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MEMORANDUM

Neighborhood Revitalization Litigation Summary

Updated: January 11, 2019

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): Mr. Hopson and his two solely-owned LLCs own 25 properties and together owe over \$800,000 to the City. In addition to the municipal court judgments and tax liens on LLC-owned properties, which are not part of the bankruptcy, the Debtor owes over \$579,190.98 in delinquent real estate taxes as of July 2017. His Chapter 13 Plan attempted to “cramdown” the debt to \$381,736.00 by claiming the property values are less than the tax lien on some of those properties. The City objects to that Plan, asserting that it incorrectly estimates the secured amount of the claim.

Case Status: The court heard evidence of the properties’ value at a court trial and the court issued a decision favorable to the City on July 8, 2018. Debtor proposed a new plan surrendering 7 of the properties as he cannot afford to keep them. Trustee filed a Motion to Dismiss due to a missed payment for July 2018 (and potentially another missed payment for August 2018). While \$79,100.00 has been paid to the Trustee to date, Mr. Hopson’s case may be dismissed and the funds returned to him. All 18 of his properties (including the two he surrendered in his last plan) are scheduled to be included in the In Rem 2019-01 file.

City of Milwaukee v. Elijah M. Rashaed

Court: Milwaukee County Circuit Court

Case No: 17-CV-6823

City Counsel: Deputy City Attorney Adam Stephens

Judge: Hon. Jeffrey Conen

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 sought 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: After a contested hearing, the Court ordered a property manager to take over all residential rental buildings owned by the defendants as of April 4, 2018. Several properties have been sold, so the portfolio currently has 157 buildings with 303 units. Peter Ogden was appointed as the property manager and his firm, Ogden & Company, has been working diligently to evaluate properties, contact tenants, and overcome obstacles set in place by the defendants. A contempt motion is pending for November 16. A contempt motion is pending for November 16. Rashaed has appealed the final judgment to the state court of appeals. Rashaed has appealed the final judgment to the state court of appeals.

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 3rd party. After trial on September 19th, 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. On August 30th, Debtor-Appellee requested expedited consideration of appeal, and the City did not object. Debtor-Appellee filed a motion in the underlying bankruptcy to receive a turnover of the funds owed to the Debtor-Appellee. The judge ruled that the City must turn over \$100,808.30 to the Debtor-Appellee before January 20, 2019 or its entire claim shall be disallowed.

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): After the City objected to the Debtor's first Chapter 13 Plan because it did not believe he was paying the maximum he should on the unsecured debt (fines and forfeitures for building code violations on buildings he no longer owns), the Debtor filed an amended plan, agreeing to pay 100% of the City's unsecured claim. As required by the Plan, the Debtor (with a realtor) has listed four rental properties (of the seven he and his associated entities currently 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.

Status: The City approved the most recent Chapter 13 Plan and that plan was confirmed on September 28, 2018.

City of Milwaukee v. Hampton Avenue Group LLC

Court: Milwaukee County Circuit Court
Case No: 17-CV-004388
City Counsel: ACA Heather Hough
Opposing Counsel: Mike Ganzer and David Halbrooks
Judge: Judge William Pohan

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. CAO is working with the local alderperson and district commander to vet a potential buyer of the property. The proceeds of the sale will go toward community improvement and reimbursing the costs of law enforcement. On December 5, 2018 after a hearing, the court approved a discounted sale of the property to Kenneth Cross who plans to open a grocery store at the property.

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: Kevin Martens

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: Case settled resulting in \$15,000 to the City of Milwaukee, the sale of all 12 property holdings and an agreement that defendant cannot purchase properties in the City of Milwaukee.

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. Sale of the property at 617 W. Hadley has received bankruptcy court approval. Mr. Bachowski has continued to make monthly payments and DNS has determined that he is in substantial compliance with their issued orders.

City of Milwaukee v. Mohammad Choudry, et al.

Court: Milwaukee County Circuit Court

Case No: 16-CV-8057

City Counsel: Deputy City Attorney Adam Stephens

Opposing Counsel: Timothy Baldwin

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: All 77 properties have been transferred to a trust for the purpose of paying down about \$2 million in debt and liquidating assets. The trustee is the same attorney who has been acting as receiver since November 2016. The case was dismissed on the city's motion because the nuisance was abated when Choudry lost title to all properties to the trust's ownership. Choudry has appealed the final judgment to the state court of appeals.

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

Court: Milwaukee County Circuit Court

Case No: 15-CV-7228

City Counsel: Deputy City Attorney Adam Stephens

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: 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: ACA Heather Hough

Opposing Counsel: David Frank

Judge: William Pocan

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. The City and Receiver have since sued the individual members of NTO in order to pierce the corporate veil. City and Receiver filed joint motion for summary judgment to pierce corporate veil to seek assets for the raze from Tim Brophy personally. Hearing scheduled for April of 2018.

City of Milwaukee v. James Crosbie

Court: Milwaukee County Circuit Court

Case No. 18CV10059

City Counsel: ACA Heather Hough

Opposing Counsel: Michael Heller

Judge: William Pocan

Summary: In December of 2018, City filed suit against James Crosbie and his various LLCs alleging nuisance and fraudulent conveyance for Crosbie's mismanagement of 5 properties (with a total of 175 rental units). Addresses are 2904 W. Wisconsin, 2625 W Juneau, 2635 W Juneau, 2929 W Wisconsin and 2848 W Wells. The assessed value of the portfolio is \$3,810,000. The properties have over 600 DNS Orders and enforcement actions with 38 municipal court convictions. In addition, two of the properties are considered MPD nuisance properties for assorted criminal activity that has not been abated. There is around \$420,000 in tax delinquency for these property holdings. The City is requesting the appointment of a receiver and the ability to levy execution against Crosbie on all property including personal property, and an order to Crosbie to sell the 5 properties.

Case status: Hearing on injunction and appointment of receiver scheduled for February 1, 2019.

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