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## **Strong Neighborhoods Litigation Summary**

**Updated: February 19, 2018**

### **In re Larry Hopson bankruptcy**

Court: U.S. Bankruptcy Court

Case No. 17-27269

City Counsel: Hannah Jahn

Judge: Hon. Brett H. Ludwig

Issue(s): The Debtor owes the City \$579,190.98 in delinquent real estate taxes, though his Plan offers to pay only \$381,736.00. Mr. Hopson and his two solely-owned LLCs own 25 properties in the City. The debtor's proposed Chapter 13 plan provides for reduced payments on eleven of the City's secured liens for delinquent property tax claims, based on the Debtor's claim that those eleven properties' tax liens exceed their fair market value. He did not provide evidence of value, and often, the asserted value is less than the assessed value. The City objects to that Plan, asserting that the debtor must pay the full secured amount of the claim, up to the assessed value of each property.

Case Status: The Debtor filed an amended Plan on January 7, 2018. The City filed an Objection to Confirmation on January 17. The City objected based on the Debtor's attempts to cramdown the secured debt by alleging the property values were lower than their assessments. The Debtor also filed eleven adversary proceedings to determine the properties' value and cramdown the debt. The City's Objection will be heard on January 30, 2018, and the adversary proceedings are scheduled for a Pretrial on March 7, 2018, when the Court will set a scheduling order and a trial date.

### **City of Milwaukee v. Elijah M. Rashaed**

Court: Milwaukee County Circuit Court

Case No: 17-CV-6823

City Counsel: ACA Kail Decker

Judge: Hon. Glenn Yamahiro

Issue(s): Public nuisance landlord violates ATCP laws and fails to maintain property conditions; also uses LLCs to insulate himself from consequences of his actions.

Summary of Case: The city sued Elijah Mohammad Rashaed and 18 of his entities that own property in Milwaukee seeking an injunction that prohibits him from managing properties, collecting rent, and acquiring or conveying property. The city seeks to get a receiver appointed to manage the properties and then sell them to pay for the cost of the receivership and satisfy all liens.

Case Status: Rashaed failed to leave the Milwaukee landlord business by January 18, 2018, so the CAO filed a motion for appointment of a property manager to run his operations and wind down business for him. A hearing is scheduled for Feb. 23, 2018.

**In re City Wide Investments, LLC bankruptcy**

Court: U.S. District Court for the Eastern District of Wisconsin

Case No. 17-cv-1403

City Counsel: Hannah Jahn

Judge: Hon. Pamela Pepper

Issue(s): City Wide Investments, LLC filed bankruptcy to get back property located at 8940 N. Michele St. Property was part of an In Rem tax lien foreclosure proceeding brought by the City of Milwaukee and has since been sold to a 3<sup>rd</sup> party. After trial on September 19<sup>th</sup>, 2017, the Court found that the fair market value of the property at the time of transfer was \$330,000, and consequently, ordered a judgment in favor of the Plaintiff in the amount of \$280,894.56.

Status: City appealed to the District Court. Briefing completed; awaiting decision.

**In re James Miicke bankruptcy**

Court: U.S. Bankruptcy Court

Case No. 17-23177

City Counsel: Hannah Jahn

Judge: Hon. Susan V. Kelley

Issue(s): The debtor's proposed Chapter 13 plan provides for payment of only a small portion of outstanding municipal court judgments as an unsecured claim. The City has objected to this plan, asserting that the debtor can afford, and should be required, to pay much more, if not all, of the outstanding judgment amounts. To address the City's objections, the debtor filed an amended Plan on October 12, 2017. That includes a proposal to sell four properties.

Status: The Debtor filed an amended plan which satisfies the City's interests in agreeing to pay 100% of the City's unsecured claim. According to the Plan, the Debtor (with the help of a realtor) listed four rental properties (of the seven total properties Mr. Miicke and

his associated entities own in the City) at listing prices of at least the assessed value. The proceeds of the sales, in addition to Mr. Miicke's disposable income, will pay the claims. Because the current Plan proposes to pay 100% of City's unsecured claim (unlike the first Plan), the City has no objection, and the City Attorney's Office will monitor the case for payments.

**City of Milwaukee v. Richard A. Williams and Jacqueline Kiefer**

Court: Milwaukee County Circuit Court

Case No: 17-CV-5472

City Counsel: ACA Heather Hecimovich Hough

Judge: Hon. Rebecca Dallet

Issue(s): City files bawdy house nuisance litigation under Wis. Stat. 823.09 for prostitution related activity occurring at the property.

Summary of Case: Since 2012, property owner-occupant allows prostitution activity to occur at the property.

Case Status: City forced sale of property to vetted third party buyer, case dismissed.

**Linda Flores vs. City of Milwaukee**

Court: Milwaukee County Circuit Court

Case No: 17-CV-4556

City Counsel: ACA Kail Decker

Judge: Hon. Claire Fiorenza

Issue(s): A property owner sought order to prohibit the City from razing a building that was deemed to be dilapidated.

Summary of Case: The owner wishes to repair the property and the City is working with her to give her a reasonable opportunity to do so.

Case Status: The owner successfully rehabilitated the property at 1325 S. 11<sup>th</sup> St. The parties stipulated to release the raze order and dismiss the case against the City. CASE CLOSED

**City of Milwaukee v. Hampton Avenue Group LLC**

Court: Milwaukee County Circuit Court

Case No: 17-CV-004388

City Counsel: Nicholas DeSiato

Opposing Counsel: Unknown (recently filed)

Judge: Judge John DiMotto

Issue(s): Sale and manufacture of K2 at convenience store

Summary of Case: After a nine month investigation with federal, state and local authorities regarding the sale of K2 (i.e. synthetic cannabinoids), DEA and MPD executed a search

warrant on the convenience store Food Town Mini Mart on May 23, 2017. The search warrant resulted in the seizure of over 1,800 packets of K2, drug paraphernalia and equipment used to manufacture K2. In addition, the Department of Revenue seized over 4,000 boxes of illegal tobacco. On May 26, 2017, the CAO filed drug house litigation to close and seize the property.

Case Status: After a court trial and briefing, on November 14, 2017, the circuit court found the property to be a drug house and ordered it seized by the City and sold. Now that the statute of limitations to appeal has expired, we are awaiting a court order to allow a receiver to oversee the sale of the property to an unrelated third-party buyer.

**City of Milwaukee v. Kenneth D. Churchill, III**

Court: Milwaukee County Circuit Court

Case No. 17-CV-1135

City Counsel: Heather Hecimovich Hough

Opposing Counsel: Terry Teper, Bryan Ward

Judge: Rebecca Dallet

Issue(s): Since 2011, Churchill's 12 City property holdings have received 11 drug house designations and Churchill has failed to abate the drug, nuisance and prostitution activity at his property holdings. In addition, Churchill has numerous outstanding code violations that have not been corrected and have been open since 2015. The City also alleges that Mr. Churchill has direct involvement with the drug activity occurring at his rental properties.

Summary of Case: The City sued Churchill under Wis. Stat. § 823.02, alleging that Churchill's mismanagement of his properties constitutes a public nuisance; under Wis. Stat. § 823.09 alleging that the properties are Bawdy House nuisance, § 823.113 alleging that the properties are a drug house nuisance, and also that the properties are a nuisance per se due to the number of outstanding code violations and municipal citations attached to the properties.

Case Status: Defendant is selling off properties; 8 of the 12 properties have sold as of February 2018. Proceeds are being held in receiver's trust account. Trial set for June, 2018.

**In re. Paul M. Bachowski bankruptcy**

Court: United States Bankruptcy Court Eastern District of Wisconsin

Case No: 16-30646-beh; Ch. 13

City Counsel: Kevin P. Sullivan

Opposing Counsel: Todd C. Esser

Judge: Beth E. Hanan

Issue(s): The City has sought relief from automatic stay with respect to the 16 parcels Debtor proposes to sell ("Relief Stay") and has objected to confirmation of his plan with respect to Debtor's remaining 17 parcels ("Objection").

Summary of Case: Debtor has been in bankruptcy since October, 2016.

Case Status: In resolution of the City's motion for relief from stay, an order has been entered by the bankruptcy court incorporating agreed-upon deadlines for code compliance and listing for sale with respect to the debtor's properties and providing for increased monthly payments.

**City of Milwaukee v. 2904 W Wisconsin LLC**

Court: Milwaukee County Circuit Court

Case No: 16-CV-1802

City Counsel: Kail Decker and Joseph Johnson (Kohn)

Opposing Counsel Firm: Heller Law Offices, LLC

Opposing Counsel: Michael G. Heller

Judge: Rebecca F. Dallet

Issue(s): There is a judgment against an LLC that remains unsatisfied.

Summary of Case: The City's collections firm, Kohn Law Firm, obtained a judgment for \$36,465.32 on July 26, 2016, for delinquent taxes against the owner of the property located at 2904 West Wisconsin Avenue. No one appeared for the supplemental examination of the owner's member or agent to inquire about the assets of the LLC owner and the property is now tax-delinquent in excess of \$230,000.

Case Status: The city filed a motion for appointment of a receiver to take over the property and direct rents toward taxes. The hearing on the City's motion is on March 9, 2018.

**City of Milwaukee v. Mohammad Choudry, et al.**

Court: Milwaukee County Circuit Court

Case No: 16-CV-8057

City Counsel: Kail Decker

Opposing Counsel: Frank Gimbel, Russell Karnes

Judge: William Sosnay

Issue(s): Since 2009, Mohammad Choudry has amassed a portfolio of neglected rental properties. He frequently failed to record sheriff's deeds, regularly did not pay real estate taxes, and hid behind LLCs that incurred significant forfeiture debt. His tenants lived in poor conditions, the city rarely collected debts upon him, and his cash-only business made it difficult to garnish to pay those debts.

Summary of Case: The City sued Mr. Choudry and several related LLCs under causes of action including: debt collection, public nuisance, racketeering, and fraudulent transfers. In addition, the City sought to pierce the corporate veil of the LLCs and hold Choudry personally liable.

Case Status: The receivership has been operating for over a year. All life/safety issues have been addressed and receiver obtained a \$300,000 line of credit with a local bank to pay down debt and assist in making proactive improvements that will reduce future maintenance costs. Also, 15 of the 75 properties will be sold to reduce future expenses and obtain cash.

**City of Milwaukee Municipal Court v. Will J. Sherard**

Court: Milwaukee County Circuit Court

Case No: 16-CV-6628

City Counsel: Patrick Leigl

Opposing Counsel: Robert Meyeroff

Judge: Glenn Yamahiro

Issue(s): Did the municipal court abuse its discretion when it ordered Will Sherard to pay his municipal forfeitures in full?

Summary of Case: Judge Yamahiro denied Sherard's motion to set aside the municipal order and upheld the order to pay the forfeitures within 60 days. He subsequently denied the motion to stay the order pending the appeal.

Case Status: City prevailed in court of appeals. Will Sherard paid over \$39,000 to the Municipal Court. Case pending-Attorney filed petition for review from Supreme Court.

**ORP Real Estate Holdings LLC v. City of Milwaukee**

Court: Milwaukee County Circuit Court

Case No. 15-CV-10358

City Counsel: Kail Decker

Opposing Counsel: Mark Peterson and Rock Pledl

Judge: Clare Fiorenza

Issues(s): Temporary and permanent injunction against raze order issued for 2801 W. Wisconsin Avenue for the purpose of providing a residential care center for male juveniles with disabilities. ORP initiated a suit in circuit court contesting the raze; and also in federal court for federal fair housing and disabilities claims.

Summary of Case: Upon stipulation in circuit court, ORP agreed to stipulate to dismissal without prejudice of the federal court case.

Case Status: ORP has sold the property at 2801 W. Wisconsin to the Near West Side Partners and will be moving to dismiss this case against the City as a result.

**City of Milwaukee v. M & R Properties Investment, LLC, et al.**

Court: Milwaukee County Circuit Court

Case No: 15-CV-7228

City Counsel: Kail Decker

Opposing Counsel: David Halbrooks

Judge: Rebecca Dallet

Issue(s): Property at 2710 W. Juneau Avenue was dilapidated and uninhabitable. The City served a raze order against the property and the owner did not comply.

Summary of Case: City sued the owner of 2710 W. Juneau Avenue to force it to raze the building. The owner stipulated to razing the building by a certain date. It failed to do so by that date. The city sought a finding of contempt and sanctions which was denied. Just prior to another scheduled contempt hearing, the owner conveyed the property to a third party who was not financially capable of completing the project. The city filed a motion under Ch. 242 to declare the conveyance to be a fraudulent transfer and the owner agreed to void the conveyance. The City razed this building in March 2017 at its cost due to the extended period of time it would take to compel the owner.

Case Status: The case is now a collections action by Kohn Law Firm.

**City of Milwaukee v. ELRA 2121, LLC, et al.**

Court: Milwaukee County Circuit Court

Case No: 15-CV-3720

City Counsel: Kail Decker

Opposing Counsel: David Halbrooks

Judge: William Sosnay

Issue(s): Property at 2405 W. National Avenue was dilapidated and uninhabitable. The City served a raze order against the property and the owner did not comply.

Summary of Case: City sued the owner of 2405 W. National Avenue to force it to raze the building. The owner expressed an interest in fixing the property instead and posted \$20,000 as a bond to assure its completion. Through a stipulation with the City, the owner was provided with an opportunity to repair the building. The owner successfully rehabilitated the property in early January and sold it that same date to a third party.

Case Status: The owner complied with the court's order 103 days after the deadline. The court adjusted its contempt order to impose \$100 per day for a total of \$10,300 in contempt forfeitures. The City will receive that amount from the \$20,000 bond and return the rest to the owner's attorney.

**City of Milwaukee: Notice of Intent to File Application for Appointment of a Receiver**

Court: None, published only (March 30, 2017)

Case No.: N/A

City Counsel: Heather Hecimovich Hough

Opposing Counsel: Victor M. Arellano

Judge: N/A

Issue(s): Since 2011, DNS has issued at least 138 orders identifying at least 854 code violations at Miguel Saldivar's property holdings. To date, 44 orders to correct 458 code violations remain unabated.

Summary of Case: The City published the Notice of Intent to File Application for Receivership on March 30, 2017, with the intent of filing a nuisance action for receivership in circuit court after the expiration of 60 days (as required by statute).

Case Status: In March of 2017, the City published and recorded a Notice of Intent to File for Application of Receivership for all of the properties owned by Miguel Saldivar or one of his LLC entities. The notice was filed under the Wisconsin nuisance statute, and requested that Saldivar abate all nuisances (code violations) in 60 days or the City would file an application for a receiver. Shortly thereafter, Mr. Saldivar retained Attorney Victor Arellano to represent him in this matter. In addition, the City was contacted by Attorney Dan Habeck who represented F Street Investments. F Street had mortgages on a number of the property holdings and was concerned that the properties were grossly ill-maintained. Victor Arellano, Mr. Saldivar's attorney, requested that the City enter into an agreement with Mr. Saldivar allowing him 120 days to make all the repairs to all of the properties. The City entered into the agreement. F Street Investments was closely monitoring the agreement because of their interest in the properties. The City terminated the agreement with Mr. Saldivar on May 23, 2017 for his failure to abide by the agreement's terms. The City discussed the matter with F Street and they moved forward with foreclosure actions that included requests that the Court appoint a receiver to manage/maintain the properties during the pendency of the foreclosure actions. The City attended these hearings and provided information to the court about the conditions at the properties and supported receivership requests. The court appointed receivers for all of the properties mortgaged by F Street. In addition, the City will be taking over ownership of three Saldivar properties in tax foreclosure. They are included in this next tax foreclosure batch that should be filed in March.

**City of Milwaukee v. NTO LLC**

Court: Milwaukee County Circuit Court

Case No: 15-CV-5210

City Counsel: Nicholas DeSiato

Opposing Counsel: David Frank

Judge: John DiMotto

Issue(s): A California-style hotel building at 2408 W. Kilbourn Avenue was a frequent location for prostitution, drug sales, and other public nuisance activity that disrupted the neighborhood.

Summary of Case: In August 2015, the CAO obtained a court order for a nuisance receivership for the 15-unit apartment. In May 2016, DNS ordered the property razed. In

December 2016, the CAO obtained an order to compel the building owner to raze the building at its own cost. On June 30, 2017, the court found NTO in contempt of court for failing to raze the building and ordered a sanction of \$1,000.00 per day until the property is razed.

Case Status: On November 13, 2017, the court held a supplemental hearing. The court ordered NTO to provide documents for its related LLCs. Based on the result of the documents, the City intends to pierce the corporate veil at a hearing in June, 2018.

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