

3. Defendant Bhunashavari, owner of Town Inn, is a limited liability corporation residing and doing business in Tarrant County, Texas. It may be served and service of process is requested by personal delivery, to its manager and registered agent for process Rimesh Patel, of citation with a copy of this petition attached thereto at **3020 E. Abrams, Arlington, Texas 76010.**

4. Defendant Town Inn Motel is a parcel of real estate located in Tarrant County, Texas. The State of Texas brings this suit *in rem*, (as allowed under Section 125.002(b) of Texas Civil Practice & Remedies Code), and service of process is requested upon the owner of said property Bhunashavari LLC, by personal delivery, to its manager and registered agent for process Rimesh Patel, of citation with a copy of this petition attached thereto at **3020 E. Abrams, Arlington, Texas 76010.**

III. Jurisdiction and Venue

5. This court has subject matter and personal jurisdiction over the cause and the parties thereto based on Texas Civil Practices & Remedies Code Annotated §125.002 (Vernon 2003), for the reasons that the property made the basis of this cause is being maintained as a common nuisance as contemplated by Chapter 125 of the Civil Practice & Remedies Code.

6. Venue of this cause is proper in this court, based on Texas Civil Practices & Remedies Code Annotated §15.016 (Vernon 1985). More particularly, Section 125.002(a) of the Texas Civil Practices & Remedies Code prescribes mandatory venue of an action to enjoin and abate a common nuisance in the county in which it is alleged to exist. Section 15.016 of the Texas Civil Practice & Remedies Code provides that an action for which venue is made mandatory by a statute shall be brought in the county required under the statute. The real property upon which Defendant Bhunashavari is maintaining a common nuisance is located in Tarrant County, Texas.

IV. Underlying Facts

7. As reflected in the Deed Records of Tarrant County, Texas, the property the subject of this lawsuit, including any and all improvements, is located 1717 E. Division, Arlington, Tarrant County, Texas, 76011, and is legally described as:

Being a 2.992 acre tract of land situated in the J. Blackwell Survey, Abstract No. 147, Tarrant County, Texas, and a portion of Lot 5 of PILANT ACRES, an addition to the City of Arlington, Tarrant County, Texas according to the Plat thereof recorded in Volume 204, Page 84, Plat Records, Tarrant County, Texas, and being more fully described by metes and bounds found in Volume 15642, Page 48, Deed Records, Tarrant County, Texas.

8. Defendant Bhunashavari maintains a business venture at the subject property locally known as the Town Inn Motel, 1717 E. Division, Arlington, and Tarrant County, Texas, 76011.
9. Between January 1, 2009 and present, fifteen (15) reported instances of narcotics violations of Chapter 481 of the Health and Safety Code, one (1) sexual assault, one (1) robbery and one (1) discharge of a firearm occurred at the Town Inn.
10. Town Inn Motel has a reputation as a place where illegal narcotics are possessed, sold and used and is considered a known narcotics location in the City of Arlington.

V. Grounds for Suit

11. Based on TEX.R.CIV.P. 58, Plaintiff hereby adopts by reference the foregoing factual allegations set forth in Section “IV” of this original petition and incorporates them as the factual basis in support of the legal grounds for this action, as set forth below.

12. **Common Nuisance**

- a. Section 125.002 of the Texas Civil Practice & Remedies Code authorizes suit to enjoin and abate a common nuisance.
- b. Defendant Bhunashavari has knowingly maintained a place to which persons habitually go for purposes of delivery, possession, manufacture, or use of controlled substances in violation of the Texas Health & Safety Code. The defendant property, therefore, is a common nuisance as defined by Section 125.001(a) of the Texas Civil Practice & Remedies Code.
- C. Defendant Town Inn is a place to which persons habitually go for the purposes of delivery, possession, manufacture, or use of controlled substances in violation of

the Texas Health & Safety Code. The property, therefore, is a common nuisance as defined by Section 125.0015(a) of the Texas Civil Practice & Remedies Code.

VI. Request for Temporary Injunctive Relief

13. Town Inn is knowingly maintained as a place to which persons habitually go for purposes of delivery, possession, manufacture, or use of controlled substances in violation of the Texas Health & Safety Code. As such, the property constitutes a common nuisance as defined by Section 125.0015(a) of the Texas Civil Practice & Remedies Code.

14. Defendant Bhunashavari LLC, as the owner and Rimesh Patel as the manager of the property, has failed or refused to abate the nuisance. Defendant Bhunashavari and Rimesh Patel are likely to continue to maintain the property as a common nuisance unless restrained by an injunctive order of this Court.

15. Unless Defendant Bhunashavari LLC is enjoined from maintaining the property as a common nuisance, irreparable harm will be suffered by the citizens of Arlington and Tarrant County, Texas. Plaintiff has no other adequate remedy at law to prevent the continued maintenance of the property as a common nuisance.

16. The consequences of the above-described unlawful activities at the property, as well as the foreseeable resulting criminal activity associated with these acts, would proximately cause a person of ordinary sensibilities to be substantially frightened, discomforted, annoyed, and inconvenienced in the use of any premises surrounding the property.

17. In accordance with Section 125.045(a) of the Texas Civil Practice & Remedies Code, if, after notice and hearing on a request by a petitioner for a temporary injunction, a court determines that the petitioner is likely to succeed on the merits in a suit brought under Section 125.002 (Suit to Abate Common Nuisance), the court shall require that the defendant execute a bond. The bond must be payable to the STATE OF TEXAS at Tarrant County; be in the amount set by the court, but no less than \$5,000 nor more than \$10,000; have sufficient sureties approved by the court; and be conditioned that the defendant will not knowingly allow a common nuisance to exist at that place.

18. Based on Section 125.002 of the Texas Civil Practice & Remedies Code, if the judgment is in favor of the petitioner, the court shall grant an injunction ordering Defendant Bhunashavari LLC and anyone else with an interest in Town Inn Motel to abate and be enjoined from maintaining or participating in, the common nuisance existing on the property. The court may include in its order reasonable requirements to prevent the use or maintenance of the place as a nuisance. Additionally, the court shall order a bond to be posted with good and sufficient sureties approved by the Court, payable to the STATE OF TEXAS at Tarrant, County, Texas, in the penal sum of \$10,000.00 in accordance with Section 125.002(e) and (f) of the Texas Civil Practice & Remedies Code. Said bond shall be conditioned that the property will not be used or permitted to be used for prostitution or gambling in violation of the Penal Code or for delivery, possession, manufacture, or use of a controlled substance in violation of Chapter 481, Health & Safety Code. The property should be ordered closed for one year if no bond is posted pursuant to Section 125.002(e) and (f) of the Texas Civil Practice & Remedies Code.

19. Because the petitioner brings this action *in rem*, the judgment shall be a judgment *in rem* against the property as well as against the defendant, according to Section 125.002(b) and (e) of the Texas Civil Practice & Remedies Code.

20. Pursuant to Section 125.003(a) of the Texas Civil Practice & Remedies Code, should any condition of the bond or any injunctive order by this court be violated, suit upon the bond by the State of Texas should be allowed; and upon a showing of a violation of any condition of the bond or injunctive order, the whole sum of the bond should be ordered forfeited to the state and the place where the nuisance exists should be ordered closed for one year from the date of the order of bond forfeiture.

21. In accordance with Section 125.002(d) of the Texas Civil Practice & Remedies Code, a person who violates a temporary or permanent injunctive order is subject to the following sentences for civil contempt:

- a. a fine of not less than \$1,000 or more than \$10,000;
- b. confinement in jail for a term of not less than 10 or more than 30 days;

c. both a fine and confinement.

22. In accordance with Section 125.045(b) of the Texas Civil Practice & Remedies Code, if the defendant fails to cease and desist from creating and maintaining a common nuisance at the property within a time allowed by the court, the City of Arlington or any other political subdivision having jurisdiction over defendant property may:

- a. discontinues the furnishing of utility services by the political services subdivision to the place at which the nuisance exists;
- b. prohibits the furnishing of utility service to the place by any public utility holding a franchise to use the streets and alleys of the political subdivision;
- c. revokes the certificate of occupancy of the place;
- d. prohibit the use of city streets, alleys, and other public ways for access to the place during the existence of the nuisance or in furtherance of the nuisance; and
- e. uses any other legal remedy available under the laws of the state.

VII. Request for Receiver

23. And additionally or in the alternative, the State seeks the appointment of a receiver.

24. The Subject Property is knowingly maintained as a place to which persons habitually go and use for purposes of possession, use, or delivery of controlled substances in violation of the Texas Health & Safety Code and to engage in robbery and/or aggravated robbery offenses and/or aggravated assault offenses. In addition, the subject property is operated and maintained as a multiunit residential property as that term is defined in § 125.001 of the Texas Civil Practice & Remedies Code. As such, the property constitutes a common nuisance under § 125.0015(b) of the Texas Civil Practice & Remedies Code.

25. Defendant Bhunashavari LLC has failed or refused to abate the nuisance. Defendant Bhunashavari LLC is likely to continue to maintain and use, and be party to the maintenance and

use of, the Town Inn Motel as a common nuisance unless an additional remedy of the court appointing a receiver is ordered pursuant to § 125.046

26. Unless Defendant Bhunashavari LLC is enjoined from maintaining and using the Town Inn Motel as a common nuisance and a receiver is appointed by the court, irreparable harm will be suffered by the citizens of Arlington and Tarrant County, Texas. Plaintiff has no other adequate remedy at law to prevent the continued maintenance and use of the property as a common nuisance.

27. The consequences of the above-described unlawful activities at the Town Inn Motel, as well as the foreseeable resulting criminal activity associated with these acts, would proximately cause a person of ordinary sensibilities to be substantially frightened, discomforted, annoyed and inconvenienced in the use of any premises surrounding the Town Inn Motel.

28. In accordance with § 125.046(a) of the Texas Civil Practice & Remedies Code, if, in any judicial proceeding under Subchapter A of Chapter 125, the court determines that a person is maintaining a multiunit residential property that is a common nuisance, the court may, on its own motion or on the motion of any party, order the appointment of a receiver to manage the property or render any other order allowed by law as necessary to abate the nuisance.

29. In accordance with § 125.046(b) of the Texas Civil Practice & Remedies Code, a receiver appointed under this section may not be appointed for a period longer than one year.

30. In accordance with § 125.046(c) of the Texas Civil Practice & Remedies Code, the court shall determine the management duties of the receiver, the amount to be paid the receiver, the method of payment, and the payment periods.

31. In accordance with § 125.046(d) of the Texas Civil Practice & Remedies Code, a receiver appointed under this section shall continue to manage the property during the pendency of any appeal relating to the nuisance or the appointment of any receiver.

32. In accordance with § 125.046(e) of the Texas Civil Practice & Remedies Code, a receiver appointed by the court may:

- a. take control of the property;
- b. collect rents due on the property;
- c. make or have made any repairs necessary to bring the property into compliance with minimum standards in local ordinances;
- d. make payments necessary for the maintenance or restoration of utilities to the properties;
- e. purchase materials necessary to accomplish repairs;
- g. renew existing rental contracts and leases;
- h. enter into new rental contracts and leases;
- i. affirm, renew, or enter into a new contract providing for insurance coverage on the property; and
- j. exercise all other authority that an owner of the property would have except for the authority to sell the property.

33. In accordance with § 125.046(f) of the Texas Civil Practice & Remedies Code, expenditures of monies by the receiver in excess of \$10,000 under subdivisions (3) and (5) of Subsection (e) shall require prior approval of the court.

34. In accordance with § 125.046(g) of the Texas Civil Practice & Remedies Code, on the completion of the receivership, the receiver shall file with the court a full accounting of all costs

and expenses incurred in the repairs, including reasonable costs for labor and subdivision, and all income received from the property.

VIII. Request for Permanent Injunctive Relief

35. And additionally or in the alternative, the State seeks permanent injunctive relief.

36. As alleged above, the Town Inn Motel is knowingly maintained as a place to which persons habitually go and use for purposes of possession, use, or delivery of controlled substances in violation of the Texas Health & Safety Code and to engage in robbery and/or aggravated robbery offenses and/or aggravated assault offenses. And as such, the property constitutes a common nuisance under § 125.0015 of the Texas Civil Practice & Remedies Code.

37. Defendant Bhunashavari LLC has failed or refused to abate the nuisance. Defendant Bhunashavari LLC is likely to continue to maintain and use, and be party to the maintenance and use of, the Town Inn Motel as a common nuisance unless restrained by an injunctive order of this Court.

38. Unless Defendant Bhunashavari LLC is enjoined from maintaining and using the Town Inn Motel as a common nuisance, irreparable harm will be suffered by the citizens of Arlington and Tarrant County, Texas. Plaintiff has no other adequate remedy at law to prevent the continued maintenance and use of the property as a common nuisance.

39. The consequences of the above-described unlawful activities at the Town Inn Motel, as well as the foreseeable resulting criminal activity associated with these acts, would proximately cause a person of ordinary sensibilities to be substantially frightened, discomforted, annoyed and inconvenienced in the use of any premises surrounding the Town Inn Motel.

40. Based on § 125.002(e) of the Texas Civil Practice & Remedies Code, if the judgment is in favor of the petitioner, the court must order that the Town Inn Motel be closed for one year after the date of the judgment.

41. Because the petitioner brings this action in rem, the judgment shall be a judgment in rem against the property as well as against Defendant Bhunashavari LLC, according to § 125.002(b) and (e) of the Texas Civil Practice & Remedies Code.

IX. Attorney's Fees

42. It was necessary to secure the services of Kent S. Richardson, an assistant attorney general, to litigate this cause of action to enjoin and abate the common nuisance being maintained on the property. Based on Section 125.003(d) of the Texas Civil Practice & Remedies Code, Plaintiff requests the Defendant Bhunashavari LLC be ordered to pay reasonable attorney's fees and costs.

X. Bond

43. Pursuant to Section 6.002 of the Texas Civil Practice & Remedies Code, there is no bond required of the Plaintiff in bringing this suit. Additionally, pursuant to Section 125.002 of the Texas Civil Practice & Remedies Code, the Plaintiff is not required to verify the allegations set forth in this petition, nor show any proof of personal injury by the acts complained herein.

XI. Prayer

WHEREFORE, PREMISES CONSIDERED, Plaintiff respectfully requests that:

44. After notice and a hearing on a request for a temporary injunction, the court order Defendant Bhunashavari LLC or any other person with an interest in the property to execute a bond payable to the STATE OF TEXAS at Tarrant County; be in the amount set by the court, but not less than \$5,000 nor more than \$10,000; have sufficient sureties approved by the court; and be conditioned that the defendant will not knowingly maintain a common nuisance to exist at that place;

45. If the court determines that Defendant Bhunashavari LLC is maintaining a common nuisance at the property, the court order the appointment of a receiver to manage the property or render any other order allowed by law as necessary to abate the common nuisance pursuant to Section 125.046 of the Texas Civil Practice and Remedies Code;

46. Upon showing by Plaintiff that any temporary or permanent injunctive order by this court has been violated, the person in violation of said order be subject to the following sentences for civil contempt:

- a. a fine of not less than \$1,000 or more than \$10,000;
- b. confinement in jail for a term of not less than 10 or more than 30 days;
- c. both fine and confinement;

47. Upon showing that any defendant has failed to cease and desist from creating and maintaining a common nuisance at the property within a time allowed by the court, the City of Arlington, or any other political subdivision having jurisdiction over defendant property, may:

- a. discontinue the furnishing of utility services by the political subdivision to the place at which the nuisance exists;
- b. prohibit the furnishing of utility service to the place by any public utility holding a franchise to use the streets and alleys of the political subdivision;
- c. revoke the certificate of occupancy of the place;
- d. prohibit the use of city streets, alleys, and other public ways for access to the place during the existence of the nuisance or in furtherance of the nuisance; and
- e. use any other legal remedy available under the laws of the state;

48. If, upon final hearing, the court finds in favor of the Plaintiff that a common nuisance exists at the Town Inn Motel, the court shall order that the property be closed for one year after the date of judgment;

49. The judgment of this court be a judgment in rem against the property, as well as against the Defendant Bhunashavari LLC; and

50. Upon final hearing, Plaintiff have judgment against Defendant Bhunashavari LLC for:
- i. costs of suit;
 - ii. cost of investigation;
 - iii. reasonable attorney's fees; and
 - iv. such other and further relief to which Plaintiff may be justly entitled.

Respectfully submitted,
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