

IN THE CIRCUIT COURT OF PULASKI COUNTY, ARKANSAS,
DIVISION

CITY OF LITTLE ROCK, ARKANSAS

PLAINTIFF

v. Case No.: _____

VALLEY HEIGHTS APARTMENTS GP, LLC,
d/b/a VALLEY HEIGHTS APARTMENTS;
VALLEY HEIGHTS APARTMENTS II GP, LLC,
d/b/a VALLEY HEIGHTS APARTMENTS; VALLEY
HEIGHTS APARTMENTS II LIMITED
PARTNERSHIP, d/b/a VALLEY HEIGHTS
APARTMENTS; VALLEY HEIGHTS APARTMENTS
LIMITED PARTNERSHIP, d/b/a VALLEY
HEIGHTS APARTMENTS; HENRY MANAGEMENT, INC.
d/b/a VALLEY HEIGHTS APARTMENTS; and all others
having an interest in 6900 CANTRELL ROAD

DEFENDANTS

COMPLAINT FOR INJUNCTION AND ORDER OF ABATEMENT

Comes now the Plaintiff, City of Little Rock, Arkansas, by and through its attorneys, Thomas M. Carpenter, City Attorney, and D. Clifford Sward, Assistant City Attorney, and for its Complaint for Injunction and Order of Abatement against the Defendants, states as follows:

1. That the Plaintiff is a municipal corporation incorporated under and by virtue of the laws of the State of Arkansas, located in Pulaski County, Arkansas.
2. That the Plaintiff is a city of first class pursuant to Ark. Code Ann. § 14-37-104.
3. That Defendant Valley Heights Apartments Gp, LLC, is a limited liability company organized under the laws of the State of Arkansas, and has its principal place of business in Little Rock, Pulaski County, Arkansas.
4. That Defendant Valley Heights Apartments Gp, LLC, does business as Valley Heights Apartments.

5. That Defendant Valley Heights Apartments II Gp, LLC is a limited liability company organized under the laws of the State of Arkansas, and has its principal place of business in Little Rock, Pulaski County, Arkansas.

6. That Defendant Valley Heights Apartments II Gp, LLC, does business as Valley Heights Apartments.

7. That Defendant Valley Heights Apartments II Limited Partnership is a limited partnership organized under the laws of the State of Arkansas, and has its principal place of business in Little Rock, Pulaski County, Arkansas.

8. That Defendant Valley Heights Apartments II Limited Partnership does business as Valley Heights Apartments.

9. That Defendant Valley Heights Limited Partnership is a limited partnership organized under the laws of the State of Arkansas, and has its principal place of business in Little Rock, Pulaski County, Arkansas.

10. That Defendant Valley Heights Limited Partnership does business as Valley Heights Apartments.

11. That Defendant Henry Management, Incorporated, is a corporation organized under the laws of the State of Arkansas and has its principal place of business in Little Rock, Pulaski County, Arkansas.

11. That this Court has jurisdiction over both the subject matter and parties in the matter pursuant to Ark. Code Ann. § 5-74-109 (West Supp. 2009). Further, due to the location of the Real Property subject to this cause of action and due to the location of the acts that give rise to this cause of action, venue is properly before this Court pursuant to Ark. Code Ann. §§ 16-60-101, *et. seq.* (West Supp. 2009).

12. That the Defendants, Henry Management, Inc., Valley Heights Apartments Limited Partnership, Valley Heights II Limited Partnership, Valley Heights Apartments GP, LLC, Valley Heights Apartments II GP, LLC, individually or collectively, own legal or equitable interest in a parcel or parcels of real property, described below.

13. That the Defendants, individually or collectively, own a parcel of property located at 6900 Cantrell Road, herein referred to as "Valley Heights Parcel 1," more particularly described as follows:

Part of the N1/2 NE1/4 NW1/4 of Section 36, Township 2 North, Range 13 West, Pulaski County, Arkansas, lying North of Cantrell Road (Arkansas Highway No. 10), being all of Block 7 and part of Blocks 2 and 8, Plunkett's Subdivision of Forest Park Addition and all of Block 3 and part of Block 6, Abram's Subdivision of Plunkett's Subdivision of Forest Park Addition, including the 10 foot East-West alley in said Block 3 and part of the 10 foot East-West alley in said Block 6 and portions of Mellon Street, Coolidge Street, Iowa Avenue, Kentucky Avenue and Ohio Avenue and being more particularly described as follows:

Commencing at the Northwest corner of the E1/2 NW1/4 NE1/4 NW1/4 of said Section 36; thence S 88 degrees 46 minutes 10 seconds E and along the North line of Section 36, 20.0 feet to the point of beginning; thence continuing S 88 degrees 46 minutes 10 second E, 390.70 feet to the Northeast corner of the W1/2 W1/2 of said Block 2; thence South along the East line thereof, 103.63 feet to a point on the Southerly right of way line of Darby Place; thence S 89 degrees 04 minutes 00 East along said Southerly right of way line, 77.50 feet to the East line of the W1/2 of said Block 2; thence South along said East line, 227.50 feet to the center of Kentucky Avenue; thence S 89 degrees 42 minutes 58 seconds E along said centerline, 335.00 feet; thence South 01 degree 18 minutes 33 seconds E, 160.00 feet; thence S 89 degrees 41 minutes 40 seconds E, 150.00 feet to the Westerly right of way line of Hughes Street; thence S 00 degrees 06 minutes 57 seconds E along said Westerly right of way line, 170.00 feet to the center of Ohio Avenue; thence N 88 degrees 43 minutes 24 seconds W along said centerline, 611.75 feet to the Northerly right of way line of Cantrell Road; thence along the arc of a 1176.3 foot radius curve to the left, a chord bearing and distance of N 72 degrees 07 minutes 08 seconds W, 55.23 feet; thence continuing along said curve to the left, a chord bearing and distance of N 64 degrees 23 minutes 30 seconds W,

53.60 feet; thence continuing along said Northerly right of way line of Cantrell Road, N 01 degree 28 minutes 30 seconds W, 10.63 feet, N 64 degrees 11 minutes 30 seconds W, 52.50 feet, N 68 degrees 26 minutes 30 seconds W, 52.50 feet, N 65 degrees 42 minutes 30 seconds W, 52.50 feet and N 64 degrees 53 minutes 10 seconds W, 53.20 feet; thence leaving said Northerly right of way line, N 02 degrees 14 minutes 25 seconds W, 106.60 feet; thence N 75 degrees 20 minutes 20 seconds W, 49.90 feet to a point on the East right of way line of Bryant Street; thence North along said East right of way line. 403.35 feet to the point of beginning. Containing 9.20 acres, more or less. Less and Except that part of Iowa Street right of way not closed lying North of the W1/2 W1/2 of Block 2 of Plunkett's Subdivision and Less and Except that part of Kentucky Street right of way not closed lying South of Block 2 and North of Blocks 7 and 8 of Plunkett's Subdivision.

14. That the Defendants, individually or collectively, own a parcel of property located at 6900 Cantrell Road, herein referred to as "Valley Heights Parcel 2," more particularly described as follows:

Part of the N1/2 NE1/4 NW1/4 of Section 36, Township 2 North, Range 13 West, Pulaski County, Arkansas, lying North of Cantrell Road (Arkansas Highway No. 10), being part of Block 3 and part of Block 6, Abram's Subdivision of Plunkett's Subdivision of Forest Park Addition, including the 10 foot East-West Alley in said Block 6 and portions of Kentucky Avenue and being more particularly described as follows:

Commencing at the NW corner of the E1/2 NW1/4 NE1/4 NW1/4 of said Section 36; thence South 88 degrees 46 minutes 10 seconds East and along the North line of Section 36, 20.0 feet; thence South 00 degrees 01 minute 59 seconds West, 185.76 feet to the Point of Beginning; thence North 90 degrees 00 minutes 00 seconds East, 293.67 feet; thence South 00 degrees 03 minutes 47 seconds West, 456.85 feet; thence North 64 degrees 23 minutes 30 seconds West, 53.60 feet; thence North 01 degree 28 minutes 30 seconds West, 10.63 feet; thence North 64 degrees 11 minutes 30 seconds West, 52.50 feet; thence North 68 degrees 26 minutes 30 seconds West, 52.50 feet; thence North 65 degrees 42 minutes 30 seconds West, 52.50 feet; thence North 64 degrees 53 minutes 10 seconds West, 53.20 feet; thence North 02 degrees 14 minutes 25 seconds West, 106.60 feet; thence North 75 degrees 20 minutes 20 seconds West, 49.90 feet; thence North 00 degrees 01 minute 59 seconds East, 217.59 feet to the Point of Beginning.

15. That the Defendants, individually or collectively, operate an apartment complex located at 6900 Cantrell Road, which complex is commonly known as Valley Heights Apartments.

16. That the two parcels of real property described in Paragraphs 13 and 14, collectively referred to herein as "the Real Property," has been used for purposes which unreasonably interfere with the use and enjoyment of lands of another, including conduct on the Real Property which disturbs the peaceful, quiet, and undisturbed use and enjoyment of nearby lands, all of which constitutes a common nuisance.

17. That the Real Property has been used for the purpose of facilitating the commission of a continuing series of three (3) or more criminal violations of Arkansas law in violation of Ark. Code Ann. § 5-74-109 (West Supp. 2009), is detrimental to the public morals, and is a common nuisance as defined in the Gang Abatement Act.

18. That between May 16, 2011, and May 16, 2012, the following criminal acts have occurred at the Real Property:

STATUTE	OFFENSE	DATE
Ark. Code Ann. § 5-39-103	Commercial Burglary	April 7, 2012
Ark. Code Ann. § 5-39-103	Theft of Property	April 7, 2012
Ark. Code Ann. § 5-39-103	Commercial Burglary	April 13, 2012
Ark. Code Ann. § 5-39-103	Theft of Property	April 13, 2012
Ark. Code Ann. § 5-39-103	Commercial Burglary	April 19, 2012
Ark. Code Ann. § 5-39-103	Theft of Property	April 19, 2012
Ark. Code Ann. § 5-39-103	Commercial Burglary	April 23, 2012
Ark. Code Ann. § 5-39-103	Theft of Property	April 23, 2012

19. Upon information and belief, the Real Property was used for the purpose of storing, hiding, and distribution of property stolen in the above-named criminal activities.

20. The criminal acts listed in Paragraph Seventeen do not reflect all of the criminal incidents for which the Plaintiff believes that the Real Property has been used, and the Plaintiff respectfully reserves the right to amend its Complaint as permitted by law and the rules of civil procedure.

21. That under the present circumstances, the Real Property is a threat to the health, safety, and welfare of the citizens and residents of the City of Little Rock, Arkansas.

22. That the activity at the Real Property contributes to the lawlessness and deterioration of the neighborhood in and around these premises and adversely affects the use and enjoyment of the surrounding lands by the adjacent neighbors and property owners.

23. That the activity at the Real Property constitutes a nuisance at common law and renders the Real Property subject to abatement.

24. That there is a substantial probability that the City will prevail on the merits at trial; the City will suffer irreparable harm if the requested relief, including but not limited to an injunction, is not granted; the balance between the harm to the City and the surrounding neighbors and landowners if the relief requested is denied weighs in favor of the City; and, the public interest favors the issuance of injunctions in this instance.

25. The City respectfully reserves the right to amend its pleadings in accordance with law and the rules of civil procedure.

WHEREFORE, pursuant to Ark. Code Ann. § 5-74-109 (West Supp. 2009), and established common law, the City prays that this Court:

a. Declare Valley Heights Apartments, located at 6900 Cantrell Road, Little Rock, Arkansas, detrimental to the health, safety, and welfare of the community and a common nuisance as defined by Ark. Code Ann. § 5-74-109 (West Supp. 2009), and by common law.

b. Issue a preliminary injunction or temporary restraining order against the Defendants, and all persons connected with the Defendants or the premises at 6900 Cantrell Road, prohibiting said Defendants and persons from conducting or maintaining a nuisance in accordance with Ark. Code Ann. § 5-74-109 (West Supp. 2009), and Ark. R. Civ. P. 65.

c. Permanently enjoin and restrain the persons conducting or maintaining the nuisance, and the owner, agent, lessee, tenant, or occupant of the building or place, in or upon which the nuisance exists from directly or indirectly maintaining or permitting the nuisance by ordering such remedies as the Court may deem necessary and appropriate.

d. Order the Real Property to be closed, boarded, secured, and razed, if necessary. Evict all tenants, occupants, and owners and order the same individuals to immediately cease living, staying, working, or operating a business at the Real Property.

e. Appoint a receiver or trustee for the Real Property, to ensure proper administration of the eviction process and compliance with this Court's Orders.

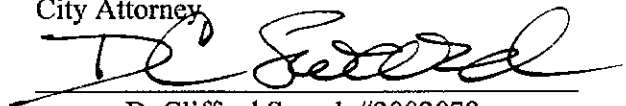
f. Hold a temporary hearing, and if necessary, a full hearing.

g. In addition to the remedies ordered by the Court to enjoin and abate said nuisance, including but not limited to, closure of the structure(s) and property for a period of time to be determined by the Court and, in any event, no less than one (1) year and the removal and sale of the property and/or building(s) causing, abetting, or maintaining the nuisance, the City should be granted its costs, attorney fees, civil penalty of \$5,000.00, and any and all legal or equitable relief to which it may be entitled.

Respectfully Submitted,

Thomas M. Carpenter
City Attorney

By:

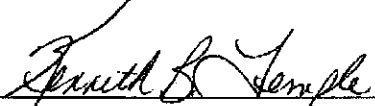
A handwritten signature in black ink, appearing to read "D. Clifford Sward", written over a horizontal line.

D. Clifford Sward, #2002078
Assistant City Attorney
City Hall – Suite 310
500 West Markham
Little Rock, AR 72201
(501) 371-4527

VERIFICATION

STATE OF ARKANSAS)
)ss
COUNTY OF PULASKI)

I hereby state on oath that the facts and statements contained in the foregoing Complaint for Injunction and Order of Abatement are true and correct to the best of my knowledge and belief.



Captain Kenneth Temple
Little Rock Police Department
Northwest Patrol

SUBSCRIBED AND SWORN to before me this 5 day of June, 2012.



Notary Public

