



# City of Newport News

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May 4, 2022

Honorable Christopher R. Papile  
Newport News Circuit Court  
2500 Washington Avenue  
Newport News, VA 23607

Re: City of Newport News vs. Seaview Apartments LLC

Dear Judge Papile

At the last court hearing on May 2, 2022, you asked me to prepare a letter, updating the Court regarding the Defendant's compliance with the two Emergency Mandatory Injunctions. This is an update concerning the ordered repairs for the building.

### Elevators:

Elevator car #2 is still operating under a 30-day temporary Certificate of Use and Occupancy since all emergency equipment in the elevator is not working correctly. The temporary use agreement is that the operational elevator shall be equipped with a two-way communication device (Walkie-Talkies). The other communication devices will be with the on-site property manager/maintenance staff. As of May 4, 2022, Inspector Christina Jackson discovered that the two-way communication device had been removed from the elevator car. The maintenance staff is working on mounting the device to the working elevator car.

Additionally, the elevator car cannot be connected to the fire alarm system by Cox because the line rings to Blue Atlantic, which does not have a maintenance contract. Those repairs will remain in violation unless the owner enters into a new elevator maintenance contract.

### Fire Alarm System:

The monitored manual fire alarm pulley has been ordered by Cintas, the fire alarm panel monitoring company.

### Boiler:

On Tuesday morning, May 3, 2022, counsel for the defendant, Kaitlin Baxter emailed me to report

Please  
SCAN  
CL2201432P.03  
CL2201476P.01

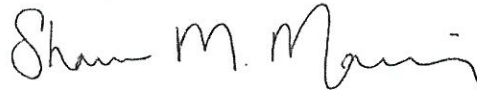
that the defendant had hired Thomas Fant at Superior Plumbing, Inc., and she expected the application would be submitted that day.

After forwarding this information to Codes Compliance, they requested that I ask for a copy of the contract with the contractor. When I contacted Ms. Baxter, I learned that the defendant had hired a different contractor for the boiler repairs, Stephanie Lentini at Associated Mechanical. The owner submitted a permit application to Codes Compliance, however the application is incomplete and the permit cannot be issued at this time. The application will need to include plans, a scope of work and an adjusted amount for the repairs. Codes Compliance is ready to expedite the issuance of the permit as soon as they receive the necessary revisions to the application.

I again requested a copy of the contract between the defendant and Associated Mechanical, but only received a copy of a letter on the contractor's letterhead stating that they had been retained to make the repairs. I am attaching copies of this letter, as well as the permit application that was received.

I will provide an additional update at the end of the week.

Sincerely,

A handwritten signature in cursive script that reads "Shannon M. Manning".

SHANNON M. MANNING  
Senior Assistant City Attorney

cc: Kaitlin Baxter, Defense Counsel  
Jeffrey Senter, Fire Marshal  
Harold Roach, Director of Codes Compliance

VIRGINIA:

IN THE CIRCUIT COURT FOR THE CITY OF NEWPORT NEWS

<u>CITY OF NEWPORT NEWS, a</u>	)	
municipal corporation,	)	
	)	
Plaintiff,	)	
v.	)	CHANCERY NO.: _____
	)	
SEAVIEW APARTMENTS LLC,	)	
Serve: Vcorp Agent Services, Inc., Registered Agent	)	
4701 Cox Road, Suite 285	)	
Glen Allen, VA 23060,	)	
	)	
<u>Defendant.</u>	)	

APPLICATION FOR MANDATORY INJUNCTION AND BILL OF COMPLAINT

COMES NOW your plaintiff, pursuant to §27-101 of the Code of Virginia, as amended, and respectfully represents as follows:

1. That plaintiff is a municipal corporation, duly incorporated under the laws of the Commonwealth of Virginia.
2. That for the purpose of preserving the health, safety and general welfare of the citizens of the City and to assure the proper fire prevention within the City of Newport News, Virginia, the Council of said City did on June 12, 1990, duly enact an ordinance, Ordinance No. 4053-90, to adopt and incorporate the Virginia Statewide Fire Prevention Code into the Newport News Municipal Code.
3. That the Newport News Municipal Code was amended on March 13, 2007, when the Newport News City Council passed Ordinance No. 6341-07, which adopted and incorporated the Virginia Statewide Fire Prevention Code and supplements thereto, including any future amendments thereto, into the Newport News Municipal Code.

4. That the Newport News Municipal Code was again amended on December 14, 2010, when the Newport News City Council passed Ordinance No. 6745-10, which again adopted and incorporated the Virginia Statewide Fire Prevention Code and supplements thereto, including any future amendments thereto, into the Newport News Municipal Code.

4. That this ordinance was , by its terms, to become and did become effective on December 24, 2010.

5. That said ordinance so enacted was duly entered in the Proceedings of the Council of the said City of Newport News and was thereafter duly published.

6. That the said ordinance has been at all times since its effective date and now is in full force and effect.

7. That the defendant, Seaview Apartments LLC, is the legal owner, by virtue of the DEED OF BARGAIN AND SALE, dated February 28, 2020, which was recorded in the Clerk's Office of the Circuit Court of the City of Newport News, Virginia on May 20, 2020.

8. The Seaview Apartments means the property and all other improvements now or hereafter constructed thereon, incident thereto and interests therein, and whose legal description reads, "Beginning at the intersection of the North right-of-way of 27<sup>th</sup> Street and the West right-of-way of West Avenue, and from the point thus established thence along the North right-of-way of 27<sup>th</sup> Street S 63 degrees 37' W 237.20 feet, then N 26 degrees 23' W 16.90 feet, then S 63 degrees 37' W 2.80 feet, thence N 26 degrees 23' W 183.10 feet to the South right-of-way of 28<sup>th</sup> Street, thence along the South right-of-way of 28<sup>th</sup> Street N 63 degrees 37' E 240.0 feet to the West right-of-way of West Avenue, thence along the West right-of-way of West Avenue S 26 degrees 23' E 200.0 feet to the point of beginning."

9. That the aforesaid property is not in compliance with the Virginia Statewide Fire

Prevention Code, and in particular Section 603.2 “Chimneys”, which states, “Masonry, metal and factory-built chimneys shall be maintained in accordance with the applicable building code and NFPA 211.” NFPA 211, Section 14.7.1 requires chimneys, vents, and fireplaces be repaired “if there is damage to the chimney, fireplace, or vent or to the surroundings.” NFPA 211, Section 14.8 also requires “When inspection or an operating malfunction shows that an existing chimney, fireplace, or vent is damaged, unsuitable, or improperly sized, it shall be repaired, rebuilt, or resized to the construction and functional requirements of this standard.”

10. That the aforesaid property is not in compliance with the Virginia Statewide Fire Prevention Code with regard to Section 603.6.2 “Metal Chimneys”, which states, “Metal chimneys or supports that are damaged or corroded shall be repaired or replaced.”

11. That the aforesaid property is not in compliance with the Virginia Statewide Fire Prevention Code with regard to Section 604.6 “Unapproved Conditions”, which states, “Open junction boxes and open-wire splices shall be prohibited.”

12. That the aforesaid property is not in compliance with the Virginia Statewide Fire Prevention Code with regard to Section 901.6 “Inspection, testing, and maintenance”, which states, “To the extent that equipment, systems, devices, and safeguards, such as fire detection, alarm and extinguishing systems, which were provided and approved by the building official when constructed, shall be maintained in an operative condition at all times. And where such equipment is found not in an operable condition, the fire official shall order such equipment to be rendered safe in accordance with the UCSB.”

13. That on April 15, 2022, the Newport News Fire Chief observed that the vent stack (chimney) from the gas boiler was not properly capped and appeared in distress. Apartment maintenance staff assured the Fire Chief that the boiler was not operational at the time and that parts

had been ordered to replace the damaged chimney.

14. That on April 18, 2022, the Fire Official returned to the property to evaluate the progress of the relocation of all the tenants residing above the fourth floor, as they had agreed to do on April 15, 2022. The on site property manager said that the owner was no longer willing fund relocations and would only allow a rent credit for tenants' expenditures.

15. That also on April 18, 2022, the Fire Official asked the property manager whether the boilers were operational. She indicated that maintenance had just shut the boilers off, but that they had been running over the weekend to warm the building. The Fire Official requested to see the boilers for the building.

16. That the boiler room for the building is located on the fifteenth floor of the building, at roof level. While climbing the stairs, the Fire Official observed a large amount of water pouring down the stairwell from the boiler room. One of the maintenance staff said, "We just had a leak." The Fire Official observed a Harsco Industrial P-K Thermific Gas-Fired Boiler in the boiler room. The boiler was in the off position at the time of inspection. There was a large amount of water on the floor around the boiler and the main water supply to the boiler. An area of exposed pipe had ruptured , causing water to flow freely from the water main.

17. That during the April 18, 2022 inspection of the boiler room, the Fire Official observed that the chimney was disconnected from its endcap and partially hanging into the boiler room. The purpose of the chimney is to expel unwanted gases, such as carbon monoxide, into the outside air. Carbon monoxide is a colorless, odorless gas that presents an explosion hazard as well as an inhalation poisoning hazard. Operation of the boiler in this condition would result in the buildup of unwanted gases, particularly carbon monoxide in the boiler room which could result in a fatal poisoning incident, or even an explosion.

18. That during the April 18, 2022, visit to the property, the Fire Official observed multiple exposed wires that appeared to be “hot” conductors. These exposed wires were hanging in close proximity to the boiler. Should these wire become energized, they would create both a fire and electrocution hazard.

19. That within five minutes of the Fire Official’s arrival on April 18, 2022, the fire alarm panel in the apartment lobby was sounding a “trouble signal.” These signals indicate that the system is not functioning properly. The panel indicated that there were failures of smoke heads on the fifth, thirteenth and fifteenth floors.

20. That staff from the Newport News Department of Codes Compliance also visited the property on April 18, 2022, and found the building to be in violation of the Virginia Maintenance Code as well, particularly: sections 704.1, “General. Systems, devices, and equipment to detect a fire, actuate an alarm, or suppress or control a fire or any combination thereof shall be maintained in an operable condition at all times;” 603.1, “Mechanical equipment and appliances. Required or provided mechanical equipment, ... shall be maintained in compliance with the code under which the ... equipment was installed, kept in safe working condition, and capable of performing the intended functions; 602.2, “Heat supply. “Every owner and operator of a Group R-2 apartment building ... who rents, leases, or lets one or more dwelling unit, ... to furnish heat to the occupants thereof shall supply heat during the period from October 15 to May 1 to maintain a temperature of not less than 68 degrees ... in all habitable rooms...;” 604.3, “Electrical system hazards. Where it is found that the electrical system in a structure constitutes a hazard to the occupants or the structure by reason of deterioration or damage or for similar reasons, the code official shall require the defects to be corrected to eliminate the hazard.”

17. That the property owner has not abated these violations, and there is an ongoing hazard

to the life and safety of the building's residents.

18. That by reason of the aforesaid facts the plaintiff suffers irreparable damage for which it has no adequate remedy at law.

WHEREFORE, the plaintiff prays that the defendant, Seaview Apartments LLC, Be ORDERED to abate these violations of the Virginia Statewide Fire Prevention Code, the Virginia Maintenance Code immediately; and that the plaintiff have such other and further relief as the Court may deem just and proper.

CITY OF NEWPORT NEWS, VIRGINIA

By: Shannon M. Manning  
Of Counsel

SHANNON M. MANNING, ESQ.  
Senior Assistant City Attorney  
Virginia State Bar No.: 38996  
2400 Washington Avenue, 9<sup>th</sup> Floor  
Newport News, VA 23607  
(757) 926-8416  
(757) 926-8549 (fax)  
Counsel for Plaintiff,  
City of Newport News



VIRGINIA:

IN THE CIRCUIT COURT FOR THE CITY OF NEWPORT NEWS

\_\_\_\_\_  
 CITY OF NEWPORT NEWS, a )  
 municipal corporation, )  
 )  
 Plaintiff, )  
 v. )  
 )  
 SEAVIEW APARTMENTS LLC, )  
 Serve: Vcorp Agent Services, Inc., Registered Agent )  
 4701 Cox Road, Suite 285 )  
 Glen Allen, VA 23060, )  
 )  
 \_\_\_\_\_ Defendant. )

CHANCERY NO.: LL 2201476Pa

EMERGENCY MANDATORY INJUNCTION

This cause came to be heard on the upon the prayer for an emergency mandatory injunction in the plaintiff's complaint, and the testimony of the plaintiff's witnesses in support thereof, and was argued by counsel.

UPON CONSIDERATION WHEREOF, it appearing to the Court that plaintiff is entitled to the relief prayed for, it is hereby ORDERED, ADJUDGED and DECREED that the Defendant is hereby ordered to immediately abate the violations of the Virginia Statewide Fire Prevention Code (§§603.2, 603.6.2, 604.6, 901.6) and the Virginia Maintenance Code (§§602.2, 603.1, 604.3, 704.1) regarding the electrical failures, fire alarm system and boiler and chimney failures; and the Defendant is further ordered to complete the necessary repairs by THURSDAY, APRIL 21, 2022 AT 11:59 pm

Repairs must be done by licensed contractors with proper permits issued.

The Court will reconvene for a hearing on Monday, April 25, 2022, at 8:30 a.m. to review the Defendant's compliance with this Court's order.

ENTERED this 19th day of April 2022.

CLD. P.  
JUDGE

I ASK FOR THIS:

Shannon M. Manning

SHANNON M. MANNING, Esquire

Senior Assistant City Attorney

Virginia State Bar No. 38996

2400 Washington Avenue, 9<sup>th</sup> Floor

Newport News, VA 23607

(757) 926-8416

(757) 926-8549 (fax)

Counsel for City of Newport News, Virginia

A COPY TESTE, Angela F. Reason, Clerk  
Newport News Circuit Court

By: Brenda P. Reason, D.C.



3204 Battlefield Boulevard South  
Chesapeake, VA 23322

May 4, 2022

Associated Mechanical Companies Inc. has agreed to complete repairs to the boiler flue pipe B-vent at 2 28<sup>th</sup> Street Newport News for Seaview Apartments and BlueRise Group. Associated Mechanical is charging time and materials.

Thank You,

*Stephanie Lentini*

Stephanie Lentini  
Office Manager

Phone: (757) 228-1798

Fax: (757) 962-9581

Associated Mechanical Companies, Inc.