

1. PEOPLE, ET AL. v. FRAGRANICE INC., 24CV2330**Petition for Order to Abate Substandard Building and Appoint Receiver**

The City of South Lake Tahoe seeks the appointment of a receiver, Dean J. Pucci, under Health and Safety Code section 17980.7, subdivision (c) to abate nuisance and substandard conditions at the real property commonly known as 2659 Lake Tahoe Boulevard in South Lake Tahoe, California (the “Property”).

1. Factual Background

Over the last several years, the Property (which was previously an active hotel known as the Sunray Hotel) has slipped into disrepair documented by violations showing that the building is a substandard structure and has become a nuisance.

In December 2021, the City inspected the Property and found several conditions violating the Health and Safety Code, California Building Code, California Fire Code, California Plumbing Code, and International Property Maintenance Code, including: (1) dangerous conditions within the parking lot related to snow removal creating a hazard; (2) fire hazards related to faulty electrical systems; (3) lack of potable water, including a lack of hot water in units; and (4) the existence of unpermitted construction, as stairs were found to have been altered without obtaining necessary permits. (Thomas Decl., ¶ 6.)

On December 20, 2021, the City issued its first notice and order to repair or abate under Health and Safety Code section 17980.6. (Thomas Decl., ¶ 6 & Ex. 2.) In March 2022, the City performed another inspection and identified additional other violations, including the presence of faulty electrical systems, unpermitted work, unsafe or failing decking, railings, and stairwells, and various other conditions. (Thomas Decl., ¶ 7.) As a result of this inspection, the City issued a second notice and order to repair or abate on March 11, 2022. (Thomas Decl., ¶ 7 & Ex. 3.) The notice stated that if the owner (Fragranice, Inc., hereinafter referred to as “respondent”) failed to commence repairs

within 30 days, the City may issue citations, or pursue civil injunctions, penalties, or the appointment of a receiver. (Thomas Decl., Ex. 3.)

Thereafter, the City performed further inspections of the Property and issued citations and fees in its efforts to compel respondent to abate the substandard conditions. (Thomas Decl., ¶¶ 8–10 & Exs. 6–9.)

By October 2022, the Property was finally vacated and secured and no longer did it appear that there were persons occupying substandard units for residential purposes. The City informed respondent in writing that, as a vacant building, the Property was now subject to the requirements of South Lake Tahoe City Code (“SLTCC”) Chapter 4.65 regarding abandoned and vacant boarded-up structures. (Thomas Decl., ¶ 11 & Ex. 10.) In 2023 and 2024, the City imposed administrative penalties for violations of SLTCC Chapter 4.65. (Thomas Decl., ¶¶ 12–13 & Exs. 12–16.) The total administrative citations and fees imposed total \$51,032. (Thomas Decl., ¶ 20.)

On July 26, 2024, the City issued its third notice and order pursuant to Health and Safety Code section 17980.6, listing 54 separate code violations found by the City. (Thomas Decl., ¶ 16 & Ex. 18.) The notice and order required respondent to contact the City within 14 days with a plan to correct the alleged violations and thereafter timely pursue abatement efforts to completion. (Thomas Decl., Ex. 18.) The City posted the notice in conspicuous places around the Property. (Chapman Decl., ¶ 4 & Ex. 22.)

On August 7, 2024, a representative for respondent sent the City a renovation plan; however, the City determined that said plan was insufficient. (Bardzell Decl., ¶ 6.) On August 26, 2024, after a few rounds of revisions and extensions, the City accepted a revised renovation plan from respondent. (Thomas Decl., ¶ 18; Bardzell Decl., ¶¶ 14–15 & Ex. 32.) The City informed respondent that the City would postpone the filing of the instant petition to allow respondent to comply with its renovation plan. (Bardzell Decl., ¶ 15.) In a written letter to respondent, however, the City noted, “time is of the essence. If your client misses deadlines, the City will interpret such failure as an inability on your

client’s behalf to proceed with the necessary rehabilitation work. Please be aware that the City maintains its right to file its petition if your client fails to meet any of their deadlines.” (Bardzell Decl., ¶ 15 & Ex. 33.)

At the end of September 2024, respondent failed to meet a deadline on its renovation plan, as it failed to submit a Design Review application for the City to review and process. (Thomas Decl., ¶ 19; Bardzell Decl., ¶ 17.)

On October 15, 2024, the City served respondent, as well as additional persons with a potential interest in the Property (i.e., South Tahoe Public Utility District and South Lake Tahoe Recreation Facilities JPA), with a Health and Safety Code section 17980.7 pre-petition notice of its intent to file a receivership action after 72 hours; and posted the same on the Property in conspicuous locations around the Property. (Bardzell Decl., ¶ 21; Chapman Decl., ¶ 5 & Ex. 23.) On October 21, 2024, the City filed the instant petition.

2. Discussion

When a building is maintained in a manner that violates state or local building maintenance regulations and “the violations are so extensive and of such a nature that the health and safety of residents or the public is substantially endangered” (Health & Saf. Code, § 17980.6), the local enforcement agency may issue a notice and order requiring repair or abatement of the unlawful conditions. (*City of Santa Monica v. Gonzalez* (2008) 43 Cal.4th 905, 919–920.) If the owner of the building thereafter fails to comply with the notice and order in a reasonable period of time, the enforcement agency can seek an order from the trial court appointing a receiver to oversee compliance. (*Id.* at p. 921.)

“In appointing a receiver, the court shall consider whether the owner has been afforded a reasonable opportunity to correct the conditions cited in the notice of violation.” (Health & Saf. Code, § 17980.7, subd. (c)(1).) “The court shall not appoint any person as a receiver unless the person has demonstrated to the court their capacity and expertise to develop and supervise a viable financial and construction plan for the satisfactory rehabilitation of the building.” (Health & Saf. Code, § 17980.7, subd. (c)(2).)

On July 26, 2024, the City issued its third notice and order pursuant to Health and Safety Code section 17980.6, listing 54 separate code violations found by the City. The notice and order required respondent to contact the City within 14 days with a plan to correct the alleged violations and thereafter timely pursue abatement efforts to completion. The notice and order appears on its face to comply with the statutory requirements, and respondent does not contend otherwise.

On August 7, 2024, a representative for respondent sent the City a renovation plan; however, the City determined that said plan was insufficient. (Bardzell Decl., ¶ 6.) On August 26, 2024, after a few rounds of revisions and extensions, the City accepted a revised renovation plan from respondent. (Thomas Decl., ¶ 18; Bardzell Decl., ¶¶ 14–15 & Ex. 32.) The City informed respondent that the City would postpone the filing of the instant petition to allow respondent to comply with its renovation plan. (Bardzell Decl., ¶ 15.) In a written letter to respondent, however, the City noted, “time is of the essence. If your client misses deadlines, the City will interpret such failure as an inability on your client’s behalf to proceed with the necessary rehabilitation work. Please be aware that the City maintains its right to file its petition if your client fails to meet any of their deadlines.” (Bardzell Decl., ¶ 15 & Ex. 33.)

At the end of September 2024, respondent failed to meet a deadline on its renovation plan, as it failed to submit a Design Review application for the City to review and process. (Thomas Decl., ¶ 19; Bardzell Decl., ¶ 17.)

In its opposition to the instant petition, respondent indicates it has agreed to demolish the improvements on the Property.¹ (Opp. at 1:23–24.) As such, respondent urges the court not to appoint a receiver, and instead, allow respondent to accomplish the demolition. Respondent states it has completed the required surveys and environmental analysis and applied for TRPA approval. According to respondent, all of the activity being

¹ It is unclear to the court whether respondent has agreed to demolish the entire structure(s) on the Property.

carried out by respondent would need to be redone by an appointed receiver. Additionally, given weather restrictions, respondent claims that the demolition of the main structures cannot begin until at least May 1, 2025, no matter who is seeking to carry it out.

The court is not persuaded by respondent's arguments. The court finds that respondent has been afforded a reasonable opportunity to correct the conditions cited in the July 26, 2024, notice and order to repair or abate. Not only had respondent previously received numerous communications, citations, and fees from the City, but further, respondent submitted its own renovation plan and failed to meet its own deadlines. Therefore, the court finds it appropriate to appoint a receiver at this time.

Having reviewed the declaration and resume of the proposed receiver, the court finds that Mr. Pucci has demonstrated his capacity and expertise to develop and supervise a viable financial and construction plan for the satisfactory rehabilitation (or demolition) of the building. (See Pucci Decl., Ex. 59.)

Lastly, the City requests attorney fees and costs related to this enforcement proceeding under Health and Safety Code section 17980.7, subdivision (c)(11). However, the court presently does not have enough information to evaluate the City's claim.

TENTATIVE RULING # 1: THE PETITION IS GRANTED. THE COURT APPOINTS DEAN J. PUCCI TO ACT AS RECEIVER OVER THE PROPERTY. NO HEARING ON THIS MATTER WILL BE HELD (*LEWIS v. SUPERIOR COURT* (1999) 19 CAL.4TH 1232, 1247), UNLESS A NOTICE OF INTENT TO APPEAR AND REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY TELEPHONE TO THE COURT AT (530) 573-3042 BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. NOTICE TO ALL PARTIES OF AN INTENT TO APPEAR MUST BE MADE BY TELEPHONE OR IN PERSON. PROOF OF SERVICE OF SAID NOTICE MUST BE FILED PRIOR TO OR AT THE HEARING.

2. HIRSCHFELD v. AGUILA-SANCHEZ, 24CV2645

Petition to Confirm Arbitration Award

TENTATIVE RULING # 2: ABSENT OBJECTION, PETITION IS GRANTED AS REQUESTED. PETITIONER IS DIRECTED TO SUBMIT THE PROPOSED ENTRY OF JUDGMENT FOR THE COURT'S APPROVAL. NO HEARING ON THIS MATTER WILL BE HELD (*LEWIS v. SUPERIOR COURT* (1999) 19 CAL.4TH 1232, 1247), UNLESS A NOTICE OF INTENT TO APPEAR AND REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY TELEPHONE TO THE COURT AT (530) 573-3042 BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. NOTICE TO ALL PARTIES OF AN INTENT TO APPEAR MUST BE MADE BY TELEPHONE OR IN PERSON. PROOF OF SERVICE OF SAID NOTICE MUST BE FILED PRIOR TO OR AT THE HEARING.

3. GABLER v. SOUTH LAKE TAHOE PUBLIC UTILITY DISTRICT, 23CV1396

Request to Further Continue Hearing on Demurrer and Motion to Strike

TENTATIVE RULING # 3: THE MOTION IS GRANTED. THE HEARING ON THE PENDING DEMURRER AND MOTION TO STRIKE IS CONTINUED TO 1:30 P.M., FRIDAY, APRIL 25, 2025, IN DEPARTMENT FOUR. NO HEARING ON THIS MATTER WILL BE HELD (*LEWIS v. SUPERIOR COURT* (1999) 19 CAL.4TH 1232, 1247), UNLESS A NOTICE OF INTENT TO APPEAR AND REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY TELEPHONE TO THE COURT AT (530) 573-3042 BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. NOTICE TO ALL PARTIES OF AN INTENT TO APPEAR MUST BE MADE BY TELEPHONE OR IN PERSON. PROOF OF SERVICE OF SAID NOTICE MUST BE FILED PRIOR TO OR AT THE HEARING.

4. PEOPLE v. \$144,568.00 UNITED STATES CURRENCY, 24CV2416**Petition for Forfeiture**

On October 16, 2024, the People filed a Health and Safety Code section 11488.4, subdivision (a) petition for civil forfeiture against \$144,568.00 in United States Currency.

The matter was continued from December 20, 2024, because there was no proof of publication in the court's file, as required under Health and Safety Code section 11488.4, subdivision (e). Following the hearing, the People submitted proof of publication.

However, there still appears to be a notice issue. Pursuant to Health and Safety Code section 11488.4, subdivision (c), the Attorney General or district attorney shall make service of process regarding this petition upon every individual designated in a receipt issued for the property seized. (Health & Saf. Code, § 11488.4, subd. (c).) Additionally, the Attorney General or district attorney shall cause a notice of the seizure, if any, and of the intended forfeiture proceeding, as well as a notice stating that any interested party may file a verified claim with the superior court of the county in which the property was seized to be served by personal delivery or by registered mail upon any person who has an interest in the seized property other than persons designated in a receipt issued for the property seized. (Health & Saf. Code, § 11488.4, subd. (c).)

Based on the court records from the underlying criminal cases (El Dorado County Case Nos. 24CR2262 and 24CR2262B), there appear to be two real parties-in-interest. The first real party-in-interest, Josue Ivan Roldanlopez, is currently represented by counsel. However, the proof of service indicates that the petition was served upon Mr. Roldanlopez by mail only to an address in Florida. Additionally, the proof of service does not indicate that the notice was accompanied by a claim form, as described in Health and Safety Code section 11488.5, or directions for the filing and service of a claim. (Health & Saf. Code, § 11488.4, subd. (c).)

There is no proof of service for the second real party-in-interest, Kevin Patrick McHugh.

TENTATIVE RULING # 4: APPEARANCES ARE REQUIRED AT 1:30 P.M., FRIDAY, JANUARY 10, 2025, IN DEPARTMENT FOUR.