

COMMONWEALTH OF KENTUCKY
CARTER COUNTY CIRCUIT COURT

TRANQUILITY PROPERTY
MANAGEMENT LLC

Plaintiff

v.

TAYLOR DUNCAN

Serve:
Taylor Duncan
(via Constable)

&

JERRY CALLIHAN

Serve:
Jerry Callihan
(via Constable)

&

CITY OF OLIVE HILL

Serve:
Hon. Derrick Willis, Esq.
City Attorney
225 Roger Patton Drive
Olive Hill, KY 41164

Defendants.

Civil Action No. 23-CI-_____

COMPLAINT

ELECTRONICALLY FILED

JURY TRIAL DEMANDED

COMPLAINT

Comes now Plaintiff, Tranquility Property Management LLC, (“Tranquility” “and/or

“Plaintiff”) by counsel, Brandon T. Hamilton, Esq., Christopher Hall, Esq. and the law firm of Hamilton Law Group PLLC, for its causes of action against the above named Defendants and states as follows:

PARTIES AND JURISDICTION

1. Plaintiff Tranquility Property Management LLC is a Kentucky limited liability company with its principal office located in Olive Hill, Carter County, Kentucky.

2. Defendant Taylor Duncan (“Duncan” and/or “Defendant Duncan”) is and was at all times relevant herein a resident of Carter County, Kentucky.

3. Defendant Jerry Callihan (“Callihan” and/or “Defendant Callihan”) is and was at all times relevant herein a resident of Carter County, Kentucky.

4. Defendant City of Olive Hill (“City” and/or “Olive Hill”) is a political subdivision of the State of Kentucky. Defendant maintains its principal place of business located at 225 Roger Patton Drive, Olive Hill, Kentucky, 41164. According to a search of Kentucky Secretary of State, the City of Olive Hill does not have a listed service of process agent. As such, Plaintiff is serving the City Attorney, Honorable Derrick Willis, at 225 Roger Patton Drive, Olive Hill, Kentucky, 41164.

5. Defendant Duncan is a Level One Building Inspector certified by the Commonwealth of Kentucky.

6. A Level One Building Inspector is qualified to perform all functions related to the enforcement of the Kentucky Building Code and the Kentucky Residential Code.

7. A Level One Building Inspector is qualified to do the following for buildings of the occupancy, type, and size assigned to local governments by KRS 198B.060(2):

- a. Issue permits;

- b. Review and approve construction documents;
 - c. Conduct on-site inspections; and
 - d. Issue compliance letters and certificates of occupancy
8. Defendant Duncan has been appointed by the City of Olive Hill to, and now holds, the office of City of Olive Hill Building Inspector.
9. It was, and still is, the duty of Defendant City of Olive Hill by and through its Building Inspector, Defendant Duncan, to issue building permits.
10. Defendant Jerry Callihan is the Mayor of Defendant City of Olive Hill.
11. That all acts complained of herein occurred in Carter County, Kentucky, and the damages are in excess of the jurisdictional minimums of this Court.
12. This Court has jurisdiction over the relief requested pursuant to KRS and other common law authority.
13. Venue is proper as all the Defendants are citizens of Carter County and all acts complained of herein occurred in Carter County, Kentucky.
14. Since approximately September 2022, Tranquility has requested a building permit from Defendants Duncan and Olive Hill for one of its properties located at the intersection of Railroad and Scott Street within the city limits of Defendant.
15. Issuance of this type of permit is a ministerial duty of Defendant Duncan.
16. Said building permit was applied for and requested for the sole purpose of repair of some of the building's systems; no new construction and/or changes of the existing structure.
17. Tranquility, by and through its agents, on numerous occasions between November 2022 and February 14, 2023, requested the subject building permit from the Defendants Olive Hill and/or Defendant Duncan.

18. On or about February 14, 2023, Tranquility was informed by Defendant Duncan that he had completed the building permit and was ready to issue the permit, but Defendant City of Olive Hill and/or Defendant Callihan instructed him not to issue the said permit until the Plaintiff attended and requested the same during the next City of Olive Hill Council meeting (scheduled for February 21, 2023 at 6pm).

19. Attendance of City Council meeting is not a condition precedent to obtaining a building permit in the City of Olive Hill nor any other party of the Commonwealth of Kentucky.

20. It is clear that Tranquility is not being treated equally and fairly in the eyes of the law by all Defendants, but especially by the City of Olive Hill and the Mayor of Olive Hill, Defendant Jerry Callihan.

21. It is clear that Tranquility is not being afforded due process by all Defendants, but especially by the City of Olive Hill and the Mayor of Olive Hill, Defendant Jerry Callihan.

22. It is no secret that Defendant Callihan and one of the members of Tranquility have ill feelings towards each other; however, personal feelings should not interfere with the official duties of the Defendant Jerry Callihan, as Mayor of City of Olive Hill.

23. Further, it is no secret that the Defendant Callihan, by and through social media, has made allegations blaming a decline in business for his family's restaurant on parking issues allegedly created by A Center For Change, PSC and/or Journey to Heal Corp.

24. Tranquility is a separate distinct entity that operates independently from the above-named businesses; however, Defendants City of Olive Hill and Defendant Callihan do not treat them as separate, independent entities.

25. There is no requirement in KRS, the common law, and/or City Ordinance for any party to be required to attend City Council before being issued a building permit to repair its said

real property.

26. Defendant Callihan, the mayor of Defendant City of Olive Hill, has no direct authority conferred by the Commonwealth of Kentucky to issue (or restrict the issuance thereof) and/or interfere with the issuance of building permits.

27. But for Defendant Olive Hill and/or Defendant Callihan, it appeared that Defendant Duncan was ready, willing, and able to issue the building permit and that Tranquility was entitled to the issuance of said permit.

28. As such, Plaintiff Tranquility is entitled to Petition for writ of mandamus to issue said permit so that Tranquility may repair its property before any further damage can occur.

29. Petitioner has demanded of Defendants that Defendant Duncan and/or Defendant City of Olive Hill, by and through its building inspector (Defendant Duncan) issue the requested building permit on numerous occasions since September 2022 and most recently, on or about February 14, 2023.

30. In spite of Plaintiff's demands, Defendants Duncan and/or City of Olive Hill has refused, and still refuses, to issue said building permit.

31. The above statement of facts showing that issuance of writ of mandamus is indispensable to enforcement of Plaintiff's rights.

32. The above statement of facts shows that Tranquility is not being afforded equal protection afforded to it under the Kentucky Constitution and the Constitution of the United States of America.

33. The above statement of facts shows that Tranquility is not being afforded due process that it is entitled to under the Kentucky Constitution and the Constitution of the United States of America.

34. As a result of the aforementioned conduct by Defendants, Tranquility's property's condition has continued to decline due to the fact it cannot adequately diagnosis the issues and/or repair said building without the issuance of a building permit.

35. As a result of the aforementioned conduct by Defendants, Tranquility has suffered loss of use, loss of revenue, and loss of enjoyment of said property.

36. Defendants Callihan and City of Olive Hill's conduct toward Plaintiff Tranquility was intentional, malicious, oppressive or in reckless disregard of the Tranquility's rights.

37. Finally, Tranquility states that this is not the first time that it has been unfairly treated and/or targeted and/or not afforded due process by Defendants City of Olive Hill and/or Jerry Callihan, and as such, it requests the Court (even if the City does ultimately issue the said building permit) continue this matter to a resolution on the merits because this situation appears to be one that is capable of repetition but yet could potentially evade review upon the issuance of said permit.

WHEREFORE, Plaintiff Tranquility Property Management LLC requests that a writ of mandamus be issued to compel Defendant Duncan and/or City of Olive Hill to issue the requested building permit or to show cause why Defendants should not do so. Further Plaintiff demands judgment against the Defendants Taylor Duncan, Jerry Callihan, and City of Olive Hill for such compensatory damages as may be proven at trial for deterioration of its property, loss of economic benefit, and loss of use and for such punitive damages as may be proven at trial, all of which exceed the minimum jurisdictional requirements of this Court; and prejudgment interest on all amounts so adjudged; and Plaintiff further demands a trial by Jury on all issues herein; judgment for its costs herein expended, including attorney's fees; and for any and all other relief to which it may appear entitled. Plaintiff further requests judgment against all Defendants for the violations

of the equal protection clauses and due process clauses of the Kentucky Constitution and the Constitution of the United States of America as plead above. Finally, Plaintiff asks for all other relief that it may entitled to and for attorneys and fees and costs herein incurred as allowed by this Court or by statute.

Dated: February 20, 2023

**TRANQUILITY PROPERTY
MANAGEMENT LLC**

By Counsel:



Brandon T. Hamilton, Esq. (KY #98742)

Christopher Hall, Esq.

Hamilton Law Group PLLC

291 W. Tom T. Hall Blvd.

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Olive Hill, KY 41164

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Fax: (606) 462-3625

COMMONWEALTH OF KENTUCKY
CARTER COUNTY CIRCUIT COURT

TRANQUILITY PROPERTY
MANAGEMENT LLC

Plaintiff

v.

TAYLOR DUCAN, ET AL.

Defendants.

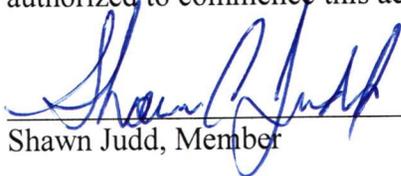
Civil Action No. 23-CI-_____

VERIFICATION

ELECTRONICALLY FILED

VERIFICATION

Before me, the undersigned authority a Notary, personally appeared **Shawn Judd, as a duly authorized member**, and states that he has read the foregoing Complaint and the facts stated therein are true and correct to the best of his knowledge, information, and belief. Further he is authorized to commence this action on behalf of Tranquility Property Management LLC.


Shawn Judd, Member

Sworn to and subscribed before me this 20 the day of February 2023.


Notary Public KY NP 27469

My Commission Expires: 04/12/2025





CIVIL SUMMONS

Plaintiff, **TRANQUILITY PROPERTY MANAGEMENT LLC VS. DUNCAN, TAYLOR ET AL**, *Defendant*

**TO: TAYLOR DUNCAN
225 ROGER PATTON DRIVE
OLIVE HILL, KY 41164**

The Commonwealth of Kentucky to Defendant:

You are hereby notified that a **legal action has been filed against you** in this Court demanding relief as shown on the document delivered to you with this Summons. **Unless a written defense is made by you or by an attorney on your behalf within twenty (20) days** following the day this paper is delivered to you, judgment by default may be taken against you for the relief demanded in the attached complaint.

The name(s) and address(es) of the party or parties demanding relief against you or his/her (their) attorney(s) are shown on the document delivered to you with this Summons.

/s/ Larry D. Thompson,
Carter Circuit Clerk
Date: **2/21/2023**

Proof of Service

This Summons was:

Served by delivering a true copy and the Complaint (or other initiating document)

To: _____

Not Served because: _____

Date: _____, 20____

_____ Served By

_____ Title



8209488C-4F13-4164-8675-4BFE17E5085D : 000010 of 000015

Presiding Judge: HON. REBECCA K. PHILLIPS (637246)

CI : 000001 of 000001



CIVIL SUMMONS

Plaintiff, **TRANQUILITY PROPERTY MANAGEMENT LLC VS. DUNCAN, TAYLOR ET AL**, *Defendant*

**TO: JERRY CALLIHAN
225 ROGER PATTON DRIVE
OLIVE HILL, KY 41164**

The Commonwealth of Kentucky to Defendant:

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8209488C-4F13-4164-8675-4BFE17E5085D : 000012 of 000015

Presiding Judge: HON. REBECCA K. PHILLIPS (637246)

CI : 000001 of 000001



CIVIL SUMMONS

Plaintiff, **TRANQUILITY PROPERTY MANAGEMENT LLC VS. DUNCAN, TAYLOR ET AL**, *Defendant*

**TO: DERRICK WILLIS
CITY ATTORNEY
225 ROGER PATTON DRIVE
OLIVE HILL, KY 41164**

Memo: Related party is CITY OF OLIVE HILL

The Commonwealth of Kentucky to Defendant:
CITY OF OLIVE HILL

You are hereby notified that a **legal action has been filed against you** in this Court demanding relief as shown on the document delivered to you with this Summons. **Unless a written defense is made by you or by an attorney on your behalf within twenty (20) days** following the day this paper is delivered to you, judgment by default may be taken against you for the relief demanded in the attached complaint.

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