

IN THE PROBATE COURT OF ETOWAH COUNTY, ALABAMA

CITY OF RAINBOW CITY, ALABAMA

v.

JAMES W. NEFF; TINA D. NEFF; that parcel of real property located at 404 Williams Avenue, Rainbow City, Alabama 35906 and having a legal description of: Lot Number Three (3), and the South 5 feet of Lot Number Four (4), Block 4, First Addition to Rainbow Estates, according to the map or plat thereof recorded in Plat Book "F", page 335, Probate Office, Etowah County, lying and being in Rainbow City, Alabama, and known as Parcel ID No. 15-09-30-0-001-181.000.000, PPIN 47913; and any and all other unknown heirs, claimants, or interested parties claiming any right, title, estate, lien, or interest in the real estate described herein.

**FINDING OF PUBLIC NUISANCE, NOTICE AND ORDER TO REMEDY,
AND NOTICE OF *LIS PENDENS***

TAKE NOTICE that:

COMES NOW, Rainbow City, Alabama ("the City"), by and through its Appropriate Municipal Official, its Clerk, and its Attorney to provide notice pursuant to the City's Ordinance No. 565 ("the Ordinance") that the Appropriate Municipal Official has made a finding that a building located within the City is a dangerous building because it is unsafe to the extent that it is a public nuisance and subject to demolition. The building is located on the following described property, to wit, which will be described hereafter as "the Subject Property":

STREET ADDRESS:

404 Williams Avenue, Rainbow City, AL 35906

LEGAL DESCRIPTION:

Lot Number Three (3), and the South 5 feet of Lot Number Four (4), Block 4, First Addition to Rainbow Estates, according to the map or plat thereof recorded in Plat Book "F", page 335, Probate

Office, Etowah County, lying and being in Rainbow City, Alabama.

PARCEL IDENTIFICATION NUMBER:

15-09-30-0-001-181.000, PPIN 47913

The City provides further notice as follows:

1. In *Ellis v. City of Montgomery*, the United States District Court for the Middle District of Alabama stated that, in cases such as this where a municipality seeks the demolition of building by use of its police powers, "A simple *lis pendens* filing after sending notice to the current owner of a property would place subsequent purchasers on record notice that demolition could occur." *Ellis v. City of Montgomery*, 460 F.Supp.2d 1301, 1307 (M.D. Ala. 2006). Here, the City is invoking the procedure recommended by the District Court.

2. By the filing of this Notice, the City is not claiming any right, title, or interest in the Subject Property. Rather, the purpose of this Notice is to put all interested parties on notice of the City's intent to exercise its authority provided by law and specifically by the City's ordinances.

3. The Ordinance is "An Ordinance Concerning Unsafe Structures and Dangerous Buildings." The below-signed Appropriate Municipal Official is the person designated to exercise the authority and perform the duties delegated by the Ordinance.

4. The Appropriate Municipal Official finds that the building located on the Subject Property is a "dangerous building" within the meaning of the Ordinance because of the following defects:

- (1) The building has become or is so damaged, dilapidated, decayed, unsafe, unsanitary, lacking in maintenance, vermin or rat infested, containing filth or contamination, lacking proper ventilation, lacking sufficient illumination, or so utterly fails to provide the amenities essential to decent living that it is unfit for human habitation, or is likely to cause sickness or disease, so as to work injury to the life, health, property, morals, safety, or general welfare of the public or the occupants;

- (2) The building is so damaged, decayed, dilapidated, structurally unsafe, or of such fault construction or unstable foundation that partial or complete collapse is possible;
- (3) The building is neglected, damaged, dilapidated, unsecured, or abandoned so as to become an attractive nuisance to children who might play in or on the building, structure, part of building or structure, party wall, or foundation to their danger, has become a harbor for vagrants, criminals, or immoral persons, or enables persons to resort to the building, structure, part of building or structure, party wall, or foundation for committing a nuisance or an unlawful act;
- (4) The building has a portion remaining on a site after the demolition or destruction of the same or is abandoned so as to constitute such building, structure, part of building or structure, party wall, or foundation as an attractive nuisance or hazard to the public;
- (5) The building is, because of its condition, unsafe, unsanitary, or dangerous to the life, health, property, morals, safety, or general welfare of the public or the occupants;

5. The Appropriate Municipal Official finds that the building on the Subject Property is substantially damaged or decayed, or deteriorated from its original value or structure (not including the value of the land).

6. The Appropriate Municipal Official finds that the building on the Subject Property cannot be reasonably repaired within a reasonable time and at a reasonable cost relative to the value of the structure so that it will no longer exist in violation of the terms of the Ordinance.

7. The Appropriate Municipal Official finds that the building on the Subject Property is a fire hazard existing in violation of the terms of the Ordinance.

8. For purposes of this Notice, the term "building" is deemed to include all structures, appurtenances, improvements, and items on the property, whether or not attached to or a part of the main structure, including, but not limited to, houses, mobile or manufactured homes, trailers, garages,

sheds, carports, other accessory structures, pools, as well as any items located therein or on the Subject Property, including, junk, rubbish, trash, litter, grass and weeds as defined by the City's grass and weed abatement ordinance, junked motor vehicles, and/or any other matter declared a nuisance under existing law. For further particulars of what the "building" on the Subject Property includes, please contact the Appropriate Municipal Official.

9. Notice is hereby given to remedy the unsafe or dangerous condition by demolition of the building on the Subject Property within forty-five (45) days of the date of this Notice to the Appropriate Municipal Official's satisfaction. In the event the owner does not comply within the time specified herein to the Appropriate Municipal Official's satisfaction, the demolition shall be accomplished by the City and the cost thereof assessed against the Subject Property and such cost shall constitute a lien against the Subject Property.

10. The Appropriate Municipal Official finds that the building on the Subject Property is in such condition as to make it dangerous to the life, health, property, morals, safety, or general welfare of the public or the occupants. Therefore, the Appropriate Municipal Official orders that the building on the Subject Property and/or the entirety or other portion of the premises upon which it is located be and remain vacated until demolished.

11. A public hearing as provided for by Section 8(a) set forth in the Ordinance shall be held on the finding of the Appropriate Municipal Official in the Council Chambers at Rainbow City Hall, 3700 Rainbow Drive, Rainbow City, Alabama, on the 14th day of December, 2026, at 5:00 p.m. At that time, the City Council shall hold a public hearing to receive any objections to the finding by the Appropriate Municipal Official that the building or structure is unsafe to the extent of becoming a public nuisance. A written request for a public hearing is not necessary. At the public hearing, the Council shall also receive any written objections to the finding by the Appropriate Municipal Official. Any such written objection must be submitted to the City Clerk prior to the start of the Council

meeting at which the public hearing is held. No action shall be taken on the finding of the Appropriate Municipal Official until determination thereon is made by the Council. Upon holding the hearing, the Council shall determine whether or not the building or structure is unsafe to the extent that it is a public nuisance. If it is determined by the Council that the building or structure is unsafe to the extent that it is a public nuisance, the Council shall order demolition of the building at the expense of the City and assess the expenses of the move or demolition on the land on which the building stands or to which it is attached. Any person aggrieved by the decision of the Council at the hearing may, within ten (10) days thereafter, appeal to the Circuit Court of Etowah County, Alabama, upon filing with the Clerk of the Circuit Court of Etowah County, Alabama, notice of the appeal and bond for security of costs in the form and amount to be approved by the Circuit Clerk. For further particulars, see the Ordinance.

12. A failure by the Council to act on the findings of the Appropriate Municipal Official within one hundred twenty (120) days from the date of this "Finding of Public Nuisance, Notice and Order to Remedy, and Notice of *Lis Pendens*" shall constitute an abdication of the Appropriate Municipal Official's findings. However, this shall in no way prevent the City from reinitiating the proceedings authorized by the Ordinance at any time so long as all the requirements of the Ordinance are satisfied anew. Furthermore, this does not require that the ordered demolition take place within one hundred twenty (120) days from the date of this "Finding of Public Nuisance, Notice and Order to Remedy, and Notice of *Lis Pendens*." A failure by the City to accomplish the demolition of the building within one hundred eighty (180) days of the passage of the resolution by the Council ordering the same shall constitute an abdication of the Council's order unless certain conditions further explained in the Ordinance are satisfied. For further particulars, see the Ordinance. Anyone interested in the status of these proceedings should inquire with Rainbow City's Clerk at (256) 413-1217 or at 3700 Rainbow Drive, Rainbow City, Alabama.

13. It is unlawful for any person, or for any agent, servant or employee of such person, to obstruct or interfere with the Appropriate Municipal Official in carrying out the purposes of the Ordinance.

14. It is unlawful for any person, or for any agent, servant or employee of such person, to mutilate, destroy, tamper with this "Finding of Public Nuisance, Notice and Order to Remedy, and Notice of *Lis Pendens*."

15. It is unlawful for any person to enter, access, or be upon the Subject Property that the Appropriate Municipal Official has ordered to be vacated pursuant to this "Finding of Public Nuisance, Notice and Order to Remedy, and Notice of *Lis Pendens*" except for the purposes of demolishing the same.

16. It is unlawful for any person who has received this "Finding of Public Nuisance, Notice and Order to Remedy, and Notice of *Lis Pendens*" to sell, transfer, mortgage, lease, encumber, or otherwise dispose of the building that is the subject of the same to another until such person shall first furnish the grantee, transferee, mortgagee, or lessee a true copy of this "Finding of Public Nuisance, Notice and Order to Remedy, and Notice of *Lis Pendens*" and shall furnish to the Appropriate Municipal Official a signed and notarized statement from the grantee, transferee, mortgagee, or lessee acknowledging the receipt of this "Finding of Public Nuisance, Notice and Order to Remedy, and Notice of *Lis Pendens*" and fully accepting the responsibility without condition for making the corrections or repairs required by this "Finding of Public Nuisance, Notice and Order to Remedy, and Notice of *Lis Pendens*."

[SIGNATURE ON THE FOLLOWING PAGE]



J. Lance Smith, Attorney
Rainbow City, Alabama

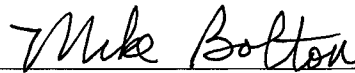
OF COUNSEL:

Turnbach Warren Rice Frederick & Smith, PC
PO Box 129
Gadsden, AL 35902-0129
(256) 543-3664
LSmith@twlegal.us

VERIFICATION OF THE APPROPRIATE MUNICIPAL OFFICIAL

I, the undersigned, Mike Bolton, state as follows: For purposes of administering the City's Ordinance, I am the Nuisance Abatement Officer for the City of Rainbow City and its "Appropriate Municipal Official." I hereby offer the findings made in this "Finding of Public Nuisance, Notice and Order to Remedy, and Notice of *Lis Pendens*," make such orders as are offered herein, and provide such notice as is specified herein.

DONE this the 2nd day of October, 2026.



Mike Bolton
Nuisance Abatement Officer and
Appropriate Municipal Official
Rainbow City, Alabama

This Instrument Prepared By:

J. Lance Smith
Turnbach Warren Rice Frederick & Smith, PC
PO Box 129
Gadsden, AL 35902-0129
(256) 543-3664
LSmith@twlegal.us

CERTIFICATE OF SERVICE

Contemporaneously with the filing of this "Finding of Public Nuisance, Notice and Order to Remedy, and Notice of *Lis Pendens*," a copy of the same has been sent via certified mail, properly addressed and postage prepaid to all of the following persons on this the 2nd day of October, 2026:

A. The person or persons, firm, association, or corporation last assessing the Subject Property for state taxes to the address on file in the Etowah County Revenue Commissioner's Office:

James W. Neff
404 Williams Avenue
Rainbow City, AL 35906

Tina D. Neff
404 Williams Avenue
Rainbow City, AL 35906

B. The record property owner or owners (including any owner or owners of an interest in the Subject Property) as shown from a search of the records of the office of the Judge of Probate of Etowah County, Alabama, at the owner or owners' last known address and at the address of the Subject Property:

James W. Neff
404 Williams Avenue
Rainbow City, AL 35906

Tina D. Neff
404 Williams Avenue
Rainbow City, AL 35906

C. All mortgagees of record as shown from a search of the records of the office of the Judge of Probate of Etowah County, Alabama, to the address set forth in the mortgage or, if no address for the mortgagee is set forth in the mortgage, to the address determined to be the correct address by the Appropriate Municipal Official:

None.

D. All lien holders of record as shown from a search of the records of the office of the Judge of Probate of Etowah County, Alabama to the address set forth in the statement of lien or, if no address for the lien holder is set forth in the statement of lien, to the address determined to be the correct address by the Appropriate Municipal Official:

None.

E. Such other persons who are otherwise known to the Clerk or to the Appropriate Municipal Official who could have an interest in the Subject Property:

None.

No other person is otherwise known to the Clerk or to the Appropriate Municipal Official to have an interest in the Subject Property.

Contemporaneously with the filing of this "Finding of Public Nuisance, Notice and Order to Remedy, and Notice of *Lis Pendens*," a copy of the same has been posted at or within three feet of an entrance to the building on the Subject Property.

Contemporaneously with the filing of this "Finding of Public Nuisance, Notice and Order to Remedy, and Notice of *Lis Pendens*," a copy of the same has been posted in three public places located within the City: Rainbow City Hall, Rainbow City Library, and Local Joe's.

Notice that the Appropriate Municipal Official has made a finding that the Subject Property is a dangerous building because it is unsafe to the extent that it is a public nuisance and is subject to demolition and that a public hearing will be held on the date assigned herein will also be given to all interested parties and to the public at large by publication in the *The Messenger*, and because the identity of the record property owner(s) could not be ascertained after a reasonably diligent search, such notice will be published in the *The Messenger* once a week for four consecutive weeks.

[SIGNATURES ON THE FOLLOWING PAGE]

Mike Bolton

Mike Bolton
Nuisance Abatement Officer and
Appropriate Municipal Official
Rainbow City, Alabama

Beth Lee

Beth Lee, City Clerk/Treasurer
Rainbow City, Alabama

Legal Publication Notice

NOTICE IS HEREBY GIVEN that the City of Rainbow City, Alabama's Appropriate Municipal Official, pursuant to Ordinance No. 565, has made a finding that a building located on the following described property is a dangerous building because it is unsafe to the extent that it is a public nuisance and is subject to demolition:

STREET ADDRESS:

404 Williams Avenue, Rainbow City, AL 35906

LEGAL DESCRIPTION:

Lot Number Three (3), and the South 5 feet of Lot Number Four (4), Block 4, First Addition to Rainbow Estates, according to the map or plat thereof recorded in Plat Book "F", page 335, Probate Office, Etowah County, lying and being in Rainbow City, Alabama.

PARCEL IDENTIFICATION NUMBER:

15-09-30-0-001-181.000, PPIN 47913

All persons interested in said property are hereby notified that if the unsafe or dangerous condition is not remedied by demolition of said building on said property within 45 days of October 2, 2026, the demolition will be accomplished by the City and the cost thereof assessed against said property. In the meantime, it is ordered that said building and said property be and remain vacated.

A public hearing as provided for by Section 8(a) set forth in Ordinance No. 565 will be held on this matter in the Council Chambers at the Rainbow City Hall, 3700 Rainbow Drive, Rainbow City, Alabama, on December 14, 2026, at 5:00 p.m. Anyone interested in the status of these proceedings should inquire with the Rainbow City Clerk at (256) 413-1217 or at 3700 Rainbow Drive, Rainbow City, Alabama.