

UNOFFICIAL COPY

Box space reserved for Recorder's Office only.



Doc#: 0435104188
Eugene "Gene" Moore Fee: \$36.00
Cook County Recorder of Deeds
Date: 12/16/2004 03:54 PM Pg: 1 of 7

Property of Cook County Clerk's Office

#90909

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
MUNICIPAL DEPARTMENT - FIRST DISTRICT

RECEIVED
DEPT. OF PUBLIC WORKS
04 DEC - 2 PM 2:15

CITY OF CHICAGO, a Municipal Corporation,)

Case: 03 M1-400586

Plaintiff,)

v.)

RAFAEL DURLAO, et al.,)

Re: 2938 W. Warren Blvd.

Defendants.)

Room 1111

FIRST AMENDED CONSENT DECREE

The plaintiff, the City of Chicago ("City"), a municipal corporation, by Mara S. Georges, Corporation Counsel of the City of Chicago, and her assistant, and defendant Rafael Durlao ("Defendant"), hereby agree and stipulate to the Court's *in personam* jurisdiction over the parties and to the Court's *in rem* jurisdiction over the subject property commonly known as 2938 West Warren Boulevard, Chicago, Illinois, and identified by Permanent Index Number (PIN) 16-12-326-023 (the "subject building"). The subject property's legal description is:

LOT 34 IN SAMUEL H. WHEELER'S SUBDIVISION OF BLOCK 27 IN D. S. LEE AND OTHER'S SUBDIVISION OF THE SOUTHWEST 1/4 OF SECTION 12, TOWNSHIP 39 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

THIS MATTER coming before the Court for hearing on Defendant's Motion to Extend Construction Schedule, the parties having due notice, and Defendant desiring to resolve this case and prevent the City's demolition of the subject building, **THE PARTIES HEREBY STATE THE FOLLOWING:**

410

UNOFFICIAL COPY

1. Located at the front of the subject property is a two-story building of brick construction. The last known use of the building was single-family residential. Located at the rear of the subject property is a one-story garage of frame construction. The subject property is located less than a ½-block from an elementary school and a Chicago Boys Club location.
2. Rafael Dumlao is the owner of the subject buildings, has full control over the subject buildings, and is legally authorized to enter into this Amended Consent Decree without the participation of any other defendant to this lawsuit.
3. Defendant understands that the City's complaint charges the defendants with violations of the Municipal Code of Chicago, Illinois, as amended (hereinafter "the Municipal Code") and Illinois law.
4. Defendant admits that the buildings on the subject property are dangerous and unsafe and requires substantial rehabilitation, and that the following violations of the Municipal Code exist or existed at the subject property during the pendency of the City's Complaint:

Front building:

- a. The building is vacant and has been open.
- b. The electrical system is stripped or inoperable.
- c. The plumbing system is stripped or inoperable.
- d. The heating system is stripped or inoperable.
- e. There is broken and loose plaster in the walls and ceilings.
- f. The interior floors are buckled and loose.
- g. The window sashes and frames are loose and rotted.
- h. The window glazing is broken or missing.
- i. The door frames are loose, rotted and broken, or missing.
- j. The mortar in the brickwork is washed-out and missing.
- k. The mortar joints are washed-out and loose.
- l. There are loose and fractured bricks on the exterior walls of the building.
- m. The joists are water-damaged.
- n. The partitions are breached.
- o. There is a hole or holes and leakage in the roof.
- p. There is water damage to the interior of the building.

Garage:

- q. The garage is vacant.
- r. The electrical system is stripped or inoperable.
- s. The concrete slab is cracked and crumbling.
- t. The ends of the rafters are damaged.
- u. The window sashes and frames are loose and rotted.
- v. The window glazing is broken or missing.
- w. The garage roof is missing shingles.

UNOFFICIAL COPY

- x. The front building has at least a 33% level of deterioration, and the garage has at least an 11% level of deterioration, based upon an assessment of the buildings' vital systems, including their masonry, floors, walls, sashes, frames, doors, trim, stairs, plaster and glazing.

These conditions violate various sections of the Building Code of the City of Chicago as defined in the Municipal Code of Chicago §1-4-090 (2001).

5. Defendant understands that upon Defendant's signing of this Amended Consent Decree, there will not be a trial of any kind on the violations described in paragraph four of this Amended Consent Decree, and that by signing this Amended Consent Decree Defendant waives the right to a bench or jury trial and waives the right to be confronted with witnesses.
6. Defendant agrees that there is a factual basis for this Amended Consent Decree in that a City of Chicago building inspector conducted an interior inspection of the building(s) on the subject property on November 18, 2002, and on other occasions including December 9, 2003, June 22, 2004, and November 12, 2004, and found the violations described in paragraph four to exist.
7. Defendant agrees to correct the violations described in paragraph four of this Amended Consent Decree according to the compliance schedule described in paragraph ten of this Amended Consent Decree.

COMPLIANCE SCHEDULE

8. Defendant agrees that in correcting the violations described in paragraph four of this Amended Consent Decree:
- Defendant and all employees, agents and other persons working on Defendant's behalf will timely apply for and obtain all of the permits required to perform the necessary work, and will apply for and obtain a Certificate of Occupancy if one is required by law;
 - Defendant is solely responsible for obtaining the proper permits and for producing proof of the required permits upon the City's request;
 - All necessary repair, renovation and construction will be done by licensed contractors; and
 - All work at the subject property will meet or exceed the requirements of the Municipal Code.
9. Defendant agrees that the determination of the extent of compliance with the Municipal Code

UNOFFICIAL COPY

will be made solely by the City of Chicago Department of Buildings. Defendant agrees to allow the City's building inspectors access to the subject property to conduct all inspections (both exterior and interior) necessary to determine compliance with the Municipal Code.

10. Defendant agrees to correct the violations of the Municipal Code set forth in paragraph four of this Amended Consent Decree and to bring the building(s) on the subject property into full compliance with the Municipal Code no later than February 28, 2005. Defendant agrees to complete rehabilitation of the subject property according to the following schedule:
- A. On or before **November 25, 2004**, Defendant will complete all initial gutting/demolition work.
 - B. On or before **January 13, 2005**, Defendant will complete repair or replacement of the roofing for both the front building and rear garage, and all rough plumbing, electrical (for both buildings) and HVAC work.
 - C. *Defendant will schedule, and allow full access to the building on the subject property for, a full inspection (both interior and exterior) by the City's inspector, which inspection must take place on or before **January 14, 2005**.*
 - D. On or before **February 4, 2005**, Defendant will complete all drywall/taping/sanding/wall repair work, and all finishing work to the plumbing, electrical (for both buildings) and HVAC systems.
 - E. On or before **February 28, 2005**, Defendant will complete all masonry repairs, all repairs to floors, windows and doors of both buildings, all repairs to the front and rear porch systems of the front building, and all final repairs, including any and all final finishing and cleanup work.
 - F. *Defendant will schedule, and allow full access to the building on the subject property for, a full inspection (both interior and exterior) by the City's inspector, which inspection must take place on or before **March 1, 2005**.*

DEFENDANT'S OTHER OBLIGATIONS

- 11. Defendant agrees to pay, in addition to his own costs, a fine in settlement of any and all violations of the original Consent Decree previously entered in this case, in the amount of **\$500**, on or before December 1, 2004.
- 12. Defendant agrees to maintain liability insurance sufficient to insure the subject property from and against any and all claims, demands and actions for personal injury, death or property damage, in an amount not less than \$300,000, combined single limit. Defendant further agrees to furnish or cause to be furnished to the City a certificate or certificates of insurance

UNOFFICIAL COPY

evidencing the insurance required by this paragraph, issued by a company or companies reasonably satisfactory to the City, and in form and content reasonably satisfactory to the City.

13. Defendant agrees to register the subject property as a vacant building with the Department of Buildings as required by the City of Chicago Vacant Building Ordinance, Municipal Code of Chicago §13-12-125 (2001), and agrees to provide proof of this registration to the City by facsimile within seven (7) days of the entry of this Amended Consent Decree. Defendant further agrees to comply with all requirements of the City of Chicago Vacant Building Ordinance and the Watchman Ordinance, Municipal Code of Chicago §13-12-140 (2001), until such time as there is no longer a vacant building on the subject property, as defined by the Municipal Code.
14. Defendant agrees to provide the City with an original surety bond or letter of credit in form and content satisfactory to the City in the amount of **fourteen thousand (\$14,000) dollars**, as security for the costs of demolition or completing the reconstruction of the subject building, no later than December 1, 2004.
15. Defendant agrees to monitor the subject property daily and to keep the building(s) on the subject property secure in compliance with Department of Buildings Rules and Regulations until such time as the Department of Buildings determines that the subject property is in substantial compliance with the Municipal Code.
16. Defendant agrees to maintain the subject property in a sanitary and reasonably debris-free condition until such time as the Department of Buildings determines that the subject property is in substantial compliance with the Municipal Code. If, before such time as the subject property is determined to be in substantial compliance with the Municipal Code, a City building inspector finds any imminently dangerous or hazardous condition at the subject property, Defendant will correct that condition within forty-eight (48) hours after receiving notice from the City of such condition(s) by facsimile transmission or U.S. Mail to the following person(s):

Rafael Dumlao
c/o John J. Ward, atty.
1011 W. 31st St.
Chicago, IL 60608
Telephone: (773) 376-9399
Facsimile: (773) 376-8746.

Defendant agrees that Defendant will not deny notice of any imminently dangerous and hazardous condition when the City has sent, either by facsimile transmission or U.S. Mail to the person(s) listed above, notice of the imminently dangerous and hazardous condition(s). Defendant further agrees to notify the City of any change in the designation of any person(s)

UNOFFICIAL COPY

to be contacted under the provisions of this paragraph. Notice shall be given by facsimile transmission and U.S. Mail directed to the person designated in paragraph 17 of this Amended Consent Decree.

17. Defendant agrees to file a motion with this Court with notice to the City if, at any time before the Department of Buildings determines that the buildings on the subject property are in substantial compliance with the Municipal Code, there is any change or modification in the ownership of the subject property, or if Defendant ceases to have full control over the subject property for any reason whatsoever (including, but not limited to, the granting of a mortgage or other security interest in the subject property, the introduction of new investors in the property, receipt of a notice of sale of delinquent real estate taxes, or the placement of the subject property in a land trust), or if any legal proceedings are instituted affecting Defendant's ownership or ability to comply with this Amended Consent Decree (including, but not limited to, assignments, bankruptcies, and liens on the property), for the purpose of determining the continuing applicability of this Amended Consent Decree. Notice of motion shall be given by facsimile transmission and U.S. Mail directed to:

Daniel E. Fernández
City of Chicago Law Department
30 N. LaSalle St., Suite 700
Chicago, IL 60602
Telephone: (312) 744-1052
Facsimile: (312) 744-1054.

REMEDIES AND PENALTIES

18. Should an unforeseeable act, force or occurrence prevent or delay the completion of any part of the work by the dates scheduled in paragraph ten of this Amended Consent Decree, Defendant may petition the Court for an extension of time, with notice to the City. The petition for an extension of time must be filed within ten (10) working days of the act causing the delay. Failure to apply for an extension within the ten working days will constitute a waiver of this right to petition to extend the time schedule and will subject Defendant to the penalties set forth in paragraph nineteen of this Amended Consent Decree.
19. If Defendant fails to correct each of the violations of the Municipal Code set forth in paragraph four of this Amended Consent Decree according to the schedule set forth in paragraph ten, or fails to comply with any other requirement of this Amended Consent Decree, the penalty will be:
- A. A fine of **\$200 per day of violation** commencing on the first day after any interim or final completion date stated in paragraph ten of this Amended Consent Decree, **OR a fine of \$10,000, whichever is higher**; AND/OR

UNOFFICIAL COPY

- B. A fine of \$200 per day for each day of violation of any requirement of this Amended Consent Decree other than those listed in paragraph ten; AND/OR
 - C. Upon petition by the City, a hearing as to why Defendant should not be held in contempt of court for violation of this Amended Consent Decree; AND/OR
 - D. Upon motion of the City, the reinstatement of this case and the entry of any appropriate relief, including, but not limited to, an order of demolition of the building(s) on the subject property.
20. This case is dismissed subject to compliance with the terms of this Amended Consent Decree. Defendant waives the right to an appeal in this matter. This Court retains jurisdiction of this case to enforce, modify or vacate the terms of this Amended Consent Decree.
21. Any party may record this order with the office of the Recorder of Decds of Cook County.

FOR DEFENDANT RAFAEL DUMLAO:

John J. Ward
 Signature of attorney for Defendant/owner Rafael Dumlaio

11/24/04
 Date

John J. Ward, 1011 W. 31st St., Chicago, IL 60608
 Printed name and present address of attorney for Defendant

FOR THE CITY OF CHICAGO:

MARA S. GEORGES, Corporation Counsel, City of Chicago (#90909)

By: *Daniel E. Fernandez*
 Daniel E. Fernández, Assistant Corporation Counsel
 30 N. LaSalle St., Suite 700
 Chicago, IL 60602
 (312) 744-1052

11/29/04
 Date

ENTERED:

 Date

JUDGE SEBASTIAN T. PATTI

NOV 30 2004

Circuit Court - 1663

 Judge Sebastian T. Patti