

STATE OF NEW YORK
ROCHESTER CITY COURT

COUNTY OF MONROE

CITY OF ROCHESTER
30 Church Street
Rochester, NY 14614

Petitioner,

NOTICE OF PETITION

-Vs.-

THURSTON ROAD REALTY, LLC
620 Park Avenue
Rochester NY 14607



CV-004893-18/RO
Filed : 05/18/2018

Respondent.

City of Rochester
-against-
Thurston Road Realty, LLC

PLEASE TAKE NOTICE that upon the attached Verified Petition of the City of Rochester dated May 17, 2018, the affirmation of Lora Pound sworn to on May 17 2018, with attached exhibits, and upon all prior pleadings and proceedings, the undersigned will make an application to **Rochester City Court, Honorable Maija C. Dixon presiding, at the Hall of Justice, 99 Exchange Boulevard, Rochester, New York on June 4, 2018 at 9:30 a.m.**, or as soon thereafter as counsel may be heard, for an order and judgment pursuant to § 9-21 of the Charter of the City of Rochester and § 52-3B of the Code of the City of Rochester, compelling, *inter alia*, the abatement of outstanding code violations and granting such other relief as the Court deems proper.

PLEASE TAKE FURTHER NOTICE that pursuant to *CPLR 403(b)*, Respondent's answer, supporting affidavits, and any other papers in opposition to the above special proceeding, if any, is required to be served upon the undersigned at least two days before the above return date.

DATED: May 17, 2018
Rochester, New York

TIMOTHY R. CURTIN, Corporation Counsel,
Tynise Y. Edwards, Esq., of Counsel
Attorney for Petitioner
30 Church Street, Room 400A City Hall
Rochester, New York 14614
Telephone: (585) 428-6758

STATE OF NEW YORK
ROCHESTER CITY COURT COUNTY OF MONROE

CITY OF ROCHESTER
30 Church Street
Rochester, NY 14614

Petitioner,

VERIFIED PETITION

-Vs-

Index No.

THURSTON ROAD REALTY, LLC
620 Park Avenue
Rochester, NY 14607

Respondent.

Petitioner, the City of Rochester, by the Corporation Counsel of the City of Rochester, its attorney, alleges:

1. This is a proceeding to compel Respondent, Thurston Road Realty, LLC, to correct outstanding unabated property code violations at 447 Thurston Road and 967 Chili Avenue that present a health and safety hazard to the tenants residing or who may reside therein. In the event that Respondent fails or refuses to remove these violations, the City requests that the Court appoint a Receiver to abate the violations, and to collect the rents and manage the property during the repair period.

THE PARTIES

2. The Petitioner is the City of Rochester, a municipal corporation duly organized under the laws of the State of New York, having its principal office at City Hall, 30 Church Street, Rochester, New York.

3. Respondent, Thurston Road Realty, LLC, is the owner of 447 Thurston Road, a forty-eight (48) family multiple dwelling (hereinafter "the Property") and 967 Chili Avenue, a fifteen (15) family multiple dwelling (hereinafter "the Property.")

4. Thurston Road Realty, LLC maintains an office located within Monroe County at 620 Park Avenue, Rochester, New York, 14607. See NYS Department of State Entity Information annexed hereto as Exhibit A; Notice of Formation, annexed hereto as Exhibit B.

CITY COURT'S JURISDICTION

5. The Rochester City Court has Jurisdiction over this matter pursuant to Section 203 of the Uniform City Court Act.

447 THURSTON ROAD

6. As set forth in the Affidavit of Lora Pound provided herewith, the Property is in a state of uncured disrepair in violation of the City of Rochester Property Conservation Code.

7. Over the past year, the Property has been subject to enforcement proceedings. In that time it has received eleven (11) notices and orders and one (1) ticket identifying violations of the Property Conservation Code. Copies of these notices and orders and ticket are annexed to the Lora Pound Affidavit.

8. At the time of the last inspection on April 30, 2108, the property exhibited the following Health and Safety Violations:

- a. Missing Smoke Alarms
- b. Interior Deteriorated Paint
- c. Broken or Missing Window Panes

- d. Electric Panel Cover Missing
- e. Improper Semi-permanent Use of an Extension Cord
- f. Sink Faucet in Need of Repair
- g. Roach and Mouse Infestation and
- h. Illegal Use of a Hasp and Lock on Entry door

9. As of May 7, 2018, Rochester, Gas and Electric (hereinafter referred to as "RGE") records indicate the owner has an outstanding balance due of over twenty-four thousand dollars (\$24,000.00.) RGE, upon request from the Petitioner, has delayed the termination of services for thirty (30) days.

10. The City now requests that, for the reasons set forth below, the Court issue an Order directing Thurston Road Realty, LLC to satisfy its outstanding balance to RGE to avoid service interruption at the property; to abate all property code violations by a fixed date or, in the alternative, to appoint a receiver to bring the property up to code and to collect the rents and manage the property during the repair period.

967 CHILI AVENUE

11. As set forth in the Affidavit of Lora Pound provided herewith, the Property is in a state of uncured disrepair in violation of the City of Rochester Property Conservation Code.

12. Over the past year the Property has been subject to enforcement proceedings. In that time it has received thirteen (13) notices and orders identifying violations of the Property Conservation Code. Copies of these notices and orders are annexed to the Lora Pound Affidavit.

13. At the time of the last inspection on April 30, 2108, the property exhibited the following Health and Safety Violations:

- i. Missing Smoke Alarms
- j. Missing Carbon Monoxide Alarms
- k. Interior Deteriorated Paint
- l. Basement Stairway in need of a Self-Closing Fire Door
- m. Electric Outlet or Switch in need of Repair or Replacement
- n. Electric Outlet or Switch in need of Covers
- o. Bathroom Drain Lines clogged and in need of Repair

14. As of May 7, 2018, RGE records indicate the owner has an outstanding balance due of over three thousand three hundred dollars (\$3,300.00.) RGE, upon request from the Petitioner, has delayed the termination of services for thirty (30) days.

15. The City now requests that, for the reasons set forth below, the Court issue an Order directing Thurston Road Realty, LLC to satisfy its outstanding balance to RGE to avoid service interruption; to abate all property code violations by a fixed date or, in the alternative, to appoint a receiver to bring the property up to code and to collect the rents and manage the property during the repair period.

AS AND FOR A CAUSE FOR RELIEF

16. Chapter 90 of the Code of the City of Rochester, known as the "Property Conservation Code of the City of Rochester, New York" sets forth property standards for residential, commercial and industrial buildings within the City, and explicitly incorporates the Property Maintenance Code of New York State. The State

has adopted the International Property Maintenance Code.

17. Chapter 52 of the Code of the City of Rochester authorizes the City to (1) issue Notice and Orders directing property owners to remediate Property Code violations and (2) issue Tickets for outstanding Property Code violations.

18. Uniform City Court Act § 203 provides that this Court has jurisdiction over actions and proceedings (1) "brought to impose and collect a civil penalty for a violation of state or local laws for the establishment and maintenance of housing standards [including] any applicable local housing maintenance codes, building codes and health codes"; (2) "for removal of housing violations" under state or local codes; and (3) "for the appointment of a receiver of rents, issues and profits of buildings in order to remove or remedy a nuisance or to make repairs" under state or local codes.

19. CPLR § 5106 allows the appointment of a receiver as part of a judgment, to carry the judgment into effect to dispose of the property according to the Court's directions.

20. As set forth above, the City has given Respondent prior notice of outstanding Property Code violations at 447 Thurston Road and 967 Chili Avenue, which Respondent has failed to cure.

21. The City has issued a ticket to Respondent for outstanding Property Code violations at 447 Thurston Road in the amount of five hundred dollars (\$500.00), of which \$500.00 remains unpaid.

22. Respondent's actions demonstrate that Respondent cannot or will not bring the property up to code, thereby exposing tenants and/or potential tenants of

the property to health and safety hazards.

WHEREFORE, the Petitioner prays for an Order and Judgment as follows:

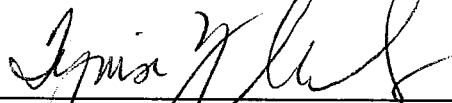
- A. Ordering and compelling Respondent to abate any and all violations existing at 447 Thurston Road and 967 Chili Avenue immediately, and in no event more than 90 days following the date of the Court's Order;
- B. Ordering and compelling Respondent to allow City code inspectors to conduct a complete re-inspection of the premises at 447 Thurston Road and 967 Chili Avenue within ten (10) days following Respondent's abatement of all violations;
- C. Ordering and compelling Respondent to apply for any and all permits required to repair the structures located at 447 Thurston Road and 967 Chili Avenue;
- D. Ordering and compelling the Owner to pay any outstanding balance due to RGE to avoid service interruption at 447 Thurston Road and 967 Chili Avenue;
- E. Ordering and compelling the Owner to pay any outstanding fines related to 447 Thurston Road and 967 Chili Avenue that have not been added to his City tax bill within 90 days of the Court signing an Order compelling such;
- F. Ordering that the Court retain jurisdiction over this matter until the Owner abates all the outstanding code violations;
- G. In the event that Respondent fails to abate the violations as set forth above, that the Court appoint a receiver to collect rents, issues and profits of the premises at 447 Thurston Road and 967 Chili Avenue in order to abate all violations, and to manage the property as necessary while doing so; and

H. Granting summary determination of the City's Verified Petition because there are no material facts at issue and as a matter of law it is entitled to such relief with costs; and

I. For such other, further and different relief as to the Court may seem just, proper and equitable.

DATED: May 17, 2018

Timothy R. Curtin, Corporation Counsel



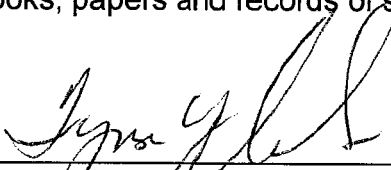
Tynise Y. Edwards, Esq. of Counsel
Attorney for Petitioner
400A City Hall, 30 Church Street
Rochester, New York 14614
Telephone: (585) 428-6758

STATE OF NEW YORK)
COUNTY OF MONROE) ss:

TYNISE Y. EDWARDS, being duly sworn, deposes and says:

1. That she is a Municipal Attorney for the City of Rochester, the corporation named in the foregoing papers; that she has read the foregoing Verified Petition and knows the contents thereof; that the same is true upon information and belief; and as to those matters, she believes it to be true.

2. Deponent further says that the reason this verification is made solely by deponent, and not additionally by said City of Rochester, is because the said City of Rochester is a governmental subdivision, and that she is a Municipal Attorney, and that the grounds of deponent's belief as to all matters in said Verified Petition, not stated upon her own knowledge, are upon investigations caused to be made concerning the matters involved or purporting to be involved herein and information acquired by the deponent in the regular course of her duties as an employee of said governmental subdivision and from the books, papers and records of said governmental subdivision.



Tynise Y. Edwards
Municipal Attorney

Sworn to before me this
17th Day of May, 2018



Notary Public

MICHELLE BRADBURY
Notary Public State of New York
Qualified in Monroe County - 01BR6315209
Commission Expires November 24, 2018

EXHIBIT A

NYS Department of State

Division of Corporations

Entity Information

The information contained in this database is current through April 24, 2018.

Selected Entity Name: THURSTON ROAD REALTY LLC

Selected Entity Status Information

Current Entity Name: THURSTON ROAD REALTY LLC

DOS ID #: 4963769

Initial DOS Filing Date: JUNE 15, 2016

County: MONROE

Jurisdiction: NEW YORK

Entity Type: DOMESTIC LIMITED LIABILITY COMPANY

Current Entity Status: ACTIVE

Selected Entity Address Information

DOS Process (Address to which DOS will mail process if accepted on behalf of the entity)

THURSTON ROAD REALTY LLC

620 PARK AVENUE

ROCHESTER, NEW YORK, 14607

Registered Agent

NONE

This office does not require or maintain information regarding the names and addresses of members or managers of nonprofessional limited liability companies. Professional limited liability companies must include the name(s) and address(es) of the

original members, however this information is not recorded and only available by viewing the certificate.

*Stock Information

# of Shares	Type of Stock	\$ Value per Share
No Information Available		

*Stock information is applicable to domestic business corporations.

Name History

Filing Date	Name Type	Entity Name
JUN 15, 2016	Actual	THURSTON ROAD REALTY LLC

A **Fictitious** name must be used when the **Actual** name of a foreign entity is unavailable for use in New York State. The entity must use the fictitious name when conducting its activities or business in New York State.

NOTE: New York State does not issue organizational identification numbers.

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EXHIBIT B

NOTICE OF FORMATION

THURSTON ROAD REALTY LLC has filed Articles of Organization with the Secretary of State on June 15, 2016. Its office is located in Monroe County. The Secretary of State has been designated as agent upon whom process against it may be served and a copy of any process will be mailed to The LLC, 620 Park Avenue, Rochester, NY 14607. The purpose of the LLC is any lawful activity.

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