



City of

FOLEY

COMMUNITY DEVELOPMENT DEPARTMENT

200 NORTH ALSTON STREET

Foley, Alabama 36535

www.cityoffoley.org

(251) 952-4011

FAX (251) 971-3442

October 15, 2012

VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED

Estate of Clement Sutton
c/o The Hart Firm, LLC
Michael Hart
P.O. Box 1402
Daphne, AL 36526

Re: Building located at 118 West Laurel Avenue, Foley, Alabama

Greetings:

You are receiving this letter based on your representation of the certain property located at 118 West Laurel Avenue, Foley, Alabama (Baldwin County Tax Parcel ID Number 54-09-29-1-101-014.000) which is known as the "Cactus Café" building. On February 6, 2012 a certified letter from the City of Foley was sent to all estate members declaring the property a public nuisance with the following conditions:

1. The sign and its attachments to the building are rusted and in disrepair which pose a danger to the public as these hang precariously over the sidewalk. The sign must be properly affixed to the structure or safely removed from it.
2. The exhaust fan on the west side of the building is a fire hazard with mold and grease surrounding the components. Also this exhaust fan is an entry point for rats and birds with nest building materials exposed.
3. The door on the west side is not secure and appears to be an entry point for vermin and possibly vagrants.
4. The roof is leaking which is causing damage to one of the adjoining properties, and there appear to be flammable materials stored on the roof.

The letter referenced the City of Foley Ordinance No. 1076-08 regarding dilapidated buildings and structures that constitute a public nuisance. "Pursuant to Section 4-90 of the enclosed ordinance, this letter serves as written notice that you must remedy the conditions enumerated above within forty-five (45) days of the date of this letter. If the repairs cannot be accomplished within the next forty-five (45)

MAYOR: John E. Koniar

CITY ADMINISTRATOR: Michael L. Thompson

CITY CLERK: Vickey Southern

COUNCIL MEMBERS: J. Wayne Trawick, Vera Quaites, Ralph G. Hellmich, Cecil R. Blackwell, Charles Ebert III



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days, a written work plan with a timeline to accomplish the repairs shall be provided to the City within those forty-five (45) days. The work plan will be subject to the City's approval".

On March 23, 2012, the City received notice from your firm stating that conditions 1, 2 and 3 had been remedied. Also the letter stated that the roof repair materials had been purchased and weather permitting the repairs would be complete within 2-3 weeks. A permit from the City was obtained to conduct the repairs.

At this time, there has been no contact with the City to demonstrate the completed roof repairs. Furthermore the exhaust fan (condition 2) still appears to contain flammable materials and an entry point for rodents. The door on the west side of the structure has not been addressed. Also, there have been complaints regarding roofing materials and debris blowing from the building's roof onto City right-of-way.

As noted, we believe that the condition of the building, with its proximity to public sidewalk access on two sides, poses a fire hazard in itself and to the adjacent property. Furthermore, we believe that ignoring these conditions could lead to structural collapse that could also impact the public in these areas and the adjacent property. The following section of the International Fire Code, 2009 Edition provides the basis for which we are requesting your attention to these items that have been duly noted.

SECTION 110
UNSAFE BUILDINGS

110.1 General. If during the inspection of a premises, a building or structure or any building system, in whole or in part, constitutes a clear and inimical threat to human life, safety or health, the fire code official shall issue such notice or orders to remove or remedy the conditions as shall be deemed necessary in accordance with this section and shall refer the building to the building department for any repairs, alterations, remodeling, removing or demolition required.

110.1.1 Unsafe conditions. Structures or existing equipment that are or hereafter become unsafe or deficient because of inadequate means of egress or which constitute a fire hazard, or are otherwise dangerous to human life or the public welfare, or which involve illegal or improper occupancy or inadequate maintenance, shall be deemed an unsafe condition. A vacant structure which is not secured against unauthorized entry as required by Section 311 shall be deemed unsafe.

110.1.2 Structural hazards. When an apparent structural hazard is caused by the faulty installation, operation or malfunction of any of the items or devices governed by this code, the fire code official shall immediately notify the building code official in accordance with Section 110.1.

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110.3 Summary abatement. Where conditions exist that are deemed hazardous to life and property, the fire code official or fire department official in charge of the incident is authorized to abate summarily such hazardous conditions that are in violation of this code.

110.4 Abatement. The owner; operator or occupant of a building or premises deemed unsafe by the fire code official shall abate or cause to be abated or corrected such unsafe conditions either by repair, rehabilitation, demolition or other *approved* corrective action.

The City shall conduct a final inspection of the roof and other aforementioned nuisance conditions on Friday, October 26, 2012 at 10:00 A.M. At this time the City plans to determine if any public nuisances still exist. In order to gain access, the City is requesting a representative of the estate be present to unlock the building or other measures will be taken to obtain access.

If you have any questions, please contact our office at 251-952-4011.

All rights are hereby reserved.

Sincerely,

Leslie Lassitter Gahagan

Leslie Lassitter Gahagan
Code Enforcement Office/Environmental Manager
City of Foley

Joey W. Darby

Joey Darby, Chief
Fire Department
City of Foley

MAYOR: John E. Koniar

CITY ADMINISTRATOR: Michael L. Thompson

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SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits.		A. Signature X <i>Michael A Hart</i> ☐ Agent ☐ Addressee	
1. Article Addressed to: <i>The Hart Firm, LLC</i> <i>c/o Michael Hart</i> <i>PO Box 1402</i> <i>Daphne AL 36524</i>		B. Received by (Printed Name) <i>Michael A Hart</i> C. Date of Delivery <i>10-18-2012</i> D. Is delivery address different from item 1? ☐ Yes ☒ No If YES, enter delivery address below:	
		3. Service Type ☒ Certified Mail ☐ Express Mail ☐ Registered ☐ Return Receipt for Merchandise ☐ Insured Mail ☐ C.O.D.	
		4. Restricted Delivery? (Extra Fee) ☐ Yes	
2. Article Number (Transfer from service label)		7005 1820 0008 2211 8461	
PS Form 3811, February 2004		Domestic Return Receipt	
		102595-02-M-1540	

7005 1820 0008 2211 8461

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Restricted Delivery Fee (Endorsement Required)	\$	0.00	
Total Postage & Fees	\$	45.75	

Sent To *Michael Hart*
Street, Apt. No.;
or PO Box No. *PO Box 1402*
City, State, ZIP+4 *Daphne AL 36524*

PS Form 3800, June 2002
See Reverse for Instructions