

**IN THE PROBATE COURT OF SHELBY COUNTY, ALABAMA**

TOWN OF INDIAN SPRINGS VILLAGE,  
ALABAMA

v.

DENNIS W. CARLISLE, JR. & NATALIE  
CARLISLE;  
FLAGSTAR BANK, FSB;  
NORTH SHELBY FIRE;

SEE BELOW FOR LEGAL DESCRIPTION.

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**FINDING OF PUBLIC NUISANCE, NOTICE AND ORDER TO VACATE AND REMEDY,  
AND NOTICE OF *LIS PENDENS***

**TAKE NOTICE that:**

COMES NOW, Town of Indian Springs Village, Alabama ("the Town"), by and through its Appropriate Municipal Official, its Clerk, and its Attorney to provide notice pursuant to the Town's Ordinance No. 2022-02 ("the Ordinance") that the Appropriate Municipal Official has made a finding that (i) a building located within the Town is a dangerous building because it is unsafe to the extent that it is a public nuisance, is ordered to be vacated because of the imminent danger to human life or health, and is ordered to be repaired or demolished. The building is located on the following described property, to wit, which will be described hereafter as "the Subject Property":

**STREET ADDRESS:**

5542 Timber Hill Road, Indian Springs Village, Alabama 35242

**LEGAL DESCRIPTION:**

Part of the NW 1/4 of the NE 1/4 of Section 27, Township 19 South, Range 2 West, more particularly described as follows: Commence at the NE corner of Lot 3, Block 3, of Cherokee Forest, First Sector, as recorded in Map Book 5, page 17, in the Office of the Judge of Probate in Shelby County, Alabama; thence easterly along the projection of the northerly line of said Lot 3, a distance of 200 feet; thence 90 degrees right in a southerly direction a distance of 174 feet to the point of beginning, thence continue east along last described course, a distance of 6.00 feet to the beginning

of a curve to the right, having a radius of 254.32 feet and a central angle of 65 degrees 40 minutes; thence along said curve, a distance of 291.48 feet to end of said curve; thence in a southwesterly direction a distance of 55.39 feet; thence 114. Degrees 20 minutes right, in a northerly direction a distance of 260.55 feet to a point 26 feet north of the SE corner of said Lot 3, thence 90 degrees right, in an easterly direction a distance of 200 feet to the point of beginning.

**PARCEL IDENTIFICATION NUMBER:**

10-8-27-0-001-019.000

The Town provides further notice as follows:

1. In *Ellis v. City of Montgomery*, the United States District Court for the Middle District of Alabama stated that, in cases such as this where a municipality seeks the demolition of building by use of its police powers, "A simple *lis pendens* filing after sending notice to the current owner of a property would place subsequent purchasers on record notice that demolition could occur." *Ellis v. City of Montgomery*, 460 F.Supp.2d 1301, 1307 (M.D. Ala. 2006). Here, the Town is invoking the procedure recommended by the District Court.

2. By the filing of this Notice, the Town is not claiming any right, title, or interest in the Subject Property. Rather, the purpose of this Notice is to put all interested parties on notice of the Town's intent to exercise its authority provided by law and specifically by the Town's ordinances.

3. The Ordinance is "An Ordinance Concerning Unsafe Structures and Dangerous Buildings." The below-signed Appropriate Municipal Official is the person designated to exercise the authority and perform the duties delegated by the Ordinance.

4. The Appropriate Municipal Official finds that the building located on the Subject Property is a "dangerous building" within the meaning of the Ordinance because of the following defects:

- (1) Exclusive of the foundation, the building shows thirty-three (33) percent, or more, of damage or deterioration of one (1) or more supporting members, or fifty (50) percent

of damage or deterioration of the non-supporting enclosing or outside walls or covering;

- (2) The building has improperly distributed loads upon the floors or roofs, or in which the same are overloaded, or has insufficient strength to be reasonably safe for the purpose used;
- (3) The building has been damaged by fire, wind, earthquake, flood, sinkhole, deterioration, neglect, abandonment, vandalism, or any other cause so as to have become dangerous to life, health, property, morals, safety, or general welfare of the public or the occupants;
- (4) The building has become or is so damaged, dilapidated, decayed, unsafe, unsanitary, lacking in maintenance, vermin or rat infested, containing filth or contamination, lacking proper ventilation, lacking sufficient illumination, or so utterly fails to provide the amenities essential to decent living that it is unfit for human habitation, or is likely to cause sickness or disease, so as to work injury to the life, health, property, morals, safety, or general welfare of the public or the occupants;
- (5) The building has inadequate facilities for egress in case of fire or panic, or has insufficient stairways, elevators, fire escapes, or other means of ingress and egress to and from said building;
- (6) The building does not provide minimum safeguards to protect or warn occupants in the event of fire;
- (7) The building contains unsafe equipment, including any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers, or other equipment on the premises or within the structure which is in such disrepair or condition that such equipment is a hazard to the life, health, property, morals, safety, or general welfare of the public or the occupants;
- (8) The building is so damaged, decayed, dilapidated, structurally unsafe, or of such fault construction or unstable foundation that partial or complete collapse is possible;
- (9) The building has parts thereof which are so attached that they may fall and damage property or injure the public or the occupants;

- (10) The building, or any portion thereof, is clearly unsafe for its use or occupancy;
- (11) The building is neglected, damaged, dilapidated, unsecured, or abandoned so as to become an attractive nuisance to children who might play in or on the building, structure, part of building or structure, party wall, or foundation to their danger, has become a harbor for vagrants, criminals, or immoral persons, or enables persons to resort to the building, structure, part of building or structure, party wall, or foundation for committing a nuisance or an unlawful act;
- (12) The building has a condition or conditions that violate the Town's technical codes adopted from time to time if such violation(s) are unsafe to the extent of becoming a public nuisance.

5. The Appropriate Municipal Official finds that the building on the Subject Property is substantially damaged or decayed, or deteriorated from its original value or structure (not including the value of the land).

6. The Appropriate Municipal Official finds that the building on the Subject Property is a fire hazard existing in violation of the terms of the Ordinance.

7. For purposes of this Notice, the term "building" is deemed to include all structures, appurtenances, improvements, and items on the property, whether or not attached to or a part of the main structure, including, but not limited to, houses, mobile or manufactured homes, trailers, garages, sheds, carports, other accessory structures, pools, as well as any items located therein or on the Subject Property, including, junk, rubbish, trash, litter, grass and weeds, junked motor vehicles, and/or any other matter declared a nuisance under existing law. For further particulars of what the "building" on the Subject Property includes, please contact the Appropriate Municipal Official.

8. Notice is hereby given to remedy the unsafe or dangerous condition by repair or demolition of the building on the Subject Property within forty-five (45) days of the date of this Notice to the Appropriate Municipal Official's satisfaction. In the event the owner does not comply within the time specified herein to the Appropriate Municipal Official's satisfaction, the repair or demolition shall



be accomplished by the Town and the cost thereof assessed against the Subject Property and such cost shall constitute a lien against the Subject Property.

9. The Appropriate Municipal Official finds that the building on the Subject Property is in such condition as to make it dangerous to the life, health, property, morals, safety, or general welfare of the public or the occupants. Therefore, the Appropriate Municipal Official orders that the building on the Subject Property and/or the entirety or other portion of the premises upon which it is located be and remain vacated until repaired or demolished.

10. It is unlawful for any person to enter, access, or be upon the Subject Property that the Appropriate Municipal Official has ordered to be vacated pursuant to this “Finding of Public Nuisance, Notice and Order to Vacate and Remedy, and Notice Of *Lis Pendens*” except for the purposes of remediating the same, pursuant to a validly issued permit.

11. A public hearing as provided for by Section 8(a) set forth in the Ordinance shall be held on the finding of the Appropriate Municipal Official in the Council Chambers at the Indian Springs Village Town Hall, 2635 Cahaba Valley Road, Indian Springs Village, Alabama 35124 on the 6<sup>th</sup> day of September, 2022, at 7:00 p.m. At that time, the Town Council shall hold a public hearing to receive any objections to the finding by the Appropriate Municipal Official that the building or structure is unsafe to the extent of becoming a public nuisance. A written request for a public hearing is not necessary. At the public hearing, the Council shall also receive any written objections to the finding by the Appropriate Municipal Official. Any such written objection must be submitted to the Town Clerk prior to the start of the Council meeting at which the public hearing is held. No action shall be taken on the finding of the Appropriate Municipal Official until determination thereon is made by the Council. Upon holding the hearing, the Council shall determine whether or not the building or structure is unsafe to the extent that it is a public nuisance. If it is determined by the Council that the building or structure is unsafe to the extent that it is a public nuisance, the Council shall order the repair or demolition of the building at the expense of the Town and assess the expenses of the same on the land

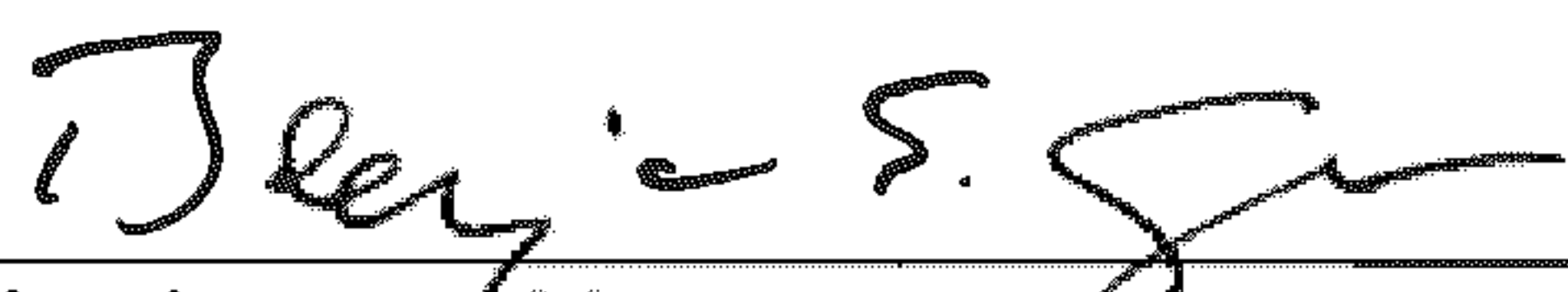
on which the building stands or to which it is attached. Any person aggrieved by the decision of the Council at the hearing may, within ten (10) days thereafter, appeal to the Circuit Court of Shelby County, Alabama, upon filing with the Clerk of the Circuit Court of Shelby County, Alabama, notice of the appeal and bond for security of costs in the form and amount to be approved by the Circuit Clerk. For further particulars, see the Ordinance.

12. A failure by the Council to act on the findings of the Appropriate Municipal Official within one hundred twenty (120) days from the date of this "Finding of Public Nuisance, Notice and Order to Remedy, and Notice of *Lis Pendens*" shall constitute an abdication of the Appropriate Municipal Official's findings. However, this shall in no way prevent the Town from reinitiating the proceedings authorized by the Ordinance at any time so long as all the requirements of the Ordinance are satisfied anew. Furthermore, this does not require that the ordered remediation take place within one hundred twenty (120) days from the date of this "Finding of Public Nuisance, Notice and Order to Remedy, and Notice of *Lis Pendens*." A failure by the Town to accomplish the remediation of the building within one hundred eighty (180) days of the passage of the resolution by the Council ordering the same shall constitute an abdication of the Council's order unless certain conditions further explained in the Ordinance are satisfied. For further particulars, see the Ordinance. Anyone interested in the status of these proceedings should inquire with Indian Springs Village's Clerk at (205) 982-1755 or at 2635 Cahaba Valley Road, Indian Springs Village, Alabama 35124.

13. It is unlawful for any person, or for any agent, servant or employee of such person, to obstruct or interfere with the Appropriate Municipal Official in carrying out the purposes of the Ordinance.

14. It is unlawful for any person, or for any agent, servant or employee of such person, to mutilate, destroy, tamper with this "Finding of Public Nuisance, Notice and Order to Remedy, and Notice of *Lis Pendens*."

15. It is unlawful for any person who has received this "Finding of Public Nuisance, Notice and Order to Remedy, and Notice of *Lis Pendens*" to sell, transfer, mortgage, lease, encumber, or otherwise dispose of the building that is the subject of the same to another until such person shall first furnish the grantee, transferee, mortgagee, or lessee a true copy of this "Finding of Public Nuisance, Notice and Order to Remedy, and Notice of *Lis Pendens*" and shall furnish to the Appropriate Municipal Official a signed and notarized statement from the grantee, transferee, mortgagee, or lessee acknowledging the receipt of this "Finding of Public Nuisance, Notice and Order to Remedy, and Notice of *Lis Pendens*" and fully accepting the responsibility without condition for making the corrections or repairs required by this "Finding of Public Nuisance, Notice and Order to Remedy, and Notice of *Lis Pendens*."

  
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Benjamin S. Goldman, Town Attorney  
Town of Indian Springs Village, Alabama


**OF COUNSEL:**

HAND ARENDALL HARRISON SALE, LLC  
1801 5<sup>th</sup> Ave. North, Suite 400  
Birmingham, Alabama 35203  
(205) 324-4400  
bgoldman@handfirm.com

VERIFICATION OF THE APPROPRIATE MUNICIPAL OFFICIAL

I, the undersigned, Benny McKenzie, state as follows: For purposes of administering the Town's Ordinance, I am the "Appropriate Municipal Official." I hereby offer the findings made in this "Finding of Public Nuisance, Notice and Order to Remedy, and Notice of *Lis Pendens*," make such orders as are offered herein, and provide such notice as is specified herein.

DONE this the 11 day of July, 2022.

  
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Benny McKenzie  
Appropriate Municipal Official  
Town of Indian Springs Village, Alabama

This Instrument Prepared By:  
Benjamin S. Goldman, Esq.  
HAND ARENDALL HARRISON SALE, LLC  
1801 5<sup>th</sup> Ave. North, Suite 400  
Birmingham, Alabama 35203  
(205) 324-4400  
[bgoldman@handfirm.com](mailto:bgoldman@handfirm.com)



**CERTIFICATE OF SERVICE**

Contemporaneously with the filing of this "Finding of Public Nuisance, Notice and Order to Remedy, and Notice of *Lis Pendens*," a copy of the same has been sent via certified mail, properly addressed and postage prepaid to all of the following persons on this the 11<sup>th</sup> day of July, 2022:

A. The person or persons, firm, association, or corporation last assessing the Subject Property for state taxes to the address on file in the Shelby County Property Tax Commissioner's Office:

Dennis W. Carlisle Jr. & Natalie Carlisle  
5542 Timber Hill Road  
Indian Springs Village, Alabama 35242

B. The record property owner or owners (including any owner or owners of an interest in the Subject Property) as shown from a search of the records of the office of the Judge of Probate of Shelby County, Alabama, at the owner or owners' last known address and at the address of the Subject Property:

Dennis W. Carlisle, Jr.  
5542 Timber Hill Road  
Indian Springs Village, Alabama 35242

Natalie Carlisle  
5542 Timber Hill Road  
Indian Springs Village, Alabama 35242

C. All lien holders of record as shown from a search of the records of the office of the Judge of Probate of Shelby County, Alabama to the address set forth in the statement of lien or, if no address for the lien holder is set forth in the statement of lien, to the address determined to be the correct address by the Appropriate Municipal Official:

North Shelby Fire District  
4617 Valleydale Road  
Birmingham, AL 35242

Flagstar Bank, FSB  
5151 Corporate Drive

Troy, Michigan 48098

D. Such other persons who are otherwise known to the Clerk or to the Appropriate Municipal Official who could have an interest in the Subject Property:

North Shelby Fire District  
4617 Valleydale Road  
Birmingham, AL 35242

No other person is otherwise known to the Clerk or to the Appropriate Municipal Official to have an interest in the Subject Property.

Contemporaneously with the filing of this "Finding of Public Nuisance, Notice and Order to Remedy, and Notice of *Lis Pendens*," a copy of the same has been posted at or within three feet of an entrance to the building on the Subject Property.

Contemporaneously with the filing of this "Finding of Public Nuisance, Notice and Order to Remedy, and Notice of *Lis Pendens*," a copy of the same has been posted in three public places located within the Town: Indian Springs Village Town Hall, Shelby County Fire Station No. 1, and Shelby County Fire Station No. 2.

Notice that the Appropriate Municipal Official has made a finding that the Subject Property is a dangerous building because it is unsafe to the extent that it is a public nuisance and is subject to demolition and that a public hearing will be held on the date assigned herein will also be given to all interested parties and to the public at large by publication in the *Shelby County Reporter*.

  
Benny McKenzie

Appropriate Municipal Official  
Town of Indian Springs Village, Alabama

  
Joan Downs Clerk

Town of Indian Springs Village, Alabama

Filed and Recorded  
Official Public Records  
Judge of Probate, Shelby County Alabama, County  
Clerk  
Shelby County, AL  
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