

**STATE OF MICHIGAN
IN THE 22ND JUDICIAL CIRCUIT COURT**

PITTSFIELD CHARTER TOWNSHIP
A Michigan Municipal Corporation,

Plaintiff,

vs

4025 PACKARD, LLC
A Michigan Limited Liability Company,

Defendant.

File No. 20-
Hon.

CZ

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**VERIFIED COMPLAINT TO DECLARE PROPERTY A PUBLIC NUISANCE, FOR
ISSUANCE OF AN ORDER TO SHOW CAUSE, PRELIMINARY INJUNCTION AND
OTHER RELIEF**

There is no other pending or resolved civil action arising out of the same transaction or occurrence as alleged in the complaint. Plaintiff has issued Municipal Civil Infraction tickets to Defendant which have not yet been entered into the court's case management system. Those cases will be in the 14A1 District Court and are expected to be assigned to Hon. J. Cedric Simpson.

Plaintiff, the Charter Township of Pittsfield, through counsel and for its Complaint, states:

General Allegations, Jurisdiction, and Venue

1. Plaintiff, Pittsfield Charter Township ("Pittsfield"), is a Michigan municipal corporation located in Washtenaw County, Michigan.
2. Pittsfield brings this action pursuant to the Revised Judicature Act, MCL 600.2940; MCL 42.15; MCR 3.601; and the Pittsfield Charter Township Code of Ordinances.

3. The real property which is the subject of this lawsuit (“subject property”) is located at 4025 Packard, Pittsfield Township, Washtenaw County, Michigan and is more particularly described as follows:

Lots 1, 2, 31, and 32, Block 1, Subdivision of Lots 1 to 73 inclusive, excepting Lots 34 and 36, and Lots 109 to 111, inclusive of Oak Park, as recorded in Liber 8 of Plats, Page 6, Washtenaw County Records.

Tax I.D. No. L-12-01-354-015

4. A title search reveals the owner of the property to be 4025 Packard, LLC. **Exhibit A.**
5. 4025 Packard, LLC is a Michigan Limited Liability Company whose resident agent is Brian Najor, and whose registered address is 4036 Telegraph Rd., Ste. 206, Bloomfield Hills, MI.
6. On information and belief, the building on the property has been unoccupied for several years and has been the subject of numerous communications between the current and former owners and the Township.
7. Pittsfield has received numerous complaints about the run-down, unsightly, and unsafe condition of the property from residents of the area. Pittsfield Township’s Zoning & Code Enforcement personnel inspected the condition of the property on or about January 22, 2020, February 27, 2020, March 2, 2020, March 9, 2020, and April 6, 2020.
8. The inspections found several blighting factors and/or causes of blight under §8-3 of the Pittsfield Charter Township Code, including the following:
 - a. Commercial structures that, because of physical deterioration, appeared to be no longer useful for the purposes for which they may have been intended or lawfully used;

- b. A commercial structure that is completely vacant and not securely locked, with intact windows, or neatly boarded up;
 - c. Trash, litter, and other blighting factors visible to the public.
- 9. The inspection also revealed violations of the International Property Maintenance Code §302 relating to standards for maintaining exterior property and §304 relating to standards for the exterior of structures, as incorporated into the Township's Code of Ordinances by §6-19.
- 10. The photographs attached as **Exhibit B** show the property in substantially the same condition as it was in on the dates the tickets were issued and has been ever since.
- 11. Several Notices of Violation have been sent to Defendant in the years leading up to the issuance of the current tickets and filing of this Complaint.
- 12. Because the violations persisted, Township Code Enforcement personnel have issued a series of Municipal Civil Infraction tickets, and the violations continue with little abatement. **Exhibit C**, Civil Infraction Tickets.
- 13. The structures located on the subject property are vacant/abandoned and subject to break-ins. Such structures are well-known havens for criminal behavior, an invitation and attractive nuisance to children, and blight on neighboring properties. Not only is the value of the property greatly reduced, but so is that of the affected neighborhood.
- 14. This court has jurisdiction over nuisance cases regarding property within the county.

Public Nuisance

- 15. Pittsfield incorporates Paragraphs 1-14 as if fully restated.
- 16. MCL 600.2940 provides the authority for this court to declare the property a public nuisance and assess damages against those responsible:

600.2940 Nuisance; abatement; circuit court; injunction; private nuisance; damages; warrant to abate and remove nuisance; expense; actions.

(1) All claims based on or to abate nuisance may be brought in the circuit court. The circuit court may grant injunctions to stay and prevent nuisance.

17. The structure upon the subject property by Defendant clearly constitute a “nuisance in fact” and, with respect to those code violations, a “nuisance per se,” as defined in *Martin v Michigan*, 129 Mich App 100, 108; 341 N.W.2d 239 (1983):

“A nuisance per se is an act, occupation, or structure which is a nuisance at all times and under any circumstances.”

“...a nuisance in fact is a nuisance by reason of circumstances and surroundings, and an act may be found to be a nuisance in fact where its natural tendency is **to create danger and inflict injury to person or property.**” (Emphasis added).

18. MCL 600.2940 provides in pertinent part:

(3) If the judgment is that the nuisance shall be abated, the court may issue a warrant to the proper officer, requiring him to abate and remove the nuisance at the expense of defendant, in the manner that public nuisances are abated and removed. The court may stay the warrant for as long as 6 months to give the defendant an opportunity to remove the nuisance, upon the defendant giving satisfactory security to do so.

19. The subject property is in violation of section 8-3 of the Township Code which states in part that “[n]o person shall maintain or permit to be maintained any of these causes of blight or blighting factors upon any property in the Township.”
20. Causes of blight and blighting factors are defined under Section 8-3 of the Township Code and includes, among other things, all of the conditions described in Paragraph 8 above.
21. The subject property is in violation of section 6-35 of the Township Code which states in part that “[N]o owner or owner’s agent shall keep or maintain property that does not comply with the [property maintenance] standards of this article.”
22. The subject property is a nuisance per se because it is blighted, uninhabitable, and unsafe, in violation of the Township Code.
23. The subject property is a nuisance in fact because of its location at the intersection of major roads, its negative effect on local property values, and its continued deterioration.
24. Pittsfield has no adequate remedy at law.
25. Pittsfield and its residents, invitees, and anyone in the nearby neighborhood and vicinity of the subject property will suffer irreparable harm and damage unless this Court orders Defendant to abate the nuisance by removal of the building and all personal property.
26. Pittsfield and its residents would be harmed more by the absence of a Preliminary Injunction than Defendant would be by the granting of such relief.
27. No harm to the public interest will occur if a Preliminary Injunction is ordered following a hearing.

Relief Requested

WHEREFORE Plaintiff Pittsfield Charter Township respectfully requests this Court to:

- A. Issue an *Order to Show Cause* directed to Defendant requiring it to appear before this Court on a date and time fixed by this Court to show cause why the subject property should not be declared a public nuisance.
- B. After a Show Cause Hearing:
1. Declare the subject property a public nuisance.
 2. Enter a preliminary injunction not only prohibiting the occupancy or use of the premises for any purpose, but also requiring Defendant to, within thirty (30) days, obtain the necessary construction permits to bring the property into compliance with all applicable laws, or, in the alternative, obtain demolition permits and demolish all above ground structures, remove all debris and restore the property to surrounding grade level, or, in the alternative, appoint a receiver over the property.
- C. Should Defendant, after being served with the *Verified Complaint* and *Order to Show Cause*, fail to appear at the show cause hearing or otherwise defend himself in this action, grant Pittsfield and its authorized agents the right to enter upon the premises of the subject property, and cause same to be demolished, remove all debris and restore the surface to surrounding grade level, or, in the alternative, appoint a receiver over the property.
- D. Should Defendant appear but fail to comply with this Court's preliminary injunction, allow Pittsfield and its authorized agents the right to enter upon the subject property, and abate the nuisance as provided in paragraph C above, or, in the alternative, appoint a receiver.
- E. Order Defendant to pay all of the Township's reasonable costs associated with this lawsuit, including all costs incurred in the abatement of the nuisance itself, as well as the Township's reasonable attorney fees and to do so within thirty (30) days of being provided an invoice therefore.

