

**IN THE FRANKLIN COUNTY MUNICIPAL COURT
ENVIRONMENTAL DIVISION
FRANKLIN COUNTY, OHIO**

**STATE EX. REL
COLUMBUS CITY ATTORNEY
ZACK KLEIN**
375 South High Street, 17th Floor
Columbus, Ohio 43215

Relator-Plaintiff,

v.

CLIFFORD C. BAYER
589 South Warren Avenue
Columbus, Ohio 43204

and

**CHERYL BROOK SULLIVAN
FRANKLIN COUNTY TREASURER**
373 South High Street, 17th Floor
Columbus, Ohio 43215

and

UNKNOWN TENANTS AT
589 South Warren Avenue
Columbus, Ohio 43204

And

**REAL PROPERTY AT
589 SOUTH WARREN AVENUE**
589 South Warren Avenue
Columbus, Ohio 43204

Respondents-Defendants.

Case No.

Judge Stephanie Mingo

Parcel No. 010-068250

TEMPORARY RESTRAINING ORDER

This matter came before the Court on May 13, 2019, on Relator's request for a temporary restraining order filed in conjunction with a Complaint for Preliminary and Permanent Injunctive Relief. In light of the circumstances, this motion was filed *ex parte*. For purposes of the temporary restraining order, the Court finds that the Relator has established that Respondents-Defendants are owners and/or person in charge, care or control of the property located 589 South Warren Avenue, Columbus, Ohio, Parcel No. 010-0268250 ("the Premises"). On information and belief, Relator asserts the following:

1. The Premises came to the attention of Columbus Police Department ("CPD") when a call for service regarding a person with a knife was made on March 2, 2017.
2. On March 26, 2017 another call regarding a person with a knife was made.
3. On April 26, 2018 CPD received a call regarding an overdose at the Premises. A resident found his cousin lying on the floor of the bathroom unconscious along with a syringe and a tie-off cord on the ground. The resident's cousin was given a total of three doses of Narcan, and then he began waking up.
4. On December 11, 2018, a call was made to CPD by a concerned citizen regarding drug activity occurring at the Premises. The caller stated that he/she believes that heroin or crack-cocaine is being sold from the Premises due to needles being sighted around the area. The caller also added that heavy traffic of around thirty (30) to fifty (50) cars approach the

house a day. In addition, the caller stated that there is prostitution activity occurring, and that there are “a couple” of children sighted at the Premises.

5. On or about January 14, 2019, Detective Stephen P. Lazar #1506 (hereinafter “Lazar”), along with a confidential informant (hereinafter “C/I”) conducted a covert operation at the Premises. The C/I knocked on the back door of the Premises and was answered by a female white, approximately forty (40) years old, 5’5”, and 140 pounds. The female asked what the C/I wanted, and he responded that he wanted a “deuce” and handed the female pre-recorded city funds. The female closed the door while the C/I waited and returned with a small, white, cookie-like object, which the C/I recognized to be crack-cocaine.
6. On January 15, 2019, Detective Lazar filed for a search warrant, which was granted on the same day by a sitting Judge of the Franklin County Municipal Court.
7. On January 21, 2019, Detective Robert A. LaGore #1861 (hereinafter “LaGore”) and Detective John M. Gillis #340 (hereinafter “Gillis”), along with a C/I conducted a covert operation. The C/I knocked on the back door of the Premises and was approached by a male, white, around thirty (30) years of age, approximately 5’9”, and 170 pounds. The male white asked the C/I if he was here for “Roger”, to which the C/I responded that he was. The male white then exchanged 0.3 grams of heroin for twenty (20) dollars.
8. On January 22, 2019, Detective Lazar applied for a search warrant, which was granted on the same day by a sitting Judge of the Franklin County Municipal Court.
9. On January 25, 2019, a letter notifying the owner, Clifford Bayer, of the illegal activity occurring at the Premises was sent and that the nuisance is to be abated.
10. On March 12, 2019 and March 27, 2019, CPD received a call from a male caller stating that the Premises is “out of control” and has heavy drug activity occurring.

11. On April 10, 2019, Officers conducted a traffic stop of a vehicle driven by Larry Ferrell (hereinafter "Ferrell"). During an inventory search, Officers recovered a small amount of crack-cocaine in the vehicle. Ferrell stated that he purchased the crack-cocaine from the Premises from an individual named Josh, and has been purchasing from the Premises for the past two months. Ferrell also stated that it is not uncommon that buyers exchange guns for drugs, and that he has known Josh to sell guns out of the Premises. Ferrell has also seen guns and stated he witnessed a gun the week prior to his traffic stop with "an extended magazine." Officers showed a picture of Josh to Ferrell, who positively identified Josh.
12. On or about April 22, 2019, Detective Clint Smith #1175 (hereinafter "Smith") and Detective Lazar, along with a C/I conducted a covert operation at the Premises. The C/I knocked on the back door, a male white, approximately thirty (30) years old, 6'0", and 190 pounds walked from the front yard to the back yard, and asked what the C/I wanted. The C/I responded he wanted a "deuce" and handed the male pre-recorded city funds. The male took the money, entered the Premises through the back door, then returned and handed the C/I a small, white, cookie-like object, which the C/I recognized to be crack cocaine.
13. On April 23, 2019, Detective Lazar applied for a search warrant, which was granted on the same day by a sitting Judge of the Franklin County Municipal Court.
14. On or about April 29, 2019, Detective Lazar along with a C/I conducted a covert operation at the Premises. The C/I knocked on the door and was answered by a female white, approximately fifty (50) years old, 5'5", and 160 pounds. The C/I stated he was there to purchase a "deuce" and handed the female pre-recorded city funds. The female

took the funds and asked if the C/I specifically wanted heroin or crack, to which the C/I responded that he wanted crack. The female exchanged the money with a small, white, cookie-like object in a piece of foil paper which the C/I recognized to be crack-cocaine.

15. On April 30, 2019, Detective Lazar applied for a search warrant, which was granted on the same day by a sitting Judge of the Franklin County Municipal Court.

16. The Premises, and specifically the illegal narcotics activity at the property, constitute an imminent danger for those at and around the Premises.

17. Failing to immediately padlock the property after the execution of the *ex parte* temporary restraining order will allow the dangerous illegal activity to continue, thereby causing immediate and irreparable injury, loss or damage to the applicant and the community.

18. *Ex parte* closure of the property is necessary in order to prevent destruction or removal of contraband or other property.

19. Prior notification of the temporary restraining order could pose a danger to the physical safety and lives of the Columbus police officers involved in its execution.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED THAT:

Relator has established by clear and convincing evidence that the felony drug activity and illegal/unsafe activity occurring at the Premises continues to cause irreparable harm to the community and that the property is a nuisance per se as defined in R.C. § 3719.10 and 3767.01. It is the further ORDER of this Court that all occupants of the Premises be forcibly removed from the Premises forthwith. In executing this order, all barricades throughout the structure may be forcibly removed so as to prevent fortifying portions of the residence. Said occupants may be forcibly detained during the execution of this order. Furthermore, the premises shall be closed, padlocked, boarded or secured as deemed necessary by the Chief of the Columbus Police

Department or his or her designee(s) against its use for any purpose until a final decision is rendered on the Complaint for Preliminary and Permanent Injunctive Relief as required by R.C. § 3767.04. This temporary restraining order shall apply to and prohibit usage of or entrance onto any curtilage or porch areas of the premises for any purpose—no vehicles or persons are to be anywhere on the parcel.

It is further **ORDERED** that this temporary restraining order shall apply to the parcel in its entirety. No person may enter and/or occupy 589 South Warren Avenue, Columbus, Ohio, including any portion of the parcel. Any violation of this order, including mutilation of this order, is contempt of court, punishable as a first degree misdemeanor.

It is further **ORDERED** that only necessary personal property located on the premises be removed by the occupants prior to closure and under the direction of the Columbus Division of Police. The Columbus Division of Police is authorized to inventory personal property located on the premises; however, only items related to or in connection with the illegal conduct must be inventoried and accounted for. The Columbus Division of Police may, however, also remove and secure at an off-site location highly mobile and valuable property, including but not limited to such personal property as automobiles, cash, jewelry and electronic equipment which may be at risk of theft during the pendency of this ORDER.

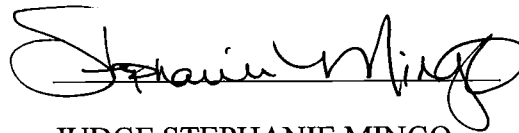
This case is continued for further preliminary hearing on the merits of Relator's Complaint for Preliminary and Permanent Injunctive Relief on the 22nd day of May, 2019 at 10:00.M. in courtroom 15B, located on the 15th floor of 375 S. High Street, Columbus, Ohio 43215. This Order shall remain in effect until that time or as otherwise ordered by this Court.

This order shall be served upon the Respondents-Defendants by the Columbus Division of Police or Relator's Counsel; the order may be served by posting a copy of it in a conspicuous place at or upon one or more of the principal doors or entrances of the property. The closing of said Premises with forcible entry and removal of all occupants shall be effectuated by the Columbus Division of Police with the assistance of Columbus Code Enforcement. Based on the Affidavit submitted with the Complaint and Motion, the Court finds that notice of entry upon the premises could result in destruction, concealment or removal of contraband, illegal narcotics or property and could create a serious risk of physical harm to law enforcement officers or other authorized individuals in the execution of this *ex parte* Order.

IT IS SO ORDERED.

5-13-19

DATE



JUDGE STEPHANIE MINGO