

STATE OF MICHIGAN
CIRCUIT COURT FOR THE SECOND JUDICIAL CIRCUIT
BERRIEN COUNTY

MICHIGAN DEPARTMENT OF LICENSING
AND REGULATORY AFFAIRS, BUREAU OF
CONSTRUCTION CODES,

Plaintiff,

No.

HON. JOHN M. DONAHUE

v

HARBOR BANKS HOLDINGS, LLC,

Defendant.

William F. Denner (P68875)
Attorney for Plaintiff
Michigan Department of Attorney General
Labor Division
3030 W. Grand Blvd., Suite 10-660
Detroit, MI 48202
(313) 456-0080

Kevin Kelleher
Defendant
Owner, Harbor Banks Holdings, LLC
119 Cleveland Ave.
Galien, MI 49113

Mike Reed
Resident Agent, Harbor Banks Holdings, LLC
3223 Kaiser Rd
Three Oaks, MI 49128

VERIFIED COMPLAINT

Plaintiff, Director of the Bureau of Construction Codes, under the Michigan
Department of Licensing and Regulatory Affairs, (the BCC), brings this action

pursuant to the Stille-DeRossett-Hale Single State Construction Code Act, MCL 1501 *et seq.* (the Act), to enforce Defendant's compliance with the BCC's recently posted Order to Stop Construction and Cease Use and Occupancy pursuant to MCL 125.1512(3) and MCL 125.1513.

THE PARTIES

1. Plaintiff is the BCC, the state entity charged with the enforcement of the Act. MCL 125.1508b. and MCL 125.1502a(1)(r).

2. Defendant, Harbor Banks Holdings, LLC (Harbor Banks), is a Michigan Corporation that operates a wedding and events venue in the Village of Galien, Michigan. Mr. Kevin Kelleher is the owner of Harbor Banks Holdings, LLC and Mike Reed is its Resident Agent. The building at issue is located at 119 Cleveland Ave, Galien, MI 49113 and the Resident Agent's location on the corporate filings is 3223 Kaiser Rd., Three Oaks, MI 49128.

JURISDICTION AND VENUE

3. Under MCL 125.1512(3), the BCC may institute proceedings in the circuit court for the county in which the premises are located for an order enjoining the violation of the stop construction order.

4. The premises at issue are located in Berrien County, Michigan.

5. Jurisdiction and venue are proper in this Court pursuant to MCL 125.1512(3).

FACTUAL BACKGROUND

6. On September 28, 2017, the BCC posted and delivered an Order to Stop

Construction and Cease Use and Occupancy on the Defendant at 119 Cleveland Ave., Galien, MI 49113.

7. Harbor Banks has disobeyed the BCC's Order to Stop Construction and Cease Use and Occupancy as it continues to host events.

8. As the agency charged with administration and enforcement of the Act, the BCC is informed and believes that Harbor Banks has failed to obtain various building permits connected with its alteration and construction of a historic barn for use as a wedding reception and events venue.

9. The BCC is informed and believes that Harbor Banks has failed to obtain the following permits and approvals: The below list of permits and approvals is not exhaustive.

- a. A building permit applied for on October 25, 2016 that was received without full payment, without zoning approval, plans, or specifications for the change of the building's use.
- b. A plan review submitted on February 27, 2017 for remodeling of a first floor bathroom, a portion of which was denied with a letter of deficiencies in plans being sent by the BCC to Harbor Banks on July 17, 2017.
- c. A September 15, 2016 mechanical permit for two exhaust fans was withdrawn after inspections revealed several violations.

- d. An April 12, 2017 fire suppression system permit was placed on hold for lack of a complete system as there was no water supply in the plans.

10. Due to the aforementioned permitting and approval omissions, Harbor Banks has not been granted a certificate of use and occupancy.

11. The Act requires construction to be completed in compliance with a building permit. MCL 125.1512(2).

12. The Act prohibits use or occupancy in whole or in part of a building or structure until a certificate of use and occupancy has been issued. MCL 125.1513.

13. In light of construction continuing, and apparent use and occupancy of the building, the BCC delivered a Notice of Violations and Notice to Appear and Show Cause on September 22, 2017.

14. Harbor Banks appeared at the BCC offices in Lansing, Michigan on September 25, 2017, with attempts to demonstrate why a stop construction order and cease operations order should not be issued.

15. The BCC determined insufficient cause was shown, and the following are among the reasons why inadequate cause was shown:

- a. No new site plan was provided showing compliance with applicable building codes.
- b. No fire system plan has been submitted.
- c. A building permit could not yet be issued, fees are due and a plan review has not been submitted or completed.

**HARBOR BANKS HAS FAILED TO COMPLY WITH THE BCC'S ORDER
TO STOP CONSTRUCTION AND CEASE USE AND OCCUPANCY**

16. The BCC posted and delivered an Order to Stop Construction and Cease Use and Occupancy on September 28, 2017.

17. The BCC is informed and believes that Harbor Banks continues to use and occupy the building.


18. When an order to stop construction is not obeyed, the BCC may apply to the circuit court for the county in which the premises are located for an order enjoining the violation of the stop construction order. MCL 125.1512(3).

RELIEF REQUESTED

The BCC respectfully requests that this Honorable Court enter an Order enforcing the Order to Stop Construction and Cease Use and Occupancy by compelling Harbor Banks Holdings, LLC to refrain from constructing, using, and occupying the Harbor Banks Winery Barn located at 119 Cleveland Ave., Galien, MI 49113.

Respectfully submitted,

Bill Schuette
Attorney General


William F. Denner (P68875)
Assistant Attorney General
Attorneys for Plaintiff- Michigan
Department of Licensing and
Regulatory Affairs, Bureau of
Construction Codes

Labor Division
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Dated: October 6, 2017

VERIFICATION

I declare that the information above and attached is true to the best of my knowledge, information, and belief.

Dated:

10-6-2017

By:


Keith Lambert

Director, Bureau of Construction Codes,
Department of Licensing and Regulatory
Affairs