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CITY OF AGOURA HILLS

EXEMPT FROM FILING FEE – GOV. CODE § 6103

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES**

CITY OF AGOURA HILLS, a municipal
corporation,

Plaintiff,

vs.

JAMES MAYFIELD, an individual; SHEILA
ZAMEL, an individual; WHISPERING
OAKS CHURCH, INC., a California
Corporation; and DOES 1-50, inclusive,

Defendants.

CASE NO. 20VECV01312

*[Assigned for all purposes to Hon. Virginia
Keeny in Dept. W]*

**PLAINTIFF'S NOTICE OF MOTION
AND MOTION FOR ISSUANCE OF A
PRELIMINARY INJUNCTION;
MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT
THEREOF**

*[Filed concurrently with Declarations of
Ramiro Adeva, Allen Tripolskiy, and Amir
Hamidzadeh and Exhibits to Declarations;
Request for Judicial Notice; and [Proposed
Order]]*

Hearing:

Date: April 29, 2021

Time 8:30 a.m.

Dept: W

RES ID: 149119750020

1 TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD HEREIN:

2 PLEASE TAKE NOTICE that on April 29, 2021, or as soon thereafter as the matter may
3 be heard in Department "W" of the above-entitled court, located at 6230 Sylmar Avenue, Van
4 Nuys, CA 91401 (Van Nuys Courthouse East), Plaintiff CITY OF AGOURA HILLS (hereinafter
5 the "City") will and hereby does move the Court for issuance of a preliminary injunction against
6 Defendants JAMES MAYFIELD, an individual, SHEILA ZAMEL, an individual, WHISPERING
7 OAKS CHURCH, INC., a California corporation, and DOES 1 through 50, inclusive (collectively
8 "Defendants"), including their agents, employees, servants, successors, assigns, and anyone
9 acting on their behalf or in concert with them, or any occupant of the real property located at
10 28347 Balkins Dr., City of Agoura Hills, Los Angeles, California ("Subject Property"), enjoining
11 and prohibiting Defendants, during the pendency of this action, from maintaining the Subject
12 Property in an unlawful and unsafe condition, and using the Subject Property in violation of the
13 Agoura Hills Municipal Code.

14 Through this Motion, the City specifically requests that this Court issue a preliminary
15 injunction, enjoining and prohibiting Defendants, and each of them, and their agents, employees,
16 servants, successors or assigns, or anyone acting on their behalf or in concert with them, whether
17 directly or indirectly, from the following acts during the pendency of this action:

- 18 1. Using the Subject Property without first obtaining all requisite permits and/or
19 approvals, including but not limited to a site plan review, a conditional use permit,
20 and/or an architectural review (in violation Agoura Hills Municipal Code
21 ("AHMC") §§ 9223.8, 9652.5, 9652.10, 9673 et seq., 9673 et seq., and 9677 et
22 seq.);
- 23 2. Operating a commercial wedding venue on the Subject Property (in violation of
24 AHMC §§ 9222.1 et seq.);
- 25 3. Operating a church, temple and/or other place used exclusively for religious
26 worship, including related incidental educational and social activities, without a
27 duly issued conditional use permit (in violation of AHMC §§ 9222.4 and 9673 et
28 seq.);

4. Encroaching into the protected zones of oak trees without a duly issued oak tree permit (in violation of AHMC § 9657.5);
5. Maintaining, using, and/or occupying an accessory dwelling unit without a duly issued ministerial permit for an Accessory Dwelling Unit (in violation of AHMC § 9283.1);
6. Maintaining unpermitted and/or substandard buildings and/or structures on the Subject Property (in violation of California Building Code (“CBC”) ¹ §§ 105.1, 114.1, 116.1, and 111.1.1, California Mechanical Code (“CMC”) § 104.1, California Plumbing Code (“CPC”) § 104.1, California Electrical Code (“CEC”) § 110.2 as amended, and AHMC §§ 5604(7), 5604(9), 5604(11), and 5619(a);
7. Maintaining unsafe or dangerous buildings and/or structures on the Subject Property (in violation of CBC §§ 116.1, 116.1(d), and 116.1(h) (as amended by AHMC § 8103(cc));
8. Maintaining a substandard property (in violation of AHMC §§ 5605(1), 5605(13) and 5605(16));
9. Maintaining an unpaved driveway at the Subject Property (in violation of AHMC § 9654.3.E);
10. Housing animals and/or fowl in a building or structure within thirty-five (35) feet of any street (in violation of AHMC § 9224.1(E)); and,
11. Otherwise maintaining or permitting conditions at the Subject Property which constitute a public nuisance (in violation of California Civil Code §§ 3479 and 3480, CBC §116.6 (as adopted under AHMC §8103(ee)), and AHMC §§1200(c), 5604, 5605 and 9842).

IT IS FURTHER REQUESTED that Defendants, and their agents, employees, servants, successors or assigns, or anyone acting on their behalf or in concert with them, be ordered to perform the following acts with regard to the Subject Property during the pendency of this action:

¹ Pursuant to AHMC § 8100, the City has adopted the 2019 California Building, Electrical, Plumbing, and Mechanical Codes, as amended in AHMC §§ 8103 and 8200-8203. (See Request for Judicial Notice (“RJN,”), ¶¶ 22-26, Ex. U, V, W, X, Y.)

- 1 12. Within thirty (30) calendar days of the date of the Order, submit a complete
2 application (hereinafter, "Application") to the appropriate City department(s) to
3 legalize (if possible) all unpermitted, uninspected, unapproved and/or otherwise
4 unlawful uses, construction, improvements, alterations, repairs, and/or public
5 nuisance conditions on or at the Subject Property (hereinafter collectively, the
6 "Unpermitted Conditions") in accordance with the Agoura Hills Municipal Code
7 and other applicable laws; the Application shall include all requisite applications,
8 forms, reports, plans, and supporting materials (including, but not limited to, all
9 items described in the "Plan Submittal Requirements") along with all
10 nonrefundable fees and any deposits required, in order to properly consider the
11 Application and make the required determinations;
- 12 13. Within fifteen (15) calendar days of any request by the City for any supplemental,
13 modified, and/or amended documentation and/or information, submit such
14 documentation or information to the appropriate City department;
- 15 14. Within fifteen (15) calendar days of City approval of the Application, if such
16 approval is given, obtain all requisite permits either to legalize (if approved) the
17 Unpermitted Conditions, or in the alternative, to remove the Unpermitted
18 Conditions and restore the Subject Property to its previously approved condition
19 and status;
- 20 15. Within ten (10) calendar days of the issuance of any and all applicable City
21 permits, commence any and all corrective actions at the Subject Property in
22 accordance with applicable plans approved by the City, permits issued by the City,
23 the Agoura Hills Municipal Code, and all relevant regulations, which shall
24 continue on a daily basis, except weekends and holidays, until all work is
25 complete;
- 26 16. Within ninety (90) calendar days of permit issuance, complete all requisite
27 corrective actions to legalize (if approved) the Unpermitted Conditions or, in the
28 alternative, to remove the Unpermitted Conditions and restore the Subject Property

to its previously approved condition, in accordance with City-approved plans and City-issued permits, and schedule, undergo, and pass a final City inspection;

17. Undertake any and all other actions to complete the work, in accordance with the City-approved plans and authorized by the City-issued permits, as required by the terms of the Order, legally, through licensed and bonded contractors and engineers, and in a manner that fully complies with the laws of the City of Agoura Hills and all applicable State laws;
18. Consent to, and provide access for officials of, or on behalf of, the City of Agoura Hills (including but not limited to Building Inspectors, Engineers, and Code Enforcement Officers) to enter onto the Property at any time between the hours of 8:00 a.m. and 6:00 p.m., without further notice, order, or warrant, for the purpose of conducting inspections of all exterior and interior areas of the Subject Property in order to ensure compliance with the terms of any City approval or permit and the Order;
19. Should the City reject Defendants' Application on three (3) or more occasions, Defendants shall be deemed to have breached the Court's Order;
20. Provide a minimum of thirty (30) days' notice to the City, through its counsel of record and to this Court, of any transfer, conveyance, encumbrance, change in title, and/or sale of the Subject Property;
21. Notify, in writing, any prospective purchaser, lessee, agent, or other successor in interest of the existence of this Preliminary Injunction and of its application to successors in interest, prior to entering into any agreement to sell or lease the Subject Property;
22. Obtain a conditional use permit prior to operation of a church, temple or other place used exclusively for religious worship, including related incidental educational and social activities on the Subject Property;

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- 1 23. Abate any and all other unlawful conditions at the Subject Property; and
2 24. Use or permit the use of the Subject Property only for a purpose in compliance
3 with the Agoura Hills Municipal Code or as otherwise permitted or approved by
4 the City.

5 The City has no adequate remedy other than the equitable relief sought herein. Absent the
6 relief requested herein, the City, its residents, and the general public will be irreparably injured
7 and damaged by Defendants' continued maintenance of the unpermitted, uninspected,
8 unapproved, hazardous, blight and/or otherwise unlawful conditions at the Subject Property,
9 which constitute a public nuisance and which have and will continue to: (1) pose a significant risk
10 to the health, safety and welfare of Defendants, occupants and visitors of the Subject Property,
11 and neighboring residents and/or residences; and (2) have a significant detrimental impact on the
12 character of the community and the surrounding areas. The City has not previously made
13 application for injunctive relief or other equitable relief in connection with the Subject Property to
14 this or any other court.

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1 This Motion is based upon this Notice of Motion and Motion, the attached Memorandum
2 of Points and Authorities, the attached Declarations of Assistant City Manager Ramiro Adeva, III,
3 Building Official Amir Hamidzadeh, and Code Compliance Officer Allen Tripolskiy and the
4 Exhibits to the Declarations, the Request for Judicial Notice, the [Proposed] Order, the pleadings
5 and records on file in this matter, and on such other and further oral and documentary evidence
6 that may be presented at or prior to the time of the hearing of this matter.

7
8 Respectfully submitted,

9 Dated: April 1, 2021

DAPEER, ROSENBLIT & LITVAK, LLP

10
11
12 By: _____

William Litvak
Eric P. Markus
James M. Cunningham
Attorneys for Plaintiff
CITY OF AGOURA HILLS

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II.
STATEMENT OF FACTS

The Subject Property consists of 3.04 acres and has been improved with a two-story, single-family dwelling. (Declaration of Assistant City Manager Romero Adeva, III (“Decl. Adeva”) ¶ 3, Ex. 1.) The Subject Property is owned by Mayfield and Zamel (*ibid.*) and is located in the City’s “RV” residential zone. (*Ibid.*) Mayfield and Zamel are the principals of WOCI, through which they operate Whispering Oaks Chapel at the Subject Property. (*Id.*, ¶ 8, Ex. 2).

On or about July 28, 2019, the City received several complaints from adjacent property owners regarding construction activities at the Subject Property. The City was further advised that Defendants were advertising the Subject Property as a commercial wedding venue. (*Id.*, ¶ 6.) A review of Defendants’ website, social media, and online advertisements confirmed that Defendants were operating the Subject Property as a commercial wedding venue. (*Id.*, ¶¶ 6, 8 and 9, Ex. 3-6.)

On or about August 5, 2019, the City sent Defendants a notice of violations (the “NOV”). (*Id.*, ¶ 10, Ex. 7.) The NOV advised Defendants that their operation of a commercial wedding venue at the Subject Property was unlawful in the City’s RV residential zone pursuant to AHMC § 9222.5. (*Id.*, at ¶ 10.) The NOV further informed Defendants that their use of the Subject Property as a commercial wedding venue was neither a permitted, nor conditionally permitted, use pursuant to AHMC §§ 9222.1 et seq., and constituted a public nuisance under AHMC § 9842. (*Ibid.*)

The NOV also advised Defendants that operation of the wedding venue at the Subject Property constituted a commercial enterprise for gain as defined under AHMC § 6800 and required a business license pursuant to AHMC § 6802. (*Id.*, ¶ 11.) As operation of a commercial wedding venue is not a permitted or conditionally permitted use within the RV zone, however, Defendants are ineligible to obtain a license to operate one at the Subject Property. (*Ibid.*) As a result, the NOV required Defendants to immediately and permanently terminate using the Subject Property as a commercial wedding venue, and cease advertising it as such, no later than August 9, 2019. (*Id.*, ¶¶ 12.)

1 In an effort to expedite Defendants' voluntary code compliance, the NOV also requested
2 an inspection by the City on or before August 15, 2019. (*Ibid.*) Defendants failed and/or refused
3 to permit the requested inspection. (*Ibid.*)

4 As of the date of this Motion, Defendants continue to operate, and advertise, the Subject
5 Property as an illegal commercial wedding venue, in violation of the AHMC §§ 6802(a)(1) and
6 9222.1 et seq. (*Id.*, ¶ 13; Declaration of Allen Tripolskiy ("Decl. Tripolskiy"), at ¶¶ 4-6; Ex. 8.) In
7 their operations, Defendants provide shuttle busses to transport wedding guests to and from the
8 Subject Property. (Decl. Tripolskiy, ¶ 5.) However, guests who miss the shuttle bus park their
9 vehicles along Balkins Drive (the street on which the Subject Property is located), resulting in an
10 unwanted increase in vehicle and foot traffic, which has had and continues to have a detrimental
11 impact on the character of the community and surrounding area. (*Id.*, ¶¶ 5-6.)

12 On or about August 21, 2019, the City sent additional correspondence to Defendants
13 addressing their questions about the AHMC violations and advised them of further violations at
14 the Subject Property. (Decl. Adeva, ¶ 14, Ex. 9.) The City informed Defendants that various
15 structures on the Subject Property (observed on Defendants' social media) were unpermitted.
16 (*Ibid.*) Specifically, the only building permits on file for the Subject Property were for: (i) a
17 residence with a garage; (ii) a swimming pool; (iii) a retaining wall; and (iv) a portion of a gate, a
18 pilaster, a walk-a-round and a mail center. (*Ibid.*)

19 Defendants were further advised that operation of churches, temples, and/or other places
20 used exclusively for religious worship, including related incidental educational and social
21 activities at the Subject Property, without a conditional use permit was a zoning violation
22 pursuant to AHMC §§ 9222.4(C). (*Ibid.*) Defendants, however, failed and/or refused to obtain
23 such a conditional use permit permitting such activities. (*Ibid.*) Defendants also failed and/or
24 refused to respond to the City's second request for a voluntary inspection. (*Ibid.*)

25 As a result of Defendants' failure to permit an inspection of the Subject Property, the City
26 obtained an inspection warrant on October 8, 2019, which it executed October 10, 2019. (*Id.*, ¶¶
27 15-16; Declaration of Building Official Amir Hamidzadeh ("Decl. Hamidzadeh"), ¶ 6.)
28

1 On or about November 19, 2019, a Return on Inspection Warrant was filed with the
2 Superior Court which contained reports from the City's Building and Safety Division, and
3 Planning Division. (Decl. Hamidzadeh, ¶ 8; Decl. Aveda, ¶ 20; Ex. 10.) The reports extensively
4 outline the numerous building, zoning, and other code violations found at the Subject Property.
5 (Decl. Hamidzadeh, ¶¶ 8-12; Decl. Aveda, ¶¶ 17-19, Ex. 10.)

6 Specifically, due to the Subject Property's location on a hillside (as defined in AHMC §
7 9652.12.B), Defendants were required to obtain a conditional use permit, site plan, and/or
8 architectural review prior to construction of the "Chapel with Cupola", the "Stable", and the
9 "Structure for Possible Pool Shade." (Decl. Aveda, ¶ 18.) In addition, prior to constructing a
10 "Brides' Cottage" on the Subject Property, Defendants failed and/or refused to obtain an oak tree
11 permit (due to the building's encroachment on a protected oak tree) and ministerial permit for an
12 accessory dwelling unit in violation of AHMC §§ 9283.1 and 9657.5. (*Ibid.*) Further, the
13 "Structure for Possible Pool Shade" also lacked a duly issued oak tree permit which is required
14 due to its encroachment on a protected oak tree (as required under AHMC § 9657.5), the
15 "Garage" on the Subject Property lacks required paved driveway access (in violation of AHMC §
16 9654.3.E.), and the "Stable" was constructed within thirty-five (35) feet of any street (in violation
17 of AHMC § 9224.1(E)). (*Ibid.*) Each of the aforementioned violations of the AHMC zoning code
18 at the Subject Property constitutes a public nuisance pursuant to AHMC §§ 1200(c) and 9842.
19 (*Id.*, ¶ 20.)

20 In addition to the above noted zoning violations, the "Chapel with Cupola" also lacks
21 requisite building and electrical permits as required under California Building Code ("CBC") §
22 105.1 (as amended under AHMC § 8103(g)) and CBC § 114.1 (as amended by AHMC §
23 8103(aa)); the "Brides' Cottage" lacks requisite building, electrical, mechanical, and plumbing
24 permits in violation of CBC § 105.1 (as amended under AHMC § 8103(g)), CBC § 114.1 (as
25 amended by AHMC § 8103(aa)), California Mechanical Code ("CMC") § 104.1, California
26 Plumbing Code ("CPC") § 104.1, and California Electrical Code ("CEC") § 110.2; two (2)
27 retaining walls, near the "Brides' Cottage" and the "Structure for Possible Pool Shade," require
28 building permits pursuant to CBC § 105.1 (as amended under AHMC § 8103(g)); and the

1 “Stables” lack requisite building, electrical, and plumbing permits pursuant to CBC § 105.1 (as
2 amended under AHMC § 8103(g)), CBC § 114.1 (as amended by AHMC § 8103(aa)), CPC §
3 104.1, and CEC § 110.2. (Decl. Hamidzadeh, ¶¶ 10-11.)

4 On or about November 26, 2019, the City issued a second Notice of Violations (the
5 “second NOV”) to Defendants. (Decl. Aveda, ¶ 19, Exhibit 11.) The second NOV summarized
6 the City’s findings and identified four (4) structures – a Chapel with Cupola, Brides’ Cottage
7 (with adjoining deck and two retaining walls), Stable, and Structure for Pool Shade – that were
8 constructed, altered and/or modified without requisite City, permits, inspections and/or approvals,
9 in violation of California Building Code² (“CBC”), California Mechanical Code (“CMC”), and
10 California Plumbing Code (“CPC”), as amended, and the AHMC. (*Ibid*; see also Decl.
11 Hamidzadeh, ¶¶ 10-11.)

12 The second NOV further identified the following violations of Article IX of the AHMC
13 (the City’s zoning code): a) operation of a unlawful commercial wedding venue; b) operation a
14 church, temple or other place used exclusively for religious worship, including related incidental
15 educational and social activities at the Subject Property without all requisite permits and
16 approvals; c) construction of the aforementioned four structures in a hillside area without first
17 obtaining a conditional use permit, an architectural plan review, and/or a construction site plan
18 review; d) housing animals within 35 feet of any street; e) failing to obtain a ministerial permit for
19 an Accessory Dwelling Unit; f) lack of paved driveway access at the Subject Property; and g)
20 construction within the protected zone of an oak tree without a valid oak tree permit. (Decl.
21 Aveda, ¶ 20.) Each of the aforementioned violations of the AHMC constitutes a public nuisance
22 pursuant to AHMC §§ 1200(c) and 9842. (*Ibid*.) Lastly, the second NOV again advised
23 Defendants that their operation of a commercial wedding venue at the Subject Property is
24 unlawful, and requested that Defendants cease advertising the Subject Property specifically for
25 that purpose. (*Id.*, ¶ 20-21.)

26
27
28 ² Pursuant to AHMC § 8100, the City has adopted the 2019 California Building, Electrical, Plumbing, and
Mechanical Codes, as amended in AHMC §§ 8103 and 8200-8203. (*See* Request for Judicial Notice (“RJN”), ¶¶ 22-
26, Ex. V, W, X, Y, and Z.)

1 In further efforts to obtain Defendants' voluntary compliance with the AHMC, the City
2 requested Defendants meet with City officials at City Hall on December 12, 2019 to discuss a
3 compliance timeline. (*Id.*, ¶ 22.) The second NOV advised Defendants they must either legalize
4 the unlawful structures or demolish them with a permit and a final inspection from the Building
5 and Safety Division. (*Ibid.*)

6 Subsequent to the issuance of the second NOV, Mr. Hamidzadeh determined that the
7 structures inspected at the Subject Property were in violation of additional sections the AHMC.
8 (Decl. Hamidzadeh, ¶ 12.) Defendants' failure and/or refusal to obtain the requisite building,
9 electrical, mechanical, and/or plumbing permits, render the aforementioned buildings and/or
10 structures substandard, unpermitted, unsafe, and/or dangerous pursuant to AHMC § 5604(7),
11 5604(9), and 5604(11), CBC § 111.1.1 (as amended by AHMC § 8103(u)) and CBC § 116.1 (as
12 amended by AHMC § 8103(cc)). (*Ibid.*) Further, maintenance of substandard, unpermitted, unsafe
13 and/or dangerous structures constitutes a public nuisance under CBC § 116.6 (as adopted by
14 AHMC § 8103(ee)) and AHMC §§ 1200(c), 5604 and 5605. (*Id.*, ¶¶ 12 -14, and 16.) As a result
15 of the aforementioned structural violation, and public nuisance conditions, the Subject Property is
16 rendered "substandard" pursuant to AHMC §§ 5605 (1), 5605 (13) and 5605 (16). (*Id.*, ¶ 15.)

17 On February 12, 2020, Defendants attended a meeting with City officials wherein
18 ***Defendants refused to cease operation of the commercial wedding venue at the Subject***
19 ***Property.*** (Decl. Aveda, ¶ 23.) However, Defendants did agree to submit a site plan/architectural
20 review permit application and an oak tree permit by April 15, 2020. (*Ibid.*) At the meeting
21 Defendants requested they be sent information regarding the permits and/or applications. (*Ibid.*)
22 Soon thereafter, the City mailed Defendants the permit applications, a master planning
23 application, and a planning department fee schedule. (*Id.*, ¶ 24, Ex. 12.) However, even after the
24 City provided Defendants with the aforementioned documents, Defendants failed and/or refused
25 to submit the permits and/or applications for City approval by April 15, 2020. (*Ibid.*)

26 On August 13, 2020, the City sent additional correspondence to Defendants regarding the
27 permits and/or applications requested at the February 12, 2020 meeting. (*Id.*, ¶ 25, Ex. 13.) The
28 City requested Defendants submit all permit and/or applications and fees by September 17, 2020.

1 (*Ibid.*) Defendants once again failed and/or refused to submit the requisite permits and/or
2 applications and fees. (*Ibid.*)

3 Despite exhaustive and repeated City effort to obtain voluntary compliance, Defendants
4 have failed and/or refused to undertake the actions necessary to abate the substandard, unsafe or
5 dangerous, unlawful, nonpermitted, unapproved, uninspected, and/or nuisance conditions at the
6 Subject Property, leaving the Subject Property a significant negative impact on the surrounding
7 properties as well as the character of the community. The City therefore moves for issuance of a
8 Preliminary Injunction compelling Defendants to comply with the AHMC and the City's
9 abatement orders.

10 III.

11 **A PUBLIC NUISANCE EXISTS AT THE SUBJECT PROPERTY**

12 **A. The Conditions At The Subject Property Constitute A Public Nuisance Under State** 13 **and Municipal Law.**

14 California Government Code sections 38771 through 38773.5 expressly authorize cities to
15 declare what constitutes a nuisance ["By ordinance the city legislative body may declare what
16 constitutes a nuisance"]. (See Request for Judicial Notice ("RJN,"), at ¶¶ 36-41, Ex. JJ, KK, LL,
17 MM, NN, and OO.) "A legislatively declared public nuisance constitutes a nuisance *per se* against
18 which an injunction may issue...." (*People ex rel. Department of Public Works v. Adco*
19 *Advertisers* (1973) 35 Cal.App.3d 507, 511.) The power of a city or state legislature to declare
20 certain uses of property a nuisance is well-settled, and "[a]s a nuisance *per se*, no proof beyond
21 the fact of the actual existence of the nuisance is required." (*City of Costa Mesa v. Soffer* (1992)
22 11 Cal.App.4th 378, 382, 385.)

23 Accordingly, the City of Agoura Hills has enacted, *inter alia*, the following regulation:
24 "[A]ny condition caused or permitted to exist in violation of any provisions of this Code shall be
25 deemed a public nuisance..." (AHMC § 1200(c); RJN, ¶ 1, Ex. A; Decl. of Hamidzadeh, ¶13.)³

27 ³ As extensively detailed herein, and more fully in the concurrently filed declarations, Defendants' violations of the
28 City's zoning code, maintenance of a substandard property, and maintenance of substandard, unpermitted, unsafe,
and/or dangerous buildings and/or structures, constitutes a public nuisance pursuant to AHMC § 5604 (RJN, at ¶ 2,
Ex. B; Decl. of Hamidzadeh, ¶¶ 15, 16); AHMC § 5605 (RJN, ¶ 3, Ex. C; Decl. of Hamidzadeh, ¶¶ 15, 16); AHMC §

1 Defendants' maintenance and/or use of unpermitted, uninspected and/or unapproved
2 structures and/or buildings in order to facilitate their operation of an unlawful commercial
3 wedding venue constitutes a public nuisance under the AHMC. Defendants failed and/or refused
4 to cease their operation of an unlawful business and failed and/or refused to obtain requisite
5 permits, inspections, and/or approvals to bring the Subject Property into compliance with the
6 AHMC. Despite numerous attempts by the City to obtain Defendants' compliance with local and
7 state law, Defendants persist in their failure and/or refusal to abate the public nuisance conditions
8 existing on the Subject Property including, but not limited to, the following:

- 9 1. Using the Subject Property without first obtaining all requisite permits and/or
10 approvals, including but not limited to a site plan review, a conditional use
11 permit, and/or an architectural review (in violation AHMC §§ 9223.8, 9652.5,
12 9652.10, 9673 et seq., 9677.1, and 9677.7);
- 13 2. Operating a commercial wedding venue on the Subject Property (in violation
14 of AHMC §§ 9222.1 et seq.);
- 15 3. Operating a church, temple and/or other place used exclusively for religious
16 worship, including related incidental educational and social activities, without
17 a duly issued conditional use permit (in violation of AHMC §§ 9222.4 and
18 9673 et seq.);
- 19 4. Encroaching into the protected zones of oak trees without a duly issued oak
20 tree permit (in violation of AHMC § 9657.5);
- 21 5. Maintaining, using, and/or occupying an accessory dwelling unit without a
22 duly issued ministerial permit for an Accessory Dwelling Unit (in violation of
23 AHMC § 9283.1);
- 24 6. Maintaining unpermitted and/or substandard buildings and/or structures on the
25 Subject Property (in violation of CBC §§ 105.1, 114.1, 116.1, and 111.1.1,
26

27 9842 (RJN, at ¶ 22, Ex. V; Decl. Adeva, ¶25); and CBC § 116.6. (as adopted by AHMC 8103(ee)) (RJN, ¶ 22, Ex. V;
28 Decl. of Hamidzadeh, ¶ 14).

CMC §104.1, CPC §104.1, CEC § 110.2 as amended, and AHMC §§ 5604(7), 5604(9), 5604(11), and 5619(a);

7. Maintaining unsafe or dangerous buildings and/or structures on the Subject Property (in violation of CBC §§ 116.1, 116.1(d), and 116.1(h) (as amended by AHMC § 8103(cc));
8. Maintaining a substandard property (in violation of AHMC §§ 5605(1), 5605(13) and 5605(16));
9. Maintaining an unpaved driveway at the Subject Property (in violation of AHMC § 9654.3.E);
10. Housing animals and/or fowl in a building or structure within thirty-five (35) feet of any street or structure designed for human habitation (in violation of AHMC § 9224.1(E)); and,
11. Otherwise maintaining or permitting conditions at the Subject Property which constitute a public nuisance (in violation of California Civil Code §§ 3479 and 3480, CBC §116.6 (as adopted under AHMC §8103(ee)), and AHMC §§ 1200(c), 5604, 5605 and 9842).

Each of these conditions/uses has been legislatively declared a public nuisance in accordance with the City's authority under the California Constitution and is subject to abatement.

B. Defendants' Persistent Maintenance of the Extensive Substandard and/or Unlawful Conditions at the Subject Property Constitute a Public Nuisance Pursuant to the Agoura Hills Municipal Code and California Law.

As set forth above, the concurrently filed Declarations of Ramiro Adeva, III, Amir Hamidzadeh, and Allen Tripolskiy document in detail the violations of the AHMC at the Subject Property, and such violations constitute nuisances *per se*, within the meaning of the AHMC.

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1 These conditions further constitute an active and continuing public nuisance under the
2 California Civil Code. Civil Code §3479, in pertinent part, defines a nuisance as,

3 [a]nything which is injurious to health...or is indecent or offensive to the senses,
4 or an obstruction of the free use of property, so as to interfere with the
5 comfortable enjoyment of life or property, or unlawfully obstructs the free
6 passage or use, in the customary manner...is a nuisance.

7 (RJN, ¶ 27, Ex. AA.) A “public” nuisance is one “which affects at the same time an entire
8 community or neighborhood, or any considerable number of persons, although the extent of the
9 annoyance or damage inflicted upon individuals may be unequal.” (Civil Code §3480; (RJN, ¶ 28,
10 Ex. BB.)

11 Defendants’ maintenance of unpermitted, uninspected, and/or unapproved buildings
12 and/or structures to facilitate their unlawful operation of a commercial wedding venue endangers
13 health, safety, and welfare of their unwitting patrons and the neighboring community at large.
14 Defendants’ “Cupola with Chapel”, “Brides’ Cottage”, and “Stable” are rife with electrical and
15 plumbing installations which were never permitted, inspected or approved. Improperly installed
16 electrical and/or plumbing equipment in a rural area increases the danger of fire, flood, and/or
17 electrocution. Further, Defendants’ failure and/or refusal to bring the Subject Property into
18 compliance of the AHMC has had, and continues to have, a detrimental impact on the character of
19 the community and the surrounding areas.

20 Defendants’ disregard for the City’s and the state’s permit, inspection and/or approval
21 process, in constructing, altering, and/or modifying structures and/or buildings at the Subject
22 Property, and the resulting unlawful operation of a commercial wedding venue, constitutes a
23 public nuisance under the Civil Code. As discussed above, the City made repeated efforts to
24 facilitate Defendants’ compliance, to no avail. Defendants have had more than ample opportunity
25 to bring the Subject Property into compliance with the local and state laws, yet they have patently
26 demonstrated that they are unwilling and/or unable to do so. The unlawful nuisance conditions
27 maintained by Defendants at the Subject Property unquestionably meet both the City and states’
28 definitions of a public nuisance and are therefore enjoined.

1 IV.

2 **DEFENDANTS SHOULD BE ENJOINED FROM MAINTAINING NUISANCE**
3 **CONDITIONS AT THE SUBJECT PROPERTY**

4 **A. A Preliminary Injunction Is Appropriate in This Instance To Abate the Nuisances**
5 **Under the Civil Code and the City' Municipal Code.**

6 The concurrently filed supporting declarations of the City's officials demonstrate that
7 *despite abundant opportunities to abate the nuisance conditions at the Subject Property,*
8 *Defendants have instead demonstrated that **they will not or cannot cease their unlawful conduct.***
9 Therefore, an injunction to enjoin the nuisance conditions is appropriate and necessary. An
10 appropriate injunctive order in this instance would enjoin Defendants from continuing to maintain
11 any condition on the Subject Property that violates the AHMC, the CBC, the CMC, and the CPC
12 adopted and/or amended by the City, or state law.

13 **B. The Court is Empowered with the Authority To Issue a Preliminary Injunction To**
14 **Abate a Public Nuisance.**

15 Civil Code section 3491 provides that a civil action is an appropriate remedy against a
16 public nuisance, and the City is authorized to bring such an action under Code of Civil Procedure
17 ("CCP") section 731. (See RJN, ¶¶ 29 and 35, Ex. CC and II) Further, CCP section 527(a) states
18 that "[a] preliminary injunction may be granted at any time before judgment upon a verified
19 complaint, or upon affidavits if the complaint in the one cause, or the affidavits in the other, show
20 satisfactorily that sufficient grounds exist therefor." (RJN, ¶ 32, Ex. FF.)

21 Because Superior Courts have original jurisdiction in all causes except those given by
22 statute to other trial courts, this Court has general equity jurisdiction to grant provisional and
23 injunctive relief. (See California Constitution, Article VI, § 10.) Moreover, a preliminary
24 injunction may be granted by the court in which the action is brought or by a judge thereof and
25 may likewise be enforced by an order of that court. (CCP § 525; RJN, ¶ 30, Ex. DD.)

26 A preliminary injunction may be granted when it appears that the party applying for relief
27 is entitled to the relief demanded, and all or part of the relief consists of restraining the
28 commission or continuance of the act complained of, or commanding certain conduct, either for a

1 limited period or perpetually. (CCP § 526(a)(1); RJN, ¶ 31, Ex. EE.) Here, Defendants rely on the
2 substandard, dangerous, unsafe, unpermitted, uninspected, and/or unapproved structures and/or
3 buildings to facilitate their operation of an unlawful commercial wedding venue on the Subject
4 Property. Since 2019, the City sought voluntary compliance from Defendants, and cessation of
5 this unlawful business, yet they continue to operate an unlawful business on the Subject Property,
6 with flagrant disregard for the countless citizens they place at risk.

7 **1. The City Need Only Prove a Reasonable Probability That Its**
8 **Arguments Will Prevail at Trial**

9 When a governmental entity, such as a city, seeks an injunction to enjoin a nuisance per
10 se, the traditional test, which balances the alleged harm to the parties and which is typically
11 utilized in a court's analysis of whether or not to issue a preliminary injunction, ***does not apply***.
12 (*IT Corporation v. County of Imperial* (1983) 35 Cal.3d 63, 70-71.)

13 With the traditional balancing test, the court would normally examine two areas: (1)
14 whether the plaintiff is likely to prevail on the merits at trial; and, (2) whether the plaintiff will
15 suffer more harm if the injunction is denied than the defendant will suffer if the injunction is
16 issued. ***In lieu of this traditional balancing test, a governmental entity need only prove a***
17 ***reasonable probability that its arguments will prevail at trial.*** That is, once the City establishes
18 that it is reasonably probable that it will prevail on the merits relating to the alleged violation of
19 law, a rebuttable presumption arises that the second prong of the test exists, i.e., that the potential
20 harm to the public outweighs the potential harm to the responding party. (*Id.*, at p. 71.) In line
21 with the presumption, it then becomes the defendant's burden to prove that he or she will suffer
22 "grave or irreparable harm" if the court issues a preliminary injunction. The court will perform the
23 balancing test for the relative actual harms to the parties **only if defendant is able to show such**
24 **harm** in court. (*Id.*, at p. 69.)

25 When a city seeks to abate a nuisance *per se* by a preliminary injunction, the court's
26 inquiry is limited to whether a violation exists. (*City and County of San Francisco v. Burton*
27 (1962) 201 Cal.App.2d 749, 756-757.) ***The actual illegal condition or use of the property is the***
28 ***only proof required to establish a public nuisance, and no proof of a harmful effect is***

1 *necessary where the conditions violate a law whose violation was declared by the city to be a*
2 *public nuisance. (See McClatchy v. Laguna Lands Ltd (1917) 32 Cal.App. 718, 725.)* In this
3 regard, the right of a municipality to declare certain conditions public nuisances has been upheld
4 as constitutional. (*City of Bakersfield v. Miller* (1966) 64 Cal.2d 93, 100.)

5 Here, City officials have observed and documented numerous and various unlawful
6 conditions existing at the Subject Property, in violation of the AHMC, including but not limited
7 to: (1) substandard, dangerous, unsafe, unpermitted, uninspected, and/or unapproved construction,
8 alteration, and/or modification of structures and/or buildings; and (2) operation of an unlawful
9 commercial wedding venue. Therefore, it is reasonably probable that the City will prevail on the
10 merits at trial on the matters alleged in its complaint, and as such a preliminary injunction should
11 issue.

12 **2. The City Need Not Allege Irreparable Harm**

13 Allegations of irreparable injury are not necessary to obtain an injunction against a
14 nuisance. (*L.A. Brick etc. Co vs. City of Los Angeles* (1943) 60 Cal.App.2d 478, 486.)
15 Accordingly, although Defendants' maintenance of the Subject Property with unlawful conditions
16 does in fact threaten irreparable harm to the public welfare – including, among other things,
17 substandard, dangerous, unsafe, unpermitted, uninspected, and/or unapproved construction,
18 alterations, and/or improvements – and that failure to ensure that the Subject Property complies
19 with AHMC does in fact threaten irreparable harm to public safety and welfare, the City need not
20 demonstrate that element in order to prevail on its request for a preliminary injunction.

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V.
CONCLUSION

Defendants' continuous violation of the laws of the City through their persistent maintenance of substandard, dangerous or unsafe, and/or otherwise unlawful conditions and uses at the Subject Property, in violation of the AHMC, constitutes a public nuisance under City and state law. The City has made numerous and repeated attempts to work with Defendants to obtain their voluntary compliance to abate the unlawful conditions. Defendants, however, have repeatedly and obstinately disregarded the City's requests, maintained the dangerous conditions for which they have repeatedly been warned, and moreover continue to show an unwillingness to comply with requests to abate the violations.

As such, the City respectfully requests that this Court protect the public safety and welfare by issuing a preliminary injunction against Defendants during the pendency of this action, prohibiting Defendants from continuing to maintain the Subject Property with such violations and requiring Defendants to take affirmative steps to bring the violations into compliance with state and local law.

Respectfully Submitted,

Dated: April 1, 2021

DAPEER, ROSENBLIT & LITVAK, LLP

By: 

William Litvak
Eric P. Markus
James Cunningham
Attorneys for Plaintiff
CITY OF AGOURA HILLS

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. At the time of service, I was over 18 years of age and not a party to this action. My business address is 11500 West Olympic Boulevard, Suite 550, Los Angeles, CA 90064.

On April 1, 2021 I served true copies of the following, described as, **PLAINTIFF'S NOTICE OF MOTION AND MOTION FOR ISSUANCE OF A PRELIMINARY INJUNCTION; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF** on the interested parties in this action, as follows:

Counsel for Defendants

Robert L. Scott
Scott & Associates
300 East Esplanade Dr., 9th FL
Oxnard, CA 93036
E: scott@civiccenter.com

BY ELECTRONIC TRANSMISSION – ONE LEGAL. I caused an electronic version of the documents to be submitted to the Superior Court of California and thereafter caused an electronic version to be served to the persons in the above service list via the litigation support service One Legal.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 1st day of April, 2021 at Los Angeles, California.


Miriam Gonzalez, Declarant



Make a Reservation

CITY OF AGOURA HILLS vs JAMES MAYFIELD, et al.

Case Number: 20VECV01312 Case Type: Civil Unlimited Category: Other Real Property (not eminent domain, landlord/tenant, foreclosure)

Date Filed: 2020-11-12 Location: Van Nuys Courthouse East - Department W

Reservation

Case Name:
CITY OF AGOURA HILLS vs JAMES MAYFIELD, et al.

Case Number:
20VECV01312

Type:
Motion for Preliminary Injunction

Status:
RESERVED

Filing Party:
City of Agoura Hills (Plaintiff)

Location:
Van Nuys Courthouse East - Department W

Date/Time:
04/29/2021 8:30 AM

Number of Motions:
1

Reservation ID:
149119750020

Confirmation Code:
CR-BV3YNDB2SS3YM7Z8U

Fees

Description	Fee	Qty	Amount
Motion for Preliminary Injunction *** Fees Exempted by Gov Code 6103.1 ***	60.00	1	0.00
TOTAL			\$0.00

Payment

Amount:
\$0.00

Type:
GOVT_EXEMPT

Account Number:
n/a

Authorization:
n/a

Print Receipt

Reserve Another Hearing