or the fruit of the code violations occurring at the particular premises or in the possession of the particular person as described above.

*Scott McElree*  
Signature of Affiant

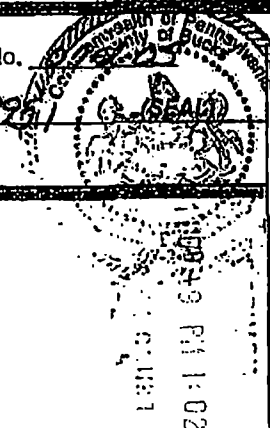
Borough of Quakertown  
Agency or Address if private Affiant

3825  
Badge Number

Sworn to and subscribed before me this 9th day of November 2021. Mag. Dist. No.

*[Signature]*  
Signature of Issuing Authority

281 California Rd. Quakertown, PA 18951  
Office Address



ATED BY THE ISSUING AUTHORITY

**SEARCH WARRANT**  
**TO LAW ENFORCEMENT OFFICER:**

WHEREAS, facts have been sworn to in an affidavit before me by which it is alleged that the premises or person described, and to which I have found probable cause, I do authorize you to search the premises or person described, and to seize, secure, inventory and make return according to the Pennsylvania Rules of Criminal Procedure.

This Warrant shall be served as soon as practicable and shall be served only between the hours of 6AM to 10PM but in no event later than:

This Warrant shall be served as soon as practicable and may be served any time during the day or night but in no event later than: \*\*

1:02 P M, o'clock November 11 2021.

\* The Issuing authority should specify a date not later than two (2) days after issuance. Pa.R.Crim.P. 205(5).

\*\* If the issuing authority finds reasonable cause for issuing a nighttime warrant on the basis of additional reasonable cause set forth in the accompanying affidavit(s) and wishes to issue a nighttime warrant, then this block shall be checked. Pa.R.Crim.P. 206(7).

Issued under my hand this 9th day of November 2021 at 1:02 P M, o'clock.

Signature of Issuing Authority

01-2-05

(SEAL)



Mag. Dist. or Judicial Dist. No.:

Date of Expiration:

Title of Issuing Authority:  District Justice  Common Pleas Judge

ADPC 4104-02-03-00



### AFFIDAVIT OF PROBABLE CAUSE TO SEARCH

Your affiant is Scott McElree, Quakertown Borough Manager. As Borough Manager, your affiant is well-acquainted with the properties in Quakertown Borough as well as the activities of Quakertown Borough officials, including code enforcement. Your affiant oversees Quakertown Borough administrative offices, including Quakertown Borough code enforcement. Your affiant seeks an administrative search warrant to allow the inspection of the premises located at 200 W. Broad Street, Quakertown, Pennsylvania, otherwise known as the Bush House Hotel ("Property") in order to determine whether the Property is in violation of the Quakertown Borough Code. The Quakertown Borough Code incorporates all of the following: the International Fire Code, the International Residential Code, the International Building Code, the International Plumbing Code, The International Fuel Gas Code, the International Property Maintenance Code, the International Existing Building Code, and the Pennsylvania Uniform Construction Code. Specifically, based off the observations and evidence described below, your affiant has probable cause to believe there are insect infestations, electrical deficiencies, and out-of-code fire prevention and fire safety facilities. The Bush House Hotel is a commercial residential building owned by Tom Skiffington ("Skiffington") containing approximately one-hundred weekly residential rentals, several apartments, and at least one retail food business.

On or about September 2, 2021, Quakertown Borough obtained an administrative search warrant for the Property. The executed September 2, 2021 search warrant is attached hereto and incorporated herein as "*Exhibit 1.*" In support of its application for the September 2, 2021 administrative search warrant, Quakertown Borough averred the following.

On or about June 12, 2021, Quakertown Borough Police responded to a medical emergency in Apartment 4. Upon entering the apartment, Police found accumulated trash, an insect infestation, and mold growth creating an unsanitary and unsafe conditions in the apartment. Quakertown Borough Police learned the inhabitant of the apartment succumbed to an infection in her abdomen which developed during her time living in the apartment. Photographs of the apartment are attached hereto and incorporated herein as "*Exhibit A.*"

On June 14, 2021, Quakertown Borough Code Enforcement issued Notice of Condemnation for Apartment 4 of the Property due to violations of the International Property Maintenance Code which endangered the public health, safety, and welfare, including the accumulation of trash and rubbish and the infestation of insects and rodents. Skiffington was provided five days to present a plan for remediation. Skiffington failed to do so. The Notice of Condemnation is attached hereto and incorporated herein as "*Exhibit B.*"

On July 8, 2021, Quakertown Borough Police and the Quakertown Fire Department responded to a fire alarm at the Property. Upon inspection, it was determined that there was no fire and that the alarm had malfunctioned. Police and fire personnel observed infestations of insects.

July 11, 2021, Quakertown Borough Police and Quakertown Fire Department responded to a fire alarm at the Property. Upon inspection, it was determined that there was no fire and that the alarm had malfunctioned. Police entered the structure and found an insect infestation on the third floor.

On July 23, 2021, Quakertown Borough Police again responded to a fire alarm at the Property. Police again entered the structure and found insect infestations on the third floor and within the common areas of the structure.

Quakertown Borough Fire Marshall and Code Enforcement Officer Doug Wilhelm inquired with the alarm company servicing the Property as to the cause of the numerous false alarm fire calls at the Property. Mr. Wilhelm learned that insects had infested the ceiling mounted smoke detectors and were causing the alarms to activate despite no fire existing on the Property. Malfunctioning fire alarm systems constitute a violation of the International Fire Code as adopted by Quakertown Borough. Your affiant is aware that the alarm system runs through the ceilings and behind the drywall of the structure. Your affiant is further aware that, based upon the number of false alarms and based upon observations throughout different portions of the structure, the infestations are not limited to one area of the structure.

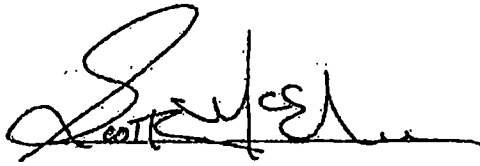
Quakertown Borough executed the September 2, 2021 administrative search warrant on September 7, 2021.

The search of the Property showed a pervasive infestation of bedbugs and German roaches in the common areas and in the individual units of the Property. The search showed that the infestations had also reached the fire protection systems, electrical outlets, and electrical conduit in the Property. The breadth of the infestation caused malfunctions in those systems. Quakertown Borough obtained the opinion of a professional exterminator to ascertain the necessary course for remediation. The exterminator opined that the Property must be treated with both a liquid and heat service program and be decluttered, cleaned, and unoccupied for several days to perform the necessary remediation. To perform the necessary remediation, permits would have been required to be issued by Quakertown Borough. No permits for any work at the Property have been obtained for the Property. Quakertown Borough has not observed the Property being closed to the public for any length of time to allow proper remediation. From these facts, your Affiant believes and

avers the violations present at the Property have not been addressed and remain in violation of the Quakertown Borough Code.

Your affiant seeks the issuance of an Administrative Warrant for inspection to determine current code compliance of all common areas accessible by any resident or guest including residential rental rooms and units, any and all areas not accessible by residents or persons of the public, outbuildings, and any and all areas, rooms, closets, accessible by the owner or persons employed or representing the owner of the property. Your affiant does not seek the issuance of an Administrative Warrant for the search of any personal effects of any guests, residents, or employees of the Property.

I verify that the facts set forth in this affidavit are true and correct to the best of my knowledge or information and belief. This verification is made subject to the penalties of Section 4904 of the Crimes Code (18 Pa.C.S § 4904) relating to unsworn falsification to authorities.



Scott McElree  
Quakertown Borough Manager  
Quakertown Borough Chief of Police

[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]

## EXHIBIT "2"

# NOTICE OF CONDEMNATION

## PROPERTY MAINTENANCE

**Owner of Condemned Property:** Mr. Thomas Skiffington, MT Estate RTY LLC

**Mailing Address:** 701 West Market Street, Perkasie, PA 18944-1161

**Date of Issuance:** November 10, 2021

**Location of Condemned Property:**

100 & 200 West Broad Street, Quakertown, PA 18951  
(Buck County TMP # 35-008-311-001)

**Delivered:**  In person to Owner of Record  
 By Regular and Certified Mail  
7011 2000 0001 6035 5223

In accordance with Section 108 of the 2009 edition of the International Property Maintenance Code, adopted as the Property Maintenance Code of Quakertown Borough (Code) under Chapter 5 of the Quakertown Borough Code, Quakertown Borough has found the Property located at 100 & 200 West Broad Street to be unfit for human occupancy and hereby **CONDEMN**s this Property under the following Sections of the Code: 108.1.1, 108.1.2, 108.1.3, 108.1.5.1, 108.1.5.8, 108.1.5.9, and 108.1.5.10. Unless and until the Owner of the Condemned Property corrects the violations listed in the attached Notice of Violations, this Property shall be **CONDEMNED** and the buildings located upon the Condemned Property known as the Bush House shall be vacated immediately and shall be secured to prevent entry by unwanted individuals. Upon Condemnation, the Condemned Property may not be occupied except as follows:

- Adults may occupy this dwelling during the hours of 7:00 a.m. to 5:00 p.m. only for the sole purpose of abating the violations.
- There shall be no other activity on the Property, including cooking, sleeping, conducting other business etc., other than the activity of abating the violations.
- There shall be no children permitted in the buildings until a Borough Codes Official approves the re-occupancy of children.

This Notice of Condemnation is based upon all of the violations listed in the attached Notice of Violation issued against this Condemned Property. The Condemned Property shall not be reoccupied until all of these violations have been corrected. A compliance re-inspection shall be conducted by this office before the building is re-occupied. Permission shall be obtained from this office before entry into the structure for repairs or cleaning.

You have the right to appeal this Notice to the Quakertown Borough UCC Board of Appeals. YOU MUST FILE THIS APPEAL WITHIN TWENTY (20) DAYS OF THE DATE OF ISSUANCE OF THIS NOTICE.

Failure to comply with this Notice and the attached Notice of Violation within the time limits specified above constitutes a violation and is subject to a fine of up to \$300.00 per day, plus all court costs and reasonable attorney's fees, unless an appeal is filed with the Quakertown Borough UCC Board of Appeals within twenty (20) days of the date of issuance of this Notice of Condemnation. Each day that a violation continues shall be considered a separate offense punishable by the above-described fines and penalties. In accordance with Section 106.3 of the Code, all costs incurred by the Borough in enforcing this matter shall be charged against the Property and shall be a lien upon this property.

You should take the following action immediately:

Respond to me in writing within five (5) days acknowledging receipt of this Notice and stating what actions you have taken or will take to bring your property into compliance with the Code. This response should be directed to me at the Quakertown Borough Hall, 35 North Third Street, Quakertown, PA 18951 or at [dwilhelm@quakertown.org](mailto:dwilhelm@quakertown.org). If you do not take appropriate corrective action in accordance with this Notice of Condemnation I will recommend to the Borough Council that a civil action be filed against you in Court.

Sincerely,



Douglas C. Wilhelm, BCO, CFEI  
Building Code Official & Zoning Officer

CC: Property File  
Scott McElree, Borough Manager  
Peter Nelson, Esquire, Borough Solicitor

# EXHIBIT "3"

# Kaplin Stewart

Attorneys at Law

Daniel R. Utain, Esquire  
Direct Dial: (610) 941-2582  
Direct Fax: (610) 684-2032  
Email: dutain@kaplaw.com  
www.kaplaw.com

November 12, 2021

*Via Certified Mail, Return Receipt  
Requested, and Email –  
dwillhelm@quakertown.org*  
Douglas C. Wilhelm, BCO, CFEI  
Building Code Official & Zoning Officer  
Quakertown Borough Hall  
35 North Third Street  
Quakertown, PA 18951

**RE: MT Estate Realty, LLC - Notice of Condemnation, Property  
Maintenance, for the Property Located at 100 & 200 West Broad  
Street, Quakertown, PA 18951, Bucks County TMP # 35-008-311-001**

Dear Mr. Wilhelm:

Kaplin Stewart Meloff Reiter & Stein, P.C. represents MT Estate Realty, LLC (“MTER”) regarding the above-captioned “Notice of Condemnation, Property Maintenance” (“Notice”) for the property located at 100 & 200 West Broad Street, Quakertown, Pennsylvania, 18951, Bucks County TMP # 35-008-311-001 (“Property”).

Please accept this letter as MTER’s written acknowledgement requested in the Notice and to memorialize our telephone call on November 11, 2021.

As an initial matter, the Notice is defective in that it fails to include a list or reference of any violations (despite the reference to an alleged attached list). The only documents provided by your office to MTER referencing any alleged issues was a search warrant premised upon an Affidavit of Probable Cause that simply references historical problems that occurred months ago, which your office knew have since been abated. Regardless, that is the only information provided with the Notice, so MTER can only presume that the information detailed in the Affidavit is the sole basis for the Notice.

As I explained in our telephone call, MTER intends to have its independent professionals inspect and evaluate the current condition of the Property and address any corrective action that those professionals deem required in accordance with the Notice. Those professionals include a professional exterminator, electrician and alarm system inspector (collectively the “Professionals”).

Kaplin Stewart  
Union Meeting Corporate Center  
310 Harvest Drive, P.O. Box 3037  
Blue Bell, PA 19422-0765  
510-260-6000 tel

Offices in  
Pennsylvania  
New Jersey

17014/1/7369060v2



Douglas C. Wilhelm, BCO, CFEI  
Building Code Official & Zoning Officer  
November 12, 2021  
Page 2

I explained that those Professionals cannot perform proper inspections until the electrical power is restored to the Property. You told me that you would not restore the electrical power to the Property or allow MTER or its Professionals to enter the Property unless and until your counsel – William D. Oetinger, Esquire – authorized such an entry. I tried to reach Mr. Oetinger, but have not been able to connect with him.

I find it remarkable that your current position directly contradicts the clear language of the Notice and is impeding MTER's ability to remediate any of the alleged issues. Not only does the Notice threaten the issuance of fines for each day the issues referenced in the Notice are not addressed, but the Notice expressly authorizes MTER to occupy the Property for the purpose of abating the referenced violations.

By preventing MTER from accessing the Property, you and the Borough are actively preventing MTER from complying with the terms of the Notice. I hereby demand that you rescind your position, restore the power to the Property and grant MTER and the Professionals immediate access to inspect and ascertain the condition of the Property.

**PLEASE BE GUIDED ACCORDINGLY.**

Sincerely,

**KAPLIN STEWART MELOFF REITER & STEIN, P.C.**



**By:** Daniel R. Utain, Esquire

DRU:jvf

cc: William D. Oetinger, Esquire (Via Email - woetinger@grimlaw.com)

## EXHIBIT "4"



Borough of Quakertown  
 Community Development Office  
 35 N. Third Street  
 Quakertown, PA 18951  
 Tel.: 215-536-8001



Approved 3<sup>rd</sup> Party Electrical Inspection Agencies

<p>Burns Electrical Inspection Agency                  1010 Albright Avenue                  Scranton, PA 18508                  Edmund Goodfield                  570.344.9681  <u><a href="mailto:edcgoodfield@aol.com">edcgoodfield@aol.com</a></u></p>	<p>Code Inspections, Inc.                  605 Horsham Road                  Horsham, PA 19044                  Robert J. Heil                  800.288.2633  <u><a href="mailto:bheil@codeinspectionsinc.com">bheil@codeinspectionsinc.com</a></u></p>
<p>Keystone Code Consulting &amp; Enforcement                  614 Fourth Avenue, Suite 201                  Bethlehem, PA 18018                  David Shields                  610.866.9663  <u><a href="mailto:dave@keycodes.net">dave@keycodes.net</a></u></p>	<p>Lehigh Valley Inspection Service                  P. O. Box 423                  Orefield, PA 18069                  Paul Jarrett                  610-395-3827  <u><a href="mailto:lvis@ptd.net">lvis@ptd.net</a></u></p>
<p>Middle Atlantic Inspections, Inc.                  302 East Pennsylvania Avenue                  Feasterville, PA 19047                  Paul E. Buchhofer                  800.352.3457  <u><a href="mailto:pbuchhofer@biupa.com">pbuchhofer@biupa.com</a></u></p>	<p>Liberty Inspection Limited                  67 Buck Road                  Huntingdon Valley, PA 19006                  Harris M. Tucker                  215.595.7707  <u><a href="mailto:libertyinsp@aol.com">libertyinsp@aol.com</a></u></p>
<p>United Inspection Agency                  180 South Main Street                  Ambler, PA 19002                  Jay Halferty                  215.542.9977  <u><a href="mailto:info@unitedinspectionagency.com">info@unitedinspectionagency.com</a></u></p>	<p>Middle Department Inspection Agency, Inc.                  P. O. Box 2654                  West Chester, PA 19380-0904                  Peter A. Conlow                  610.696.3900  <u><a href="mailto:wexford80@worldnet.att.net">wexford80@worldnet.att.net</a></u></p>
<p>Grill 1 Inspections                  752 Sycamore Avenue                  Southampton PA 18966                  Rick Grillone                  215-364-5758  <u><a href="mailto:grill1inspections@comcast.net">grill1inspections@comcast.net</a></u></p>	

Case# 2021-06027-0 - JUDGE:35 Received at County of Bucks Prothonotary on 11/18/2021 2:36 PM, Fee = \$258.50. The filer certifies that this filing complies with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts that require filing confidential information and documents differently than non-confidential information and documents. E-Filed by: Daniel Ray Utain, Esq.

# EXHIBIT "5"

Case# 2021-06027-0 - JUDGE:95 Received at County of Bucks Prothonotary on 11/18/2021 2:36 PM, Fee = \$258.50. The filer certifies that this filing complies with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts that require filing confidential information and documents differently than non-confidential information and documents. E-Filed by: Daniel Ray Utain, Esq.



Borough of Quakertown  
Code Enforcement / Emergency Management / Fire Marshal's Office  
35 N. Third Street  
Quakertown, PA 18981  
Tel.: 215-536-5001



# NOTICE OF VIOLATION

## PROPERTY MAINTENANCE

**Person Responsible for Violation:** Mr. Thomas Skiffington, MT Estate RTY LLC

**Mailing Address:** 701 West Market Street, Perkasio, PA 18944-1161

**Date of Issuance:** November 12, 2021

**Location of Property in Violation:**

100 & 200 West Broad Street, Quakertown, PA 18951  
(Bucks County TMP # 35-008-311-001)

**Delivered:** \_\_\_\_\_ In person to Owner of Record  
 X  \_\_\_\_\_ By Regular and Certified Mail

In accordance with Section 108 of the 2009 edition of the International Property Maintenance Code, adopted as the Property Maintenance Code of Quakertown Borough (Code) under Chapter 5 of the Quakertown Borough Code, Quakertown Borough is issuing this Notice of Violation and demanding that the following activities being conducted in violation of the Code immediately cease:

### Specific Code Provisions Being Violated:

All code sections are bolded and taken from the 2009 International Property Maintenance Code unless otherwise noted. This Notice is being issued in conjunction with the inspections of the Property occurring on September 7, 2021 and November 10, 2021 and other information obtained by the Borough concerning the condition of this Property.

**108. General.** When a structure or equipment is found by the code official to be unsafe, or when a structure is found unfit for human occupancy, or is found unlawful, such structure shall be condemned pursuant to the provisions of this code.

- o *Extent of insect infestation and resultant damage to the fire and electrical systems rendered the property unsafe and unfit for human occupancy. Improper maintenance of fire detection facilities caused frequent false alarms, and insects are interfering with functionality of alarm devices. The alarm system was placed into modality so that the occurrence of an alarm going off is not transmitted to first responders.*

**Fire Prevention** ..... Life Safety

*"Protect the public, and your life, your loved ones, and your property"*

- **108.1.1 Unsafe structures.** An unsafe structure is one that is found to be dangerous to the life, health, property or safety of the public or the occupants of the structure by not providing minimum safeguards to protect or warn occupants in the event of fire, or because such structure contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation, that partial or complete collapse is possible.
  - o *Extent of insect infestation and resultant damage to the fire and electrical systems rendered the property unsafe and unfit for human occupancy. Improper maintenance of fire detection facilities caused frequent false alarms, and insects are interfering with functionality of alarm devices. The alarm system was placed into modality so that the occurrence of an alarm going off is not transmitted to first responders.*
  
- **108.1.2 Unsafe equipment.** Unsafe equipment includes any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment on the premises or within the structure which is in such disrepair or condition that such equipment is a hazard to life, health, property or safety of the public or occupants of the premises or structure.
  - o *Extent of insect infestation and resultant damage to the fire and electrical systems rendered the property unsafe and unfit for human occupancy. Improper maintenance of fire detection facilities caused frequent false alarms, and insects are interfering with functionality of alarm devices. The alarm system was placed into modality so that the occurrence of an alarm going off is not transmitted to first responders.*
  
- **108.1.3 Structure unfit for human occupancy.** A structure is unfit for human occupancy whenever the code official finds that such structure is unsafe, unlawful or, because of the degree to which the structure is in disrepair or lacks maintenance, is insanitary, vermin or rat infested, contains filth and contamination, or lacks ventilation, illumination, sanitary or heating facilities or other essential equipment required by this code, or because the location of the structure or to the public.
  - o *Extent of insect infestation and resultant damage to the fire and electrical systems rendered the property unsafe and unfit for human occupancy. Improper maintenance of fire detection facilities caused frequent false alarms, and insects are interfering with functionality of alarm devices. The alarm system was placed into modality so that the occurrence of an alarm going off is not transmitted to first responders.*
  
- **108.1.5 Dangerous structure or premises.** For the purpose of this code, any structure or premises that has any or all of the conditions or defects described below shall be considered dangerous:

- 1. Any door, aisle, passageway, stairway, exit or other means of egress that does not conform to the approved building or fire code of the jurisdiction as related to the requirements for existing buildings.
  - o *Rear stairwells are too narrow for code compliance, one of which was damaged after last fire and is structurally unsound. Nonconforming methods of egress have been made further from compliance.*
  
- 8. Any building or structure has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the approved building or fire code of the jurisdiction, or of any law or ordinance to such an extent as to present either a substantial risk of fire, building collapse or any other threat to life and safety.
  - o *Extent of insect infestation and resultant damage to the fire and electrical systems rendered the property unsafe and unfit for human occupancy. Improper maintenance of fire detection facilities caused frequent false alarms, and insects are interfering with functionality of alarm devices. The alarm system was placed into modality so that the occurrence of an alarm going off is not transmitted to first responders. Electrical systems have not been maintained; wires and electrical outlets are exposed throughout the structure.*
  
- 9. A building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, ventilation, mechanical or plumbing system, or otherwise, is determined by the code official to be unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease.
  - o *Extent of insect infestation and resultant damage to the fire and electrical systems rendered the property unsafe and unfit for human occupancy. Improper maintenance of fire detection facilities caused frequent false alarms, and insects are interfering with functionality of alarm devices. The alarm system was placed into modality so that the occurrence of an alarm going off is not transmitted to first responders. Electrical systems have not been maintained; wires and electrical outlets are exposed throughout the structure.*
  
- 10. Any building or structure, because of a lack of sufficient or proper fire-resistance-rated construction, fire protection systems, electrical system, fuel connections, mechanical system, plumbing system or other cause, is determined by the code official to be a threat to life or health.
  - o *Fire systems rendered malfunctioning and disconnected to emergency services. Exposed wiring and infestation throughout building creates an*

*increased risk of fire. Hallways are cluttered with debris and trash, blocking access to fire equipment and blocking means of egress.*

- **304.16** Every basement hatchway shall be maintained to prevent the entrance of rodents, rain and surface draining water. The Building contains hatchway(s) that do not comply with this Section 304.16.
  - o *In rear of building, openings into the basement and electrical room are unsecure and allow for entrance of rodents.*
- **304.2** All exterior surfaces, including but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks and fences shall be maintained in good condition.
  - o *Exterior door frames, doors, windows, window frames are in dilapidated condition, preventing them from being closed or secured properly.*
- **305.1 General.** The interior of a structure and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition. Occupants shall keep that part of the structure which they occupy or control in a clean and sanitary condition. Every owner of a structure containing a rooming house, housekeeping units, a hotel, a dormitory, two or more dwelling units or two or more nonresidential occupancies, shall maintain, in a clean and sanitary condition, the shared or public areas of the structure and exterior property.
  - o *The hallways and numerous rooms are cluttered with trash and debris.*
- **308.1** All exterior property and premises, and the interior of every structure, shall be free from any accumulation of rubbish or garbage. **§308.1.**
  - o *The hallways and numerous rooms are cluttered with trash and debris.*
- **309.1. Infestation.** All structures shall be kept free from insect and rodent infestation. All structures in which insects or rodents are found shall be promptly exterminated by approved processes that will not be injurious to human health. After extermination, proper precautions shall be taken to prevent reinfestation.
  - o *Inspections and visits have identified heavy bed bug and German roach infestation throughout the entire building, including multiple units on all floors, hallways, common areas, fire detection equipment and other electrical outlets and conduit which is a major safety concern. The inspection also identified rooms with heavy debris, food waste and clutter which could be harborage and feeding areas.*
- **309.2 Owner.** The owner of any structure shall be responsible for extermination within the structure prior to renting or leasing the structure.
  - o *Infestations in the units offered for short-term and/or transient use. Infestations extended to common areas.*



- **504.1 Dwelling Units.** All plumbing fixtures shall be properly installed and maintained in working order, and shall be kept free from obstructions, leaks and defects and be capable of performing the function for which such plumbing fixtures are designed. All plumbing fixtures shall be maintained in a safe, sanitary, and functional condition.
  - o *Several rooms have holes in ceiling from leaking plumbing in the floor above.*
- **604.3 Electrical System Hazards.** Where it is found that the electrical system in a structure constitutes a hazard to the occupants of the structure by reason of inadequate service, improper fusing, insufficient receptacle and lighting outlets, improper wiring or installation, deterioration or damage, or for similar reasons, the code official shall require the defects to be corrected to eliminate the hazard.
  - o *Insect infestations extended to electrical outlets and fixtures; wires left exposed; outlet boxes left exposed.*
- **605.1 Installation.** All electrical equipment, wiring and appliances shall be properly installed and maintained in a safe and approved manner.
  - o *Insect infestations extended to the electrical outlets and fixtures; wires left exposed; outlet boxes left exposed.*
- **702.1 General.** A safe, continuous and unobstructed path of travel shall be provided from any point in a building or structure to the public way.
  - o *Several rooms on the Property were so cluttered that a safe, continuous, and unobstructed path of travel was not available. Several doors were completely blocked. No illuminated signs indicating emergency exit were visible. Hallways and stairways were blocked with debris and rubbish and/or structurally unsound to allow a method of egress.*
- **704.1 General.** All systems, devices and equipment to detect a fire, actuate an alarm, or suppress or control a fire of any combination thereof shall be maintained in an operable condition at all times in accordance with the International Fire Code.
  - o *Extent of insect infestation and resultant damage to the fire and electrical systems rendered the property unsafe and unfit for human occupancy. Frequent false alarms caused by improper maintenance of fire detection facilities, fire extinguisher unable to be used because access is blocked. Insects are interfering with functionality of alarm devices. The alarm system was placed into modality so that the occurrence of an alarm going off is not transmitted to first responders.*

You are to commence corrections of these violations within seventy-two (72) hours of the date of issuance of this Notice and correct all violations within twenty (20) days of the date of issuance. Random spot inspections of this property for compliance will be conducted throughout this period. A Full Inspection will take place twenty (20) days from the date of issuance to check on the status of the repairs and compliance.

You have the right to appeal this Notice to the Quakertown Borough UCC Board of Appeals. **YOU MUST FILE THIS APPEAL WITHIN TWENTY (20) DAYS OF THE DATE OF ISSUANCE OF THIS NOTICE.**

Failure to comply with this Notice within the time limits specified above constitutes a violation and is subject to a fine of up to \$300.00 per day, plus all court costs and reasonable attorney's fees, unless an appeal is filed with the Quakertown Borough UCC Board of Appeals within twenty (20) days of the date of issuance of this Notice. Each day that a violation continues shall be considered a separate offense punishable by the above-described fines and penalties. Each violation listed above shall be considered a separate offense each punishable by the above-described fines and penalties. In accordance with Section 106.3 of the Code, all costs incurred by the Borough in enforcing this matter shall be charged against the Property and shall be a lien upon this property.

You should take the following action immediately:

Respond to me in writing within five (5) days acknowledging receipt of this Notice and stating what actions you have taken or will take to bring the Property in Violation into compliance with the Code. Permits may be required for some of the items listed above. You can contact the Borough of Quakertown Code Enforcement Office to apply for all applicable permits. This response should be directed to me at the Quakertown Borough Hall, 35 North Third Street, Quakertown PA 18951 or at [dwilhelm@quakertown.org](mailto:dwilhelm@quakertown.org). Failure to comply with this Notice may result in my recommendation to the Borough Council that a civil action be filed against you in Court.

Sincerely,

  
\_\_\_\_\_  
Douglas C. Wilhelm, BCO, CFEI  
Building Code Official & Zoning Officer

CC: Property File  
Scott McElree, Borough Manager  
Peter Nelson, Esquire and William Oetinger, Esquire, Borough Solicitor

## EXHIBIT "6"

# Kaplin Stewart

Attorneys at Law

Daniel R. Utain, Esquire  
Direct Dial: (610) 941-2582  
Direct Fax: (610) 684-2032  
Email: dutain@kaplaw.com  
www.kaplaw.com

November 15, 2021

*Email – woetinger@grimlaw.com*  
William D. Oetinger, Esquire  
104 S. 6th Street  
P.O. Box 215  
Perkasie, PA 18944

**RE: 17 N. 2<sup>nd</sup> Street and 8 N. Front Street. Quakertown, Pennsylvania**

Dear Mr. Oetinger:

Kaplin Stewart Meloff Reiter & Stein, P.C. represents MT Estate Realty, LLC (“MTER”), who is the owner of the following three (3) properties located in Quakertown Borough (“Borough”) – (i) 100 & 200 West Broad Street, Bucks County TMP # 35-008-311-001 (“West Broad Property”), (ii) 17 N. 2nd Street, Bucks County TMP # 35-008-311-003 (“2<sup>nd</sup> Street Property”), and (iii) 8 N. Front Street, Bucks County TMP # 35-008-311-002 (“Front Street Property”).

Last week, the Borough issued a “Notice of Condemnation, Property Maintenance” (“Condemnation Notice”) for the West Broad Property for alleged, and unstated, violations of the International Property Maintenance Code. I have also received the Notice of Violation dated November 12, 2021 (“Subsequent Violation Notice”) that was forwarded to me after hours on Friday, November 12, 2021 purportedly detailing alleged violations of the International Property Maintenance Code.

As part of its enforcement of the Condemnation Notice, the Borough evicted all tenants of the West Broad Property, as well as all tenants of the 2<sup>nd</sup> Street Property and the Front Street Property. The Borough has also prohibited MTER and its tenants from accessing and occupying the 2<sup>nd</sup> Street Property and the Front Street Property.

The Condemnation Notice and the search warrant upon which the Notice is purportedly predicated reference only the West Broad Property and make no reference to either the 2<sup>nd</sup> Street Property or the Front Street Property. The Subsequent Violation Notice also only references the West Broad Property and references alleged violations with only that property. To date, the Borough has failed to identify any issue or alleged violation with either the 2<sup>nd</sup> Street Property or the Front Street Property.

Kaplin Stewart  
Union Meeting Corporate Center  
910 Harvest Drive, P.O. Box 3037  
Blue Bell, PA 19422-0765  
610-260-6000 tel

Offices in  
Pennsylvania  
New Jersey

17014/1/7373984v1

William D. Oetinger, Esquire  
November 15, 2021  
Page 2

Simply stated, the Borough has illegally condemned the 2<sup>nd</sup> Street Property and the Front Street Property without any notice or basis to do so and has improperly interfered with MTER's and its tenants' use and occupancy of those properties.

Please confirm immediately that MTER and its tenants are permitted to occupy both the 2<sup>nd</sup> Street Property and the Front Street Property. Otherwise, I will have no choice but to take immediate action with the Court. I trust that will not be necessary.

Additionally, neither the Condemnation Notice nor the Subsequent Violation Notice identifies any issues with the commercial tenant at the West Broad Property – Tijuana Tacos. While that business is technically located within the boundaries of the West Broad Property, it is a separate structure that operates independently from the Bush House hotel, which is the focus of the Condemnation Notice and Subsequent Violation Notice. There is no reason to prohibit that business from occupying its business and that tenant should be permitted to occupy its leased space.

**PLEASE BE GUIDED ACCORDINGLY.**

Sincerely,

**KAPLIN STEWART MELOFF REITER & STEIN, P.C.**



By: Daniel R. Utain, Esquire

DRU:jvf

## **EXHIBIT "7"**

# Kaplin Stewart

Attorneys at Law

Daniel R. Utain, Esquire  
Direct Dial: (610) 941-2582  
Direct Fax: (610) 684-2032  
Email: dutain@kaplaw.com  
www.kaplaw.com

November 16, 2021

*Email – woetinger@grimlaw.com*

William D. Oetinger, Esquire  
104 S. 6th Street  
P.O. Box 215  
Perkasie, PA 18944

**RE: MT Estate Realty, LLC - Notice of Violation, Property Maintenance, Dated November 12, 2021, for the Property Located at 100 & 200 West Broad Street, Quakertown, PA 18951, Bucks County TMP # 35-008-311-001**

Dear Mr. Oetinger:

Kaplin Stewart Meloff Reiter & Stein, P.C. represents MT Estate Realty, LLC (“MTER”) regarding the above-captioned “Notice of Violation” (“Notice”) dated November 12, 2021, for the property located at 100 & 200 West Broad Street, Quakertown, Pennsylvania, 18951, Bucks County TMP # 35-008-311-001 (“Property”).

Please accept this letter as MTER’s written acknowledgement requested in the Notice and is being sent to you as counsel for the Borough of Quakertown (“Borough”).

As you know, MTER has tried to conduct a complete investigation of the Property to evaluate the issues in the Notice and perform any required remediation but has been prevented from doing so by the Borough and its Code Enforcement Officer, Douglas C. Wilhelm, BCO, CFEI. Not only has Mr. Wilhelm refused to restore power to the Property but he has also impeded MTER’s ability to get the power restored, which is necessary to complete the inspections. In fact, yesterday, Mr. Wilhelm held a private conversation with the independent code inspector retained by MTER to inspect the Property, after which conversation, the inspector indicated he was no longer willing to perform the inspection. Mr. Wilhelm is clearly preventing MTER from accessing the Property and abating any of the alleged issues, which constitutes a violation of his obligations under the International Property Maintenance Code.

Moreover, MTER’s electrician found no evidence to support the claim of an alleged insect infestation in the electrical system. MTER’s electrician removed all of the socket covers and switch covers at the Property to investigate the alleged bug infestation. His investigation revealed no evidence of any bug infestation in the electrical system. Enclosed is a copy of an email from the electrician regarding his inspection. It is my understanding that the electrical covers have been left off so that the Borough can inspect and confirm his findings.

Kaplin Stewart  
Union Meeting Corporate Center  
910 Harvest Drive, P.O. Box 3037  
Blue Bell, PA 19422-0765  
610-260-6000 tel

Offices in  
Pennsylvania  
New Jersey

17014/1/7376247v2

William D. Oetinger, Esquire  
November 16, 2021  
Page 2

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Once the Borough restores power to the Property, MTER intends to have an exterminator inspect the Property for any alleged bug infestations, an alarm system inspector evaluate the fire protection system, and a contractor evaluate the alleged condition of the stairwells, openings, doors, hallways and doors.

By refusing to restore power to the Property, Mr. Wilhelm and the Borough are actively preventing MTER from complying with the terms of the Notice and the International Property Maintenance Code and is preventing MTER from heating and protecting the Property.

I hereby demand that the Borough restore the power to the Property and grant MTER and its contractors immediate access to inspect and ascertain the condition of the Property. Otherwise, MTER will hold the Borough liable for any damage that occurs as result of its conduct.

**PLEASE BE GUIDED ACCORDINGLY.**

Sincerely,

**KAPLIN STEWART MELOFF REITER & STEIN, P.C.**



By: Daniel R. Utain, Esquire

DRU:jvf  
Enclosure



**Daniel R. Utain**

---

**From:** Thomas Skiffington <tskiffington@remax440.com>  
**Sent:** Monday, November 15, 2021 5:13 PM  
**To:** Daniel R. Utain; Marc B. Kaplin; Michael P. Coughlin  
**Subject:** Fwd: Bush house hotel

**FilingDate:** 11/15/2021 5:18:00 PM

Please excuse the brevity of this message and any type errors  
Sent from my iPhone

Begin forwarded message:

**From:** Kirk Knight <kirk@kandleenergy.com>  
**Date:** November 15, 2021 at 5:11:53 PM EST  
**To:** tskiffington@remax.net  
**Subject:** Bush house hotel

We removed all of the wall plates for the switches and outlets in the building. They are ready for inspection. I didn't find any active infestation in the device boxes I inspected.

Thanks,

Kirk Knight  
K&L Energy

Case# 2021-06027-0 - JUDGE:35 Received at County of Bucks Prothonotary on 11/18/2021 2:36 PM, Fee = \$258.50. The filer certifies that this filing complies with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts that require filing confidential information and documents differently than non-confidential information and documents. E-Filed by: Daniel Ray Utain, Esq.

## EXHIBIT "8"

# NOTICE OF CONDEMNATION

## PROPERTY MAINTENANCE

**Owner of Condemned Property:** Mr. Thomas Skiffington, MT Estate RTY LLC

**Mailing Address:** 701 West Market Street, Perkasie, PA 18944-1161

**Date of Issuance:** November 16, 2021

**Location of Condemned Property:**

100 & 200 West Broad Street, Quakertown, PA 18951  
17 N. 2<sup>nd</sup> Street, Quakertown, PA 18951  
8 N. Front Street, Quakertown, PA 18951  
(Bucks County TMPs # 35-008-311-001, 35-008-311-002, 35-008-311-003, respectively)

**Delivered:** \_\_\_\_\_ In person to Owner of Record  
  X   By Regular and Certified Mail  
No. 7015 1520 0000 5970 2280; 7015 1520 0000 5970 2303

In accordance with Section 108 of the 2009 edition of the International Property Maintenance Code, adopted as the Property Maintenance Code of Quakertown Borough (Code) under Chapter 5 of the Quakertown Borough Code, Quakertown Borough has found the Property located at 100 & 200 West Broad Street to be unfit for human occupancy and hereby **CONDEMN**S this Property under the following Sections of the Code: 108.1.1, 108.1.2, 108.1.3, 108.1.5.1, 108.1.5.8, 108.1.5.9, and 108.1.5.10. Unless and until the Owner of the Condemned Property corrects the violations listed in the attached Notice of Violations, this Property shall be **CONDEMNED** and the buildings located upon the Condemned Property known as the Bush House shall be vacated immediately and shall be secured to prevent entry by unwanted individuals. Upon Condemnation, the Condemned Property may not be occupied except as follows:

- Adults may occupy this dwelling during the hours of 7:00 a.m. to 5:00 p.m. only for the sole purpose of abating the violations.
- There shall be no other activity on the Property, including cooking, sleeping, conducting other business etc., other than the activity of abating the violations.

- There shall be no children permitted in the buildings until a Borough Codes Official approves the re-occupancy of children.

This Notice of Condemnation is based upon all of the violations listed in the attached Notice of Violation issued against this Condemned Property. The Condemned Property shall not be reoccupied until all of these violations have been corrected. A compliance re-inspection shall be conducted by this office before the building is re-occupied. Permission shall be obtained from this office before entry into the structure for repairs or cleaning.

You have the right to appeal this Notice to the Quakertown Borough UCC Board of Appeals. YOU MUST FILE THIS APPEAL WITHIN TWENTY (20) DAYS OF THE DATE OF ISSUANCE OF THIS NOTICE.

Failure to comply with this Notice and the attached Notice of Violation within the time limits specified above constitutes a violation and is subject to a fine of up to \$300.00 per day, plus all court costs and reasonable attorney's fees, unless an appeal is filed with the Quakertown Borough UCC Board of Appeals within twenty (20) days of the date of issuance of this Notice of Condemnation. Each day that a violation continues shall be considered a separate offense punishable by the above-described fines and penalties. In accordance with Section 106.3 of the Code, all costs incurred by the Borough in enforcing this matter shall be charged against the Property and shall be a lien upon this property.

You should take the following action immediately:

Respond to me in writing within five (5) days acknowledging receipt of this Notice and stating what actions you have taken or will take to bring your property into compliance with the Code. This response should be directed to me at the Quakertown Borough Hall, 35 North Third Street, Quakertown PA 18951 or at [dwilhelm@quakertown.org](mailto:dwilhelm@quakertown.org). If you do not take appropriate corrective action in accordance with this Notice of Condemnation I will recommend to the Borough Council that a civil action be filed against you in Court.

Sincerely,

 11-16-21  
\_\_\_\_\_  
Douglas C. Wilhelm, BCO, CFEI  
Building Code Official & Zoning Officer

CC: Property File  
Scott McElree, Borough Manager

Peter Nelson, Esquire, Borough Solicitor



*alarms, and insects are interfering with functionality of alarm devices. The alarm system was placed into modality so that the occurrence of an alarm going off is not transmitted to first responders.*

- **108.1.1 Unsafe structures.** An unsafe structure is one that is found to be dangerous to the life, health, property or safety of the public or the occupants of the structure by not providing minimum safeguards to protect or warn occupants in the event of fire, or because such structure contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation, that partial or complete collapse is possible.
  - o *Extent of insect infestation and resultant damage to the fire and electrical systems rendered the property unsafe and unfit for human occupancy. Improper maintenance of fire detection facilities caused frequent false alarms, and insects are interfering with functionality of alarm devices. The alarm system was placed into modality so that the occurrence of an alarm going off is not transmitted to first responders.*
  
- **108.1.2 Unsafe equipment.** Unsafe equipment includes any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment on the premises or within the structure which is in such disrepair or condition that such equipment is a hazard to life, health, property or safety of the public or occupants of the premises or structure.
  - o *Extent of insect infestation and resultant damage to the fire and electrical systems rendered the property unsafe and unfit for human occupancy. Improper maintenance of fire detection facilities caused frequent false alarms, and insects are interfering with functionality of alarm devices. The alarm system was placed into modality so that the occurrence of an alarm going off is not transmitted to first responders.*
  
- **108.1.3 Structure unfit for human occupancy.** A structure is unfit for human occupancy whenever the code official finds that such structure is unsafe, unlawful or, because of the degree to which the structure is in disrepair or lacks maintenance, is insanitary, vermin or rat infested, contains filth and contamination, or lacks ventilation, illumination, sanitary or heating facilities or other essential equipment required by this code, or because the location of the structure or to the public.
  - o *Extent of insect infestation and resultant damage to the fire and electrical systems rendered the property unsafe and unfit for human occupancy. Improper maintenance of fire detection facilities caused frequent false alarms, and insects are interfering with functionality of alarm devices. The alarm system was placed into modality so that the occurrence of an alarm going off is not transmitted to first responders.*
  
- **108.1.5 Dangerous structure or premises.** For the purpose of this code, any structure or premises that has any or all of the conditions or defects described below shall be considered dangerous:

- 1. Any door, aisle, passageway, stairway, exit or other means of egress that does not conform to the approved building or fire code of the jurisdiction as related to the requirements for existing buildings.
  - o *Rear stairwells are too narrow for code compliance, one of which was damaged after last fire and is structurally unsound. Nonconforming methods of egress have been made further from compliance.*
  
- 8. Any building or structure has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the approved building or fire code of the jurisdiction, or of any law or ordinance to such an extent as to present either a substantial risk of fire, building collapse or any other threat to life and safety.
  - o *Extent of insect infestation and resultant damage to the fire and electrical systems rendered the property unsafe and unfit for human occupancy. Improper maintenance of fire detection facilities caused frequent false alarms, and insects are interfering with functionality of alarm devices. The alarm system was placed into modality so that the occurrence of an alarm going off is not transmitted to first responders. Electrical systems have not been maintained; wires and electrical outlets are exposed throughout the structure.*
  
- 9. A building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, ventilation, mechanical or plumbing system, or otherwise, is determined by the code official to be unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease.
  - o *Extent of insect infestation and resultant damage to the fire and electrical systems rendered the property unsafe and unfit for human occupancy. Improper maintenance of fire detection facilities caused frequent false alarms, and insects are interfering with functionality of alarm devices. The alarm system was placed into modality so that the occurrence of an alarm going off is not transmitted to first responders. Electrical systems have not been maintained; wires and electrical outlets are exposed throughout the structure.*
  
- 10. Any building or structure, because of a lack of sufficient or proper fire-resistance-rated construction, fire protection systems, electrical system, fuel connections, mechanical system, plumbing system or other cause, is determined by the code official to be a threat to life or health.
  - o *Fire systems rendered malfunctioning and disconnected to emergency services. Exposed wiring and infestation throughout building creates an*



*increased risk of fire. Hallways are cluttered with debris and trash, blocking access to fire equipment and blocking means of egress.*

- **304.16** Every basement hatchway shall be maintained to prevent the entrance of rodents, rain and surface draining water. The Building contains hatchway(s) that do not comply with this Section 304.16.
  - o *In rear of building, openings into the basement and electrical room are unsecure and allow for entrance of rodents.*
- **304.2** All exterior surfaces, including but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks and fences shall be maintained in good condition.
  - o *Exterior door frames, doors, windows, window frames are in dilapidated condition, preventing them from being closed or secured properly.*
- **305.1 General.** The interior of a structure and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition. Occupants shall keep that part of the structure which they occupy or control in a clean and sanitary condition. Every owner of a structure containing a rooming house, housekeeping units, a hotel, a dormitory, two or more dwelling units or two or more nonresidential occupancies, shall maintain, in a clean and sanitary condition, the shared or public areas of the structure and exterior property.
  - o *The hallways and numerous rooms are cluttered with trash and debris.*
- **308.1** All exterior property and premises, and the interior of every structure, shall be free from any accumulation of rubbish or garbage. §308.1.
  - o *The hallways and numerous rooms are cluttered with trash and debris.*
- **309.1. Infestation.** All structures shall be kept free from insect and rodent infestation. All structures in which insects or rodents are found shall be promptly exterminated by approved processes that will not be injurious to human health. After extermination, proper precautions shall be taken to prevent reinfestation.
  - o *Inspections and visits have identified heavy bed bug and German roach infestation throughout the entire building, including multiple units on all floors, hallways, common areas, fire detection equipment and other electrical outlets and conduit which is a major safety concern. The inspection also identified rooms with heavy debris, food waste and clutter which could be harborage and feeding areas.*
- **309.2 Owner.** The owner of any structure shall be responsible for extermination within the structure prior to renting or leasing the structure.
  - o *Infestations in the units offered for short-term and/or transient use. Infestations extended to common areas.*

- **504.1 Dwelling Units.** All plumbing fixtures shall be properly installed and maintained in working order, and shall be kept free from obstructions, leaks and defects and be capable of performing the function for which such plumbing fixtures are designed. All plumbing fixtures shall be maintained in a safe, sanitary, and functional condition.
  - o *Several rooms have holes in ceiling from leaking plumbing in the floor above.*
- **604.3 Electrical System Hazards.** Where it is found that the electrical system in a structure constitutes a hazard to the occupants of the structure by reason of inadequate service, improper fusing, insufficient receptacle and lighting outlets, improper wiring or installation, deterioration or damage, or for similar reasons, the code official shall require the defects to be corrected to eliminate the hazard.
  - o *Insect infestations extended to electrical outlets and fixtures; wires left exposed; outlet boxes left exposed.*
- **605.1 Installation.** All electrical equipment, wiring and appliances shall be properly installed and maintained in a safe and approved manner.
  - o *Insect infestations extended to the electrical outlets and fixtures; wires left exposed; outlet boxes left exposed.*
- **702.1 General.** A safe, continuous and unobstructed path of travel shall be provided from any point in a building or structure to the public way.
  - o *Several rooms on the Property were so cluttered that a safe, continuous, and unobstructed path of travel was not available. Several doors were completely blocked. No illuminated signs indicating emergency exit were visible. Hallways and stairways were blocked with debris and rubbish and/or structurally unsound to allow a method of egress.*
- **704.1 General.** All systems, devices and equipment to detect a fire, actuate an alarm, or suppress or control a fire of any combination thereof shall be maintained in an operable condition at all times in accordance with the International Fire Code.
  - o *Extent of insect infestation and resultant damage to the fire and electrical systems rendered the property unsafe and unfit for human occupancy. Frequent false alarms caused by improper maintenance of fire detection facilities, fire extinguisher unable to be used because access is blocked. Insects are interfering with functionality of alarm devices. The alarm system was placed into modality so that the occurrence of an alarm going off is not transmitted to first responders.*

You are to commence corrections of these violations within seventy-two (72) hours of the date of issuance of this Notice and correct all violations within twenty (20) days of the date of issuance. Random spot inspections of this property for compliance will be conducted throughout this period. A Full Inspection will take place twenty (20) days from the date of issuance to check on the status of the repairs and compliance.

You have the right to appeal this Notice to the Quakertown Borough UCC Board of Appeals. YOU MUST FILE THIS APPEAL WITHIN TWENTY (20) DAYS OF THE DATE OF ISSUANCE OF THIS NOTICE.

Failure to comply with this Notice within the time limits specified above constitutes a violation and is subject to a fine of up to \$300.00 per day, plus all court costs and reasonable attorney's fees, unless an appeal is filed with the Quakertown Borough UCC Board of Appeals within twenty (20) days of the date of issuance of this Notice. Each day that a violation continues shall be considered a separate offense punishable by the above-described fines and penalties. Each violation listed above shall be considered a separate offense each punishable by the above-described fines and penalties. In accordance with Section 106.3 of the Code, all costs incurred by the Borough in enforcing this matter shall be charged against the Property and shall be a lien upon this property.

You should take the following action immediately:

Respond to me in writing within five (5) days acknowledging receipt of this Notice and stating what actions you have taken or will take to bring the Property in Violation into compliance with the Code. Permits may be required for some of the items listed above. You can contact the Borough of Quakertown Code Enforcement Office to apply for all applicable permits. This response should be directed to me at the Quakertown Borough Hall, 35 North Third Street, Quakertown PA 18951 or at [dwilhelm@quakertown.org](mailto:dwilhelm@quakertown.org). Failure to comply with this Notice may result in my recommendation to the Borough Council that a civil action be filed against you in Court.

Sincerely,

  
Douglas C. Wilhelm, BCO, CFEI  
Building Code Official & Zoning Officer

CC: Property File  
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