

RECORD OF ORDINANCES

Ordinance No. 2024-53Passed AUGUST 7, 2024

SPONSOR: FINANCE COMMITTEE

AN ORDINANCE LEVYING A SPECIAL ASSESSMENT AGAINST THE REAL PROPERTY LOCATED AT 3768 ARGONNE STREET, MOGADORE, OHIO 44260, AND DECLARING AN EMERGENCY.

WHEREAS, in July 2023, the Village brought suit in the Summit County Court of Common Pleas against Bruce Hagerman, as the owner of the real property located at 3768 Argonne Street, Mogadore, Ohio 44260, PPN 5500325 (the "Property"), seeking to enjoin Mr. Hagerman's violation of the Village's Property Maintenance Code, said case being captioned as the Village of Mogadore v. Bruce Hagerman, Case. No. CV-2023-07-2630; and

WHEREAS, on October 19, 2023, the Court in the above-captioned matter issued a Default Judgment Entry enjoining Mr. Hagerman's violations of the Village's Property Maintenance Code upon the Property, granting the Village the authority to prevent, enjoin, abate, or remove any non-conforming use of the Property in violation of the Village's Property Maintenance Code, requiring all costs of the Village in doing so to be reimbursed by Mr. Hagerman, and authorizing the Village to assess any unreimbursed costs as special assessments against the Property. A copy of said Order is attached hereto as Exhibit A; and

WHEREAS, Section 93.05 of the Codified Ordinances of the Village also authorizes the Village to place charges for the repair and abatement of hazardous property conditions by the Village as special assessments on the tax duplicate of real property within the Village to be collected as other taxes and assessments upon such real property, and remitted to the Village for deposit into the General Fund; and

WHEREAS, Section 93.53 of the Codified Ordinance of the Village further authorizes the Village to assess an administrative fee of \$100.00 for each occurrence wherein the Village is required to serve notice of violation in addition to the charges for the repair and abatement of hazardous property conditions, and said administrative fee may also be placed upon the tax duplicate of said real property as a special assessment to be collected as other taxes and assessments upon such real property, and remitted to the Village for deposit into the General Fund; and

WHEREAS, the Village has incurred costs for the repair of unfinished siding on the Property pursuant to the Default Judgment Entry in the amount of \$8,150.00, which has been unpaid by Mr. Hagerman following presentation of an invoice for the same by the Village; and

WHEREAS, to levy such costs as special assessments against the Property, this Council must certify said special assessments to the Summit County Fiscal Officer to be placed on the tax duplicate for the Property, collected as other taxes and assessments upon the Property, and remitted to the Village for deposit into the General Fund; and

WHEREAS, this Council finds and determines, after reviewing all pertinent information, that it is necessary and in the best interest of the Village of Mogadore to certify to the Summit County Fiscal Officer the amount set forth in Exhibit A to be placed on the tax duplicates for the Property, collected as other taxes and assessments upon said Property, and remitted to the Village for deposit

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into the General Fund.

NOW, THEREFORE, BE IT ORDAINED, by the Council of the Village of Mogadore, Counties of Summit and Portage, State of Ohio, that:

SECTION 1: This Council hereby certifies to the Summit County Fiscal Officer the costs and fees set forth in Exhibit A, attached hereto and incorporated herein by reference, to be placed on the tax duplicates for the Property as a special assessment, collected as other taxes and assessments upon the Property, and remitted to the Village for deposit into the General Fund.

SECTION 2: The special assessment in the amounts set forth on Exhibit B against the Property is hereby adopted.

SECTION 3: The Clerk-Treasurer shall deliver a copy of this Ordinance to the Summit County Fiscal Officer within five (5) business days after its adoption.

SECTION 4: This Council finds and determines that all formal actions of this Council concerning and relating to the adoption of this Ordinance were taken in open meetings of this Council and any deliberations of this Council and any of its committees that resulted in this formal action were in meetings open to the public, in compliance with all legal requirements.

SECTION 5: This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety of the residents of the Village of Mogadore and for the purpose of immediately authorizing said special assessments within the time period allowed by law so that the Village may recover its costs incurred, and, provided this Resolution receives the affirmative vote of at least five (5) members elected or appointed to this Council, it shall take effect and be in force upon its passage by Council and approval by the Mayor, otherwise it shall take effect and be in force at the earliest period allowed by law.

Michael Raddish 8-7-24
President of Council Date

Michael 8-7-24
Mayor Date

Attest:

[Signature]
Clerk-Treasurer

ORDINANCE #

2024-53

PARCEL

No #

5500325

FISCAL

USE

EFFECTIVE

TAX YEAR

2024

ANNUAL

AMOUNT

8,150.00

of Years

1

PROJECT

TYPE

90

OPTIONAL JURISDICTION USE

Address, Property Description, Notes, etc.

3768 ARGONNE AVE ZONING VIOLATION
UNFINISHED SIDING

TOTALS

8,150.00

IN THE COURT OF COMMON PLEAS
SUMMIT COUNTY, OHIO

CASE NUMBER: CV-2023-07-2630

VILLAGE OF MOGADORE, OHIO vs BRUCE T. HAGERMAN

JUDGE: ALISON E. MCCARTY

ORDER FILED: 10/19/2023

NOTICE

TO:

JASON DANIEL DODSON
222 S. Main Street, Suite 400
Akron, OH 44308

YOUR ARE HEREBY NOTIFIED THAT A FINAL APPEALABLE ORDER IN THE ABOVE CASE HAS BEEN FILED WITH THE CLERK OF THE COMMON PLEAS COURT. SAID NOTIFICATION IS REQUIRED BY THE OHIO SUPREME COURT AND CIVIL RULE 58 (b)

DEFAULT JUDGMENT GRANTED THE VILLAGE OF MOGADORE EXTERIOR PROPERTY MAINTENANCE CODE ON THE PROPERTY IS HEREBY GRANTED IN FAVOR OF PLAINTIFF AGAINST DEFENDANT, SAID INJUNCTION GRANTING PLAINTIFF AND ITS OFFICERS, AGENTS, REPRESENTATIVES AND EMPLOYEES THE EXPRESS PERMISSION TO ENTER UPON THE PROPERTY TO TAKE ALL ACTIONS APPROPRIATE TO ABATE ANY NUISANCE ON THE PROPERTY (IV) ALL COSTS ACTUALLY INCURRED BY PLAINTIFF TO ABATE ANY NUISANCE ON THE PROPERTY SHALL BE REIMBURSED BY DEFENDANT TO PLAINTIFF UPON PRESENTATION OF AN INVOICE FROM PLAINTIFF TO DEFENDANT FOR THE SAME, AND (V) ALL COSTS INVOICED TO DEFENDANT BY PLAINTIFF PURSUANT TO THIS ORDER SHALL BE PAID BY DEFENDANT TO PLAINTIFF WITHIN THIRTY (30) DAYS OF THE DATE ON THE PLAINTIFF'S INVOICE, AND DEFENDANT'S FAILURE TO TENDER PAYMENT TO THE PLAINTIFF WITHIN SUCH THIRTY (30) DAYS SHALL CAUSE THE UNPAID AMOUNT TO BE ASSESSED AND ADDED TO THE TAX DUPLICATE FOR THE PROPERTY FOR COLLECTION WITH OTHER REAL ESTATE TAXES AND ASSESSMENTS. THIS IS A FINAL, APPEALABLE ORDER. AEM

October 20, 2023

SCANNED

IN THE COURT OF COMMON PLEAS
SUMMIT COUNTY, OHIO

THE VILLAGE OF MOGADORE	:	CASE NO. CV-2023-07-2630
	:	
Plaintiff,	:	ALISON MCCARTY
	:	
vs.	:	
	:	
BRUCE HAGERMAN	:	DEFAULT JUDGMENT ENTRY
	:	
Defendant.	:	
	:	

Upon consideration of Plaintiff, Village of Mogadore’s (“Plaintiff”), Motion for Default Judgment, and for good cause shown, the Court hereby enters the following Default Judgment Entry against Defendant Bruce Hagerman (“Defendant”).

The Court finds that service of the Complaint and a Summons was completed on Defendant on July 31, 2023 and Defendant was required to answer, plead, or otherwise respond to the action no later than August 28, 2023. The Court finds that Defendant has failed to answer, plead, or otherwise respond in this matter. Therefore, upon the motion of Plaintiff and for good cause shown, Plaintiff’s Motion for Default Judgment is hereby granted.

Based upon the uncontested allegations in the Complaint and the exhibits thereto, the Court finds that the real property located at 3768 Argonne Street, Mogadore, Ohio 44260 and further identified as Parcel No. 5500325 in the Summit County Records (the “Property”) is currently being used by Defendant in violation of the Village of Mogadore’s Property Maintenance Code (the “Maintenance Code”). Further, the Court finds that Defendant was served with notices of these violations and has failed to comply with the Maintenance Code. As such, the real property is declared to be in violation of the Village of Mogadore Property Maintenance Code, specifically Sections 93.26(A) and 93.26(B)(1)(a) thereof, and Plaintiff is entitled to a permanent injunction under Section 90.03 of the Maintenance Code and Ohio R.C. 715.44, to authorize agents and

representatives of Plaintiff to enter upon the Property and take whatever action is appropriate to remedy the violation of the Maintenance Code and abate any nuisance thereto.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that (i) Plaintiff shall be granted a default judgment, (ii) this Court declares that Defendant is currently using the Property in violation of the Village of Mogadore Exterior Property Maintenance Code, (iii) a permanent injunction to prevent, enjoin, abate, or remove any non-conforming use of land in violation of the Village of Mogadore Exterior Property Maintenance Code on the Property is hereby granted in favor of Plaintiff against Defendant, said injunction granting Plaintiff and its officers, agents, representatives and employees the express permission to enter upon the Property to take all actions appropriate to abate any nuisance on the Property (iv) all costs actually incurred by Plaintiff to abate any nuisance on the Property shall be reimbursed by Defendant to Plaintiff upon presentation of an invoice from Plaintiff to Defendant for the same, and (v) all costs invoiced to Defendant by Plaintiff pursuant to this Order shall be paid by Defendant to Plaintiff within thirty (30) days of the date on the Plaintiff's invoice, and Defendant's failure to tender payment to the Plaintiff within such thirty (30) days shall cause the unpaid amount to be assessed and added to the tax duplicate for the Property for collection with other real estate taxes and assessments. This is a final, appealable order that shall be served by the Clerk upon all parties under Civ.R. 58.

IT IS SO ORDERED.



JUDGE ALISON McCARTY