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IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF CLACKAMAS

CLACKAMAS COUNTY, a political
subdivision of the State of Oregon,

Plaintiff,

v.

KALUGA, LLC, an Oregon limited
liability company,

Defendants.

Case No.

COMPLAINT

Public Nuisance; Chronic Nuisance

Claim not subject to mandatory
arbitration; Fees Waived ORS 20.140

Jury trial requested

COMES NOW the plaintiff, Clackamas County, a political subdivision of the State of Oregon, alleging as follows:

1.

Plaintiff is a county in the State of Oregon and by authority of ORS 203.035 has enacted the Clackamas County Code (the "CCC"), which contains ordinances that are applicable within the boundaries of the County.

2.

Defendant Kaluga, LLC ("Kaluga") owns a property interest in the real property that is the subject of this action. Kaluga is a resident of Clackamas County, Oregon, with a principal place of business at 29450 SE Lariat Lane, Boring, Oregon. The property owned by Kaluga that is the subject of this action is commonly known as 29450 SE Lariat Ln., and 29444 SE Lariat Ln., this property is as described in Clackamas County deed 2018-041863 (the "Property").

1 3.

2 ORS 30.315 permits counties to maintain civil proceedings in courts of this state
3 against any person or property to enforce requirements or prohibitions of its ordinances or
4 resolutions when it seeks to require or enjoin the performance of an act affecting real
5 property, to enjoin continuance of a violation that has existed for 10 days or more, or to
6 enjoin further commission of a violation that otherwise may result in additional violations of
7 the same or related provisions.

8 4.

9 ORS 203.065(2) provides that, "The violator of a county ordinance may be made the
10 defendant in a civil proceeding by the county seeking redress of the violation."

11 **FIRST CLAIM FOR RELIEF**

12 (Public Nuisance)

13 5.

14 Plaintiff realleges paragraphs 1-4 above.

15 6.

16 Since on or about February 20, 2020, and continuing to the present time, there have
17 been numerous and repeated activities occurring on the Property that amount to public
18 nuisances. During this time, the Residents have caused a public nuisance by intentionally,
19 negligently, or recklessly participating in or allowing certain activities to occur on the
20 Property, which substantially and unreasonably interfere with the public's right to health,
21 safety, and well-being. These activities include, but are not limited to the following:

- 22 a. Currently permitting unauthorized uses including: commercial events, activities
- 23 and uses such as rodeos, dances, weddings, an outdoor arena trail course,
- 24 outdoor and indoor concerts, installation and operation of a campground with full
- 25 recreational vehicle hookups, dry camping, new year's eve party event, markets,
- 26 shows and festivals continue on the Property that exceed the authorization

1 applied to this site by the conditional use permit Z0829-81 in violation of the CCC,
2 Sections 12.316.030, 12.709.02, 12.1203.03, and 12.1307.15;

3 b. Currently permitting construction and occupancy changes to the arena building on
4 the Property including ballroom, food preparation areas, bathrooms, café, second
5 story remodeling, gym, storage area, brides' room, conference room, electrical
6 installations, mechanical systems installations, and plumbing installations all
7 without the benefit of permits and inspections in violation of the CCC, Section
8 9.02.040(A-D).

9 c. Currently permitting construction and occupancy changes to the west barn
10 building on the Property including an event venue, bathroom, electrical
11 installations, mechanical systems installations, and plumbing installations all
12 without the benefit of permits and inspections in violation of the CCC, Section
13 9.02.040(A-D).

14 d. Currently permitting construction of the greenhouse structure and installation of
15 electrical, mechanical systems, and plumbing without permits and inspections in
16 violation of the CCC, Section 9.02.040(A-D).

17 e. Currently permitting construction of the lookout deck cargo container structure
18 and installation of electrical without permits and inspections in violation of the
19 CCC, Section 9.02.040(A, D).

20 f. Currently permitting construction of the trestle bridge structure and used for a
21 commercial purpose without permits and inspections in violation of the CCC,
22 Section 9.02.040(A).

23 g. Currently permitting construction of the viewing platform structure and used for a
24 commercial purpose without permits and inspections in violation of the CCC,
25 Section 9.02.040(A).

26

- 1 h. Permitting a concert at the Property on March 16, 2024, during which a stabbing
2 occurred, the commission of which constitutes a misdemeanor in violation of ORS
3 163.160, or a felony in violation of ORS 163.165, 163.175, or 163.185.
- 4 i. Permitting mistreatment of an animal at the Property on March 29, 2024, the
5 commission of which constitutes a misdemeanor in violation of ORS 167.315, or a
6 felony in violation of ORS 167.320.

7 7.

8 There is no adequate remedy at law for the actions of the Defendant. Defendant
9 refuses to correct its behavior and has failed to take any action to prevent, remedy, or stop
10 the ongoing nuisance activities that are occurring on the Property, despite the County's
11 efforts to get Defendant to stop their violations of the CCC.

12 **SECOND CLAIM FOR RELIEF**

13 (Chronic Nuisance)

14 8.

15 Plaintiff realleges paragraphs 1 - 7 above.

16 9.

17 CCC §6.08.010 provides that any person who permits property under his ownership,
18 possession or control to be a chronic nuisance property, violates CCC Chapter 6.08. A
19 chronic nuisance property is a property on which three (3) or more nuisance activities exist
20 or have occurred during any sixty (60) day period, or where twelve (12) nuisance activities
21 exist or have occurred during any twelve (12) month period. Under CCC §6.08.020,
22 nuisance activities include but are not limited to the following activities, behaviors, or
23 conduct:

- 24 a. Any activity on the Property, the commission of which constitutes a misdemeanor
25 or felony criminal offence, even if criminal charges have not been issued or a
26 criminal case is pending but not yet resolved;

- 1 b. Noise violations as prohibited in CCC §6.02.010 through 6.02.070;
- 2 c. Arrests for criminal activity or based on a warrant of any kind;
- 3 d. Ordinance or code violations, including by not limited to violations of the solid
4 waste ordinance, where the violations appear to a sworn law enforcement officer
5 or duly authorized code enforcement officer to be reasonably likely to pose a
6 threat to the health or safety of occupants or neighbors of the property or to the
7 public a large; and
- 8 e. Illegal occupation, camping, or squatting by individuals without authority or right to
9 be on the property;

10 10.

11 Defendant has allowed for a chronic nuisance property and caused violations of CCC
12 §6.08.020(D), (G) in that between March 16, 2024, and March 29, 2024, there were at least
13 three (3) nuisance activities, if not more, occurring on the property. Amongst those
14 nuisance activities three have been ongoing and continuous in nature and, in addition, there
15 have been numerous other single nuisance activity occurrences. There were three or more
16 nuisance activities within a sixty-day period on several occasions between March 16, 2024,
17 and March 29, 2024. Such activities and the dates of their occurrences include, but are not
18 limited to:

- 19 a. Currently permitting unauthorized uses including: commercial events, activities
20 and uses such as rodeos, dances, weddings, an outdoor arena trail course,
21 outdoor and indoor concerts, installation and operation of a campground with full
22 recreational vehicle hookups, dry camping, new year's eve party event, markets,
23 shows and festivals continue on the Property that exceed the authorization
24 applied to this site by the conditional use permit Z0829-81 in violation of the CCC,
25 Sections 12.316.030, 12.709.02, 12.1203.03, and 12.1307.15;

- 1 b. Currently permitting construction and occupancy changes to the arena building on
2 the Property including ballroom, food preparation areas, bathrooms, café, second
3 story remodeling, gym, storage area, brides' room, conference room, electrical
4 installations, mechanical systems installations, and plumbing installations all
5 without the benefit of permits and inspections in violation of the CCC, Section
6 9.02.040(A-D).
- 7 c. Currently permitting construction and occupancy changes to the west barn
8 building on the Property including an event venue, bathroom, electrical
9 installations, mechanical systems installations, and plumbing installations all
10 without the benefit of permits and inspections in violation of the CCC, Section
11 9.02.040(A-D).
- 12 d. Currently permitting construction of the greenhouse structure and installation of
13 electrical, mechanical systems, and plumbing without permits and inspections in
14 violation of the CCC, Section 9.02.040(A-D).
- 15 e. Currently permitting construction of the lookout deck cargo container structure
16 and installation of electrical without permits and inspections in violation of the
17 CCC, Section 9.02.040(A, D).
- 18 f. Currently permitting construction of the trestle bridge structure and used for a
19 commercial purpose without permits and inspections in violation of the CCC,
20 Section 9.02.040(A).
- 21 g. Currently permitting construction of the viewing platform structure and used for a
22 commercial purpose without permits and inspections in violation of the CCC,
23 Section 9.02.040(A).
- 24 h. Permitting a concert at the Property on March 16, 2024, during which a stabbing
25 occurred, the commission of which constitutes a misdemeanor in violation of ORS
26 163.160, or a felony in violation of ORS 163.165, 163.175, or 163.185.

1 i. Permitting abuse of an animal at the Property on March 29, 2024, the commission
2 of which constitutes a misdemeanor in violation of ORS 167.315, or a felony in
3 violation of ORS 167.320.

4 11.

5 Defendant's activities, behaviors, and conduct have allowed for and caused
6 violations of CCC §6.08.010 as described above in paragraph 10.

7 12.

8 There is no adequate remedy at law for the actions of Defendant. Defendant refuses
9 to correct their behavior and have failed to take any action to prevent, remedy, or stop the
10 ongoing nuisance activities that are occurring on the Property, despite the County's efforts
11 to compel Kaluga to stop the nuisance activities.

12 13.

13 Pursuant to CCC §6.08.040(C), if this Court determines the Property to be a chronic
14 nuisance property, the Court can order the Property be immediately closed and secured
15 against all unauthorized access, use and occupancy for a period of not less than six (6)
16 months, nor more than one (1) year.

17 14.

18 Pursuant to CCC §6.08.040(C), if this Court determines the Property to be a chronic
19 nuisance property, the Court may impose any other remedy that the Court deems
20 appropriate considering the circumstances.

21 15.

22 Pursuant to CCC §6.08.070(B), if this Court authorizes the County to secure the
23 Property the County shall be entitled to recover its costs incurred in securing the Property
24 from the owner(s) of the Property or the persons in charge of the Property.

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16.

Pursuant to CCC §6.08.090 the Court may in its discretion award attorney fees to the prevailing party.

17.

Plaintiff requests a jury trial.

WHEREFORE, Plaintiff prays that this court enter a judgment in its favor declaring:

- 1. That Defendant has caused or allowed a public nuisance to occur on the Property.
- 2. That Defendant has caused or allowed for a chronic nuisance property.
- 3. That Defendant is enjoined from committing any of the unlawful activities described in this Complaint.
- 4. That the Property be immediately closed and secured at defendants' expense against all unauthorized access, use, and occupancy for a period of not less than six (6) months, nor more than one (1) year pursuant to CCC 6.08.040C.
- 5. That Defendant take reasonable steps to secure the Property from unauthorized use.
- 6. That Plaintiff is awarded its costs, attorney fees and disbursements incurred herein and for such further relief as may appear just and proper in the circumstances.

Dated this 16th day of April, 2024.

STEPHEN L. MADKOUR
CLACKAMAS COUNTY COUNSEL

s/ Jeffrey D. Munns

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