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**THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF WHATCOM**

CITY OF BELLINGHAM, a municipal
corporation,

Plaintiff,

v.

LI-CHING FANG,

Defendant.

NO. 24 2 00355 37

**COMPLAINT FOR WARRANT OF
ABATEMENT OF PUBLIC
NUISANCE AND FOR INJUNCTIVE
RELIEF**

LEE GROCHMAL

I. PARTIES AND JURISDICTION

1.1 Plaintiff, City of Bellingham ("City"), is a municipal corporation of the first class organized and existing under the laws of the State of Washington and doing business in Bellingham, Whatcom County, Washington.

1.2 Defendant, Li-Ching Fang, is the owner of the property located in Bellingham, Washington legally described as follows:

N 1/2 SE NW / Parcel No. 3803071973630000 ("Property")

1.3 This Court has jurisdiction over the parties because the Property is located in Whatcom County. Venue is proper in Whatcom County Superior Court.

1 **II. FACTUAL ALLEGATIONS**

2 2.1 Defendant, Li-Ching Fang, is prohibited from maintaining a nuisance
3 on her property, pursuant to the Bellingham Municipal Code and state law.

4 2.2 Unhoused persons have established a large encampment on the
5 Property. An estimated 50 to 150 unhoused persons are currently living on the
6 Property in the encampment. These unhoused persons are trespassing upon the
7 property. Many of them suffer from drug addiction as evidenced by the presence
8 of drugs and drugs paraphernalia on the Property.
9

10 2.3 On or about November 16, 2022, Zachary Miles, Code Enforcement
11 Officer for the City of Bellingham, inspected the Property. Officer Miles found that
12 the property was in violation of the City's Nuisance Code, Bellingham Municipal
13 Code ("BMC") 10.28.020, and state law under RCW 7.48. Officer Miles issued a
14 Notice of Violation (Notice) to the property owner on November 22, 2022. The
15 Notice identified numerous violations of the nuisance code. The overall condition
16 of the property annoys, injures, or endangers the safety, health, comfort, or repose
17 of the public; offends public decency; and renders the public insecure in life or in
18 the use of property.
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21 2.4 The Property is overrun with garbage, refuse, waste material, non-
22 operating motor vehicles, and litter. Over one hundred stolen shopping carts litter
23 the Property. The Property is unsafe, unsanitary, and detrimental to the
24 neighboring businesses and the public at large.
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1 2.5 Drug contaminated trash, litter, and garbage also contaminate the
2 Property and are a detriment to the health of nearby residents, businesses, and the
3 community at large.

4 2.6 The Property is subject to stringent environmental regulations as a
5 "critical area," as defined by BMC 16.55.510. Lower Spring Creek traverses the
6 Property from north to south and wetlands cover most of the Property. Garbage,
7 refuse, waste, drug contaminated materials, and human waste from the
8 encampment threaten to pollute this "critical area."
9

10 2.7 Substantial clearing of trees and vegetation occurred on the Property
11 without the necessary permits or approval of the City. Unhoused persons have cut
12 down trees to be used as firewood and for building materials. Additionally,
13 unhoused persons have erected unlawful structures of plywood and plastic on the
14 Property.
15

16 2.8 The Property lies directly to the east of the Tullwood Apartments.
17 Residents of the Tullwood Apartments encounter trash, litter, and garage
18 emanating from the Property on a daily basis. The apartment residents also endure
19 offensive odors of drug use and burning trash coming from the Property.
20

21 2.9 The Property lies southeast of the Bellingham Wal-Mart. Wal-Mart
22 employees similarly encounter trash, litter, and garage being dumped on to Wal-
23 Mart property from the Property on a daily basis. As the encampment on the
24 Property has grown over time, theft and other property crimes have increased at
25 the nearby Wal-Mart.
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1 2.10 The Bellingham Municipal Code 10.28 outlines the process for the
2 City to declare properties a public nuisance. The City followed that process by
3 notifying Defendant by letter at her listed address on the Assessor's website and
4 email on November 22, 2022, that her property was declared a nuisance. The
5 Defendant's brother-in-law, who identified himself only as Albert, acknowledged
6 receipt of the letter. Albert explained that the Defendant cannot communicate in
7 English, and he stated he could communicate with the City on the Defendant's
8 behalf.
9

10 2.11 The Defendant was given seven (7) days to abate the nuisance on
11 her property or appeal the nuisance declaration pursuant to BMC 10.28.030. The
12 Defendant failed to take any steps to abate the nuisance or appeal the notice of
13 violation within seven days. The Defendant has taken no steps to abate the
14 nuisance since that time.
15

16 2.12 Conditions on the property have deteriorated further since the notice
17 in 2022. Three unhoused persons trespassing on the property have died from
18 opioid overdoses. Law enforcement agencies were called out to the property 236
19 times between June 1, 2021 and October 31, 2023. 45 arrests were made at the
20 Property during that timeframe. Law enforcement agencies also executed a search
21 warrant on the Property on August 31, 2023, and discovered four firearms, drugs,
22 and 13 dogs. Body worn camera footage from the execution of the search warrants
23 reveals the nuisance issues from Officer Mile's Notice remain and have not been
24 abated.
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1 2.13 On November 15, 2023, the City notified the Defendant that the
2 nuisance on her property had gotten worse and that she needed to take prompt
3 action to abate the nuisance. The City mailed a copy of the letter in Mandarin, as
4 requested by her brother-in-law, and enclosed a copy of Notice of Violation dated
5 November 22, 2022, in Mandarin.
6

7 2.14 On November 29, 2023, Albert again contacted the City on behalf of
8 the Defendant. Albert stated during a meeting on December 1, 2023, that the
9 Defendant authorized him to take steps to abate the nuisance, as required.
10 However, no clean-up has occurred to this date.
11

12 **III. CAUSES OF ACTION**

13 **A. Writ of Abatement, Lien and Costs**

14 3.1 The City realleges and incorporates by reference the allegations set
15 forth in paragraphs 1.1 through 2.14 above.
16

17 3.2 Pursuant to the state constitution, the City is empowered to make and
18 enforce police and sanitary regulations in the City.

19 3.3 Pursuant to RCW 35.22.280(30), the City is empowered to declare
20 what shall be a nuisance and abate the same.

21 3.4 The City declared what a public nuisance is in BMC 10.28 et. seq.
22 BMC 10.28.020 prohibits public nuisances. BMC 10.28.020 empowers the City to
23 abate a public nuisance.
24

25 3.5 RCW 7.48 et. seq. provides that the City is entitled to judgment
26 against a property owner who maintains a public nuisance and a warrant of
27 abatement to abate the public nuisance.
28

1 3.6 Pursuant to BMC Section 10.28.020, a public nuisance is defined as
2 permitting conditions that annoy, injure, or endanger the safety, health, comfort, or
3 repose of the public; offend public decency; and renders the public insecure in life
4 or in the use of property. Specific instances of public nuisances are identified in
5 BMC 10.28.030.
6

7 3.7 The City has no other adequate remedy at law, and the issues
8 presented in this action frame an actual and existing controversy between the
9 parties.
10

11 3.8 The condition of the Property constitutes a nuisance under BMC
12 10.28.020 because it annoys, injures and endangers the safety, health, comfort
13 and repose of the public. The condition of the property also offends public decency.
14 Finally, the condition of the property has rendered the public insecure in the life and
15 the use of their property.
16

17 3.9 The condition of the Property violates numerous provisions of the
18 BMC. These violations include:
19

20 **Title 10 – Criminal Code**

21 *BMC 10.28.020(D)* - Storage of non-operating motor vehicle visible from a public
22 place

23 *BMC 10.28.020(U)* - The release of offensive orders, noises, or substances, except
24 those which are permitted by law, which unreasonably disturb, or which are
25 detrimental to the health or safety of, the persons rising or working nearby, or the
26 public

27 *BMC 10.60.120* - Deposit of litter on private property prohibited

28 *BMC 10.60.130* - Property owner's duty to keep premises litter-free

BMC 10.60.140 – Deposit of litter on vacant lots prohibited

Title 16 – Environment

BMC 16.55.00(A) – No clearing or removal of vegetation in critical areas

BMC 16.60.080(A)(1) – No clearing or removal of vegetation on undeveloped
parcels.

1 3.10 Pursuant to BMC 10.28.030, BMC 16.60.090, and
2 Chapter 7.48 RCW, the City is entitled to the issuance of a Warrant of Abatement,
3 authorizing the City to enter Defendant's property located N 1/2 SE NW / Parcel
4 No. 3803071973630000, Bellingham, Washington, by force if necessary, and abate
5 the nuisances by any means necessary. Without limiting the generality of the
6 foregoing, the Order of Abatement shall authorize the City and its contractors to
7 enter the property to remove the illegal encampment, including: removal of
8 trespassers; removal and immediate disposal of all personal property, garbage,
9 waste, and contaminated soils; removal of non-operating vehicles; and the
10 placement of clean soils and revegetation.

11 **B. Injunctive Relief**

12 3.6 The City realleges and incorporates by reference the allegations set
13 forth in paragraphs 1.1 through 3.10 above.

14 3.7 Pursuant to Chapter 7.40.020 RCW, this court may issue an
15 injunction to prohibit Defendant from creating or maintaining a nuisance on her
16 properties.

17 3.8 The City is entitled to such an injunction to ensure Defendant's
18 properties remain free of any nuisances.

19 **IV. PRAYER FOR RELIEF**

20 WHEREFORE, Plaintiff prays for judgment against Defendant as follows:

21 4.1 That the Defendant be permanently enjoined and restrained from
22 maintaining the above-described nuisance conditions on the property under his
23

1 ownership and/or control located at N 1/2 SE NW / Parcel No. 3803071973630000,
2 Bellingham, Washington.

3 4.2 For a Warrant of Abatement issued to the City or its sub-contractor,
4 authorizing the City and/or its sub-contractor to enter onto the premises of N 1/2
5 SE NW / Parcel No. 3803071973630000, Bellingham, Washington, by force if
6 necessary, to abate the nuisances. The City requests that the Warrant of
7 Abatement order the Defendant to refrain from any conduct which might deter or
8 interfere with the efforts of the City or its sub-contractor in so entering and abating
9 the nuisance, and order the City to take all measures reasonable and necessary to
10 abate the nuisances. The City further requests that the Warrant of Abatement
11 authorize: removal of trespassers; removal and immediate disposal of all personal
12 property, garbage, waste, and contaminated soils; and the placement of clean soils
13 and revegetation.

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16 4.3 For an order declaring Defendant legally responsible and liable for,
17 and hold harmless, indemnify and defend the City from all aspects of the
18 ownership, repair, construction and maintenance of Defendant's property while the
19 Court order is in effect, including but not limited to claims or liabilities for
20 construction or other costs required to abate the nuisance, claims for breach of
21 abatement contracts, utilities, maintenance, taxes, or any other costs or liabilities
22 which have or may become due in relation to Defendant's property, to the same
23 extent as if such declaration had not been entered, which responsibilities shall be
24 completely carried out in a timely manner by Defendant.
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