

IN THE MUNICIPAL COURT OF MARIETTA
STATE OF GEORGIA

CITY OF MARIETTA
MUNICIPAL COURT
FILED IN THIS OFFICE

2007 JUN -6 P 4:42

CITY OF MARIETTA

vs.

Jaraysi's Entertainment Hall & Restaurant, LLC,
Yasmine's Entertainment Hall & Restaurant, LLC
Aladdin's Entertainment Hall & Restaurant, LLC
Waleed "Lee" Jaraysi
SunTrust Bank
American Innovative Management, Inc
Mingledorff's
Nazareth, LLC,
555 Commerce Ave. Marietta, Georgia, in rem
Respondent(s).

CASE NO: 
07TR3255
DEPUTY CLERK OF COURT

DEMOLITION ORDER

The above and foregoing matter having come on regularly in relation to the Petition and Notice of Demolition filed by the City of Marietta (hereinafter referred to as the "City") under O.C.G.A § 41-2-5, Marietta City Code § 10-8-060 and Marietta City Code § 2-6-10 et.seq., and after hearing, where Respondents had the opportunity to appear, present evidence and to cross examine the City's witnesses, through Respondents' attorney, and it appearing to the Court this Order is proper, the Court makes the following:

FINDINGS OF FACTS

1. That Respondents, **SunTrust Bank, American Innovative Management, Inc. , and Mingledorff's**, having failed to appear or file responsive pleadings, have waived any rights they may have in the proceedings. **Jaraysi's Entertainment Hall & Restaurant, LLC, Yasmine's Entertainment Hall & Restaurant, LLC, Aladdin's Entertainment Hall & Restaurant, LLC, Waleed "Lee" Jaraysi, Nazareth, LLC, 555 Commerce Ave. Marietta, Georgia, in rem** (hereinafter referred to as "Respondents") have made an appearance and are properly before the Court.

2. That the Respondents were served appropriately with the Petition for Demolition and Notice of Demolition by either hand delivery or certified mail and such property was posted with a copy of the Petition in plain view in compliance with the notice requirements as set forth in the ordinances listed below governing this action; and
3. That the building and property located at 555 Commerce Avenue, Marietta, Georgia, is within the city limits of the City of Marietta and therefore subject to the jurisdiction of the Municipal Court of Marietta; and
4. That the structure originally permitted was a one story building used as a restaurant; and
5. That on or about December 28, 2004, the Respondent applied for a building permit disclosing that the structure to be built by the Applicant would be eight-thousand seven-hundred square feet (8,700 ft²). Subsequently, the plans submitted by the Applicant disclosed construction of a structure in the amount of twenty-four thousand square feet (24,000 ft²) which would hold five hundred (500) occupants in the building. That work was begun on such structure but it was later determined that such building as permitted did not provide for sufficient parking for such use and that the City required additional plans;
6. That the property being constructed has laid unconstructed for a period in excess of twelve months and that the City has revoked its building permit as the permit holder has failed to provide sufficient amendments to the plans originally provided to the City; and
7. That due to such property and project laying idle for such a time period the previous improvements and construction additions have become in a state of disrepair which has become unsafe as defined by Marietta Code § 10-8-60 E; and
8. That the Court finds, as required by the International Property Maintenance Code, as adopted by Marietta City Ordinance § 6889, and codified at § 7-4-2-100 of the City Code, (hereinafter referred to as IPMC) that the structure is unsafe in that it is found

to be dangerous to the life, health, property or safety of the public or occupants of the structure by not providing minimum safeguards in that the property is so damaged, decayed, dilapidated, and structurally unsafe that partial or complete collapse is possible at present and in the future in that the property is as follows:

- a. Pursuant to IPMC § 301.3 Vacant structures and land, and IPMC § 302.1 Exterior Property Areas, that the property, being vacant and unoccupied, is in an unclean and unsanitary condition in that the property is littered with debris and other spent construction materials; and
- b. Pursuant to IPMC § 302.3 Sidewalks and driveways, the property's stairs are in a state of disrepair and are in a hazardous condition in that there is no banister; and
- c. Pursuant to IPMC § 302.5 Rodent harborage, the property in its current status is a harborage for rodents, the grass having grown and the outside exterior is not secure to prevent animals from entering; and
- d. Pursuant to IPMC § 304.1 General, the exterior of the structure is in disrepair; and
- e. Pursuant to IPMC § 304.2 Protective treatment, in that the structure's exterior fails to be in good order, in that there is no protection from the elements and decay in that there is no paint or other material to protect the exterior. In addition, the metal surfaces are subject to and have rust or oxidation without being designed for such oxidation.
- f. Pursuant to IPMC § 304.4 Structural members, in that several metal studs have been twisted and dislodged; and
- g. Pursuant to IPMC § 304.6 Exterior walls, in that the exterior of the structure has many holes, breaks, and loose and rotting materials such as to not be maintained in a weatherproof surface coated to prevent deterioration. In many overhanging areas there are plywood boards which

appear to be rotted and hanging in such a manner as to demonstrate a propensity for falling, which could harm or injure a person; and

- h. Pursuant to IPMC § 304.7 Roofs and drainage, in that the structure does not have a roof sufficient to prevent the elements from entering the structure as well as it fails to provide flashing so as to have defects that admit rain; and
- i. Pursuant to IPMC § 304.10 Stairways, decks, porches and balconies, in that the exterior stairway is not being maintained in a structurally sound manner and in good repair, and that the exterior stairway is open to the second and third floor; and
- j. Pursuant to IPMC § 304.13 Window, skylight and door frames, in that the structure's windows and doors fail to be installed. As such, such doors and windows are not in sound condition and weather tight; and
- k. Pursuant to IPMC § 305.1 Interior Structure, in that the interior of the structure was not in good repair or being repaired, as a reasonable inference from the evidence condition of disrepair of the other areas; and
- l. Pursuant to IPMC § 501 General, in that the structure does not have minimum plumbing systems, facilities or plumbing fixtures; and
- m. Pursuant to IPMC § 601 General, in that the structure does not have minimum electrical systems, facilities and equipment; and
- n. Pursuant to IPMC § 601.2 Responsibility, in that certain lighting fixtures are hanging from wires on the exterior of the original building; and
- o. Pursuant to Marietta Code § 2-6-010 Fire Prevention Code; the International Fire Code, 2006 Edition, the premises are unsecured and therefore allow for pedestrian walkups to an unsecured structure; and

- p. Pursuant to Marietta Code § 2-6-010 Fire Prevention Code; the International Fire Code, 2006 Edition, the structure had open stairwells and no handrail on such stairwells; and
- q. Pursuant to Marietta Code § 2-6-010 Fire Prevention Code; the International Fire Code, 2006 Edition, the rubbish and landscape surrounding the structure was such the material created a fire hazard as to be dangerous.

9. That the Court also finds that the repairs needed to based upon such deviation of upkeep and repair.

10. The Court also finds that the structure as it presently exists is a non-conforming structure which makes the proposed repair unreasonable

11. The Court finds that the structure is fifteen to twenty percent (15%-20%) complete, and will cost almost three million, nine hundred thousand dollars (\$3,900,000.00) to complete, over a period of six and one half (6½) to eight and one-half (8½) months to complete construction, pursuant to the well-researched and detailed testimony of the City's expert witnesses. The Court finds that the Defendant's expert witness's testimony was based on a very cursory visual inspection of the structure and without any research or detail as to construction and cost specifics.

12. The Court's verbal order issued on May 17, 2007 and the findings of facts and the conclusion of law set forth verbally by the Court are incorporated herein by reference.

CONCLUSIONS OF LAW

Based upon the above and foregoing Findings of Facts, the Court applies O.C.G.A § 41-2-5, Marietta City Code § 10-8-060 and Marietta City Code § 2-6-10 et. seq., and make the following Conclusions of Law, and the Court hereby **ORDERS THE FOLLOWING:**

1. The Court finds that the City's Petition, including Exhibit "A" which is the notice from the City dated March 15, 2007 to Respondent, is sufficient to meet the requirements of Marietta City Code § 10-8-060 and provides adequate notice to the Respondents regarding the matters contained therein and the purpose for the hearing conducted by this Court.

2. The building or structure which is the subject matter of the city's Petition is hereby found to be unsafe and is hereby found to be an "unsafe building or structure" as described and set forth in Marietta City Code § 10-8-060.

3. Based upon the above, the Court further determines that the building or structure cannot be repaired and restored to a safe condition within a reasonable period of time and hereby orders that the owner shall demolish or remove such building or structure within ten (10) days of the a date of this order and, upon the failure of the owner to do so, the City shall demolish and remove such building or structure, at the owner's expense, with the cost of such becoming a lien upon the property as provided by Marietta City Code.

4. Respondents are to take action to bring the instant property into such condition so as to prevent others, including adults, children or trespassers, to come on to such property uninvited by Respondents, and to make such property safe for invitees, which action shall include, but not be limited to, a chain link fence or other partition which is not readily passed through by members of the public; and

5. The Respondents are ordered to begin demolition of the subject building unit within ten(10) days of the signature date of this order and such is subject to any further Order of this Court.

SO ORDERED. this 6th day of June, 2007.



Roger J. Rozen, Judge
Marietta Municipal Court

CERTIFICATE OF SERVICE

This is to certify that I have this date served Robert I. Donovan, Solicitor for City of Marietta, Doug Haynie, Attorney for City, C. David Johnston, Attorney for Respondent, in the matter of City of Marietta vs. Jaraysi's Entertainment Hall & Restaurant, LLC, et.al., Case No. 07-TR-03257 with a copy of the Demolition Order signed by Honorable Roger J. Rozen, Judge, Marietta Municipal Court, by e-mailing a copy of same at the e-mail addresses as follows:

rdonovan@mariettaga.gov
dhaynie@hicalw.com
cdj@wjrlaw.com

This 6th day of June, 2007



PAMELA G. ALLEN
Clerk of Court
Marietta Municipal Court

240 Lemon Street
Marietta, Georgia 30060
770-794-5400



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