



800 City Hall, 200 E. Wells St., Milwaukee, WI 53202, Telephone 414-286-2601, Fax 414-286-8550

## MEMORANDUM

TO: The Judiciary and Legislation Committee

FROM: Heather Hecimovich Hough, Assistant City Attorney

DATE: July 16, 2018

RE: City of Milwaukee v. Kenneth Churchill, Proposed Settlement

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Attached you will find a proposed stipulated settlement to the nuisance litigation the City initiated against Mr. Churchill in April of 2017.

Also attached is a copy of the filed complaint in this matter. To summarize, Mr. Churchill owned 12 properties (a total of 25 units) in the City of Milwaukee. These properties had a number of nuisance issues including numerous outstanding DNS code violations, and numerous MPD drug house and nuisance designation issues. It is important to note, however, that one property in Mr. Churchill's portfolio had no DNS code violations or MPD nuisance designations. In addition, 6 of the 12 properties had only DNS code violations, and no *formal* MPD nuisance designations. The City asserted the following causes of action:

1. Wis Stat. §823.02 Nuisance – that the court deem Mr. Churchill's mismanagement of the properties a nuisance.
2. Wis. Stat. §823.113 Drug House nuisance – that 6 of the 12 properties had 11 historic drug house nuisance designations and that the court find that the properties were drug house nuisance, forcing the sale of the properties with proceeds of the sale to benefit the City based on statute.
3. Wis. Stat. §823.09 Bawdy House nuisance – that at one property, prostitution related activity was occurring and that the court deem that property to be a bawdy house.
4. Wis. Stat. §823.02 Nuisance per se – that the substantial number of municipal citations issued at the properties and the number of outstanding code violations that existed at the properties deemed the properties nuisance per se.

When the City filed its suit, we also filed a motion for a temporary injunction for a receiver to be appointed to abate the nuisance activities at the properties. After two days of hearing evidence, Judge Dallet determined that Mr. Churchill mismanaged the properties and appointed a receiver over the entire portfolio during the pendency of the case. Since that time, Ogden (through the receiver) has been collecting rent on the properties and using those rents to make necessary repairs and managing the tenancies.

Mr. Churchill has sold 10 of the 12 properties. The City has been able to vet all buyers and reject any potential buyer that historically had MPD or DNS issues with the City. Thus, only 2 properties remain in Mr. Churchill's portfolio, but these 2 are listed for sale. The proceeds of the 10 property sales have been held in trust through the receiver.

Early this year, after a hearing, the Court allowed \$42,000 to be paid to the receiver from the proceeds of the property sales. In addition, Ogden received a check for \$73,307.83 out of the sale proceeds for expenses related to repairs and maintenances at the properties and Mr. Churchill's attorneys received a check for \$27,711.59 for their attorney's fees.

As of late May, after around \$115,000 in expenses paid out of the trust to the receiver, the management company and Mr. Churchill's attorneys, the receiver provided us information that there is roughly \$157,000 remaining in trust. Receiver fees through April are \$28,000, and Ogden has a surplus of \$15,000 in the operating account with no unpaid expenses. Thus, approximately \$144,000 remains in trust, with the proceeds of the two unsold properties not accounted for.

Churchill's attorneys have recently filed a summary judgment motion in court to remove one property's proceeds from the trust. This particular property sold for \$80,000 and had no DNS or MPD violations. The City filed an objection and a hearing is scheduled on the matter, unless the case settles prior to the hearing.

Mr. Churchill's attorneys and the City Attorney's Office are amendable to the following settlement terms:

1. That Mr. Churchill sells all of his City of Milwaukee properties (he has two remaining).
2. That should Mr. Churchill wish to purchase property in the City of Milwaukee in the future, he would need Court approval to do so.
3. That the receiver be released, but that Ogden continue to manage the remaining properties until the time they are sold.
4. Monetary settlement to the City to include a flat \$15,000 payment to the City's general fund for anti-drug and/or anti-prostitution initiatives in Milwaukee Police District 2. All remaining proceeds would be returned to Mr. Churchill.

The nuisance activities and issues at the properties have already been abated. The remaining properties are no longer an issue from either a DNS or an MPD perspective.