

IN THE CIRCUIT COURT OF THE COUNTY OF ST. LOUIS
STATE OF MISSOURI

CITY OF TOWN AND COUNTRY,)
MISSOURI)
)
Plaintiff,)
vs.)
)
NICOLE GRAHAM)
)
Defendant.)

Case No.: 22SL-CC03806

Division: 2

FILED

SEP 01 2022

JOAN M. GILMER

CONSENT ORDER AND JUDGMENT

PRELIMINARY AND PERMANENT INJUNCTION

Upon the joint application of the parties, the Court being fully advised enters the following Order and Judgment on Plaintiff City of Town and County, Missouri's Request for Permanent and Preliminary Injunction as to Defendant Nicole Graham:

Findings

1. Defendant Nicole Graham is the owner of the real property located at 14 Long Meadows Lane, Town and Country, Missouri 63131 (the "Property"), which is located within the corporate boundaries of the Plaintiff City of Town and Country, Missouri.
2. Prior to August 30, 2022, Defendant Nicole Graham had offered the swimming pool located on the Property for hire, through "www.swimply.com" and Ms. Graham's social media accounts.
3. Defendant Nicole Graham did rent out her pool, for pay, on multiple occasions, including on August 7, 2022.
4. The rental of the pool on August 7, 2022, was attended by more than 200 teenagers, and required three police departments to respond to the resulting disturbance. Cars were parked on both sides of the street causing traffic to be blocked. While on scene, officers

observed an individual crash his vehicle into a parked car and then flee the scene of the accident. The vehicle was stolen, and a suspect was ultimately apprehended. Defendant Nicole Graham was not at the Property when the party was broken up.

5. The Property is located within a residential zoning district, and has a primary use as a single family residence.

6. Section 615.350 of the City's Municipal Code governs limitations on "Home Occupations" and provides in subsections 14 and 15, the following:

- 14. The home occupation use shall not create additional noise, traffic, or other possible adverse effects of commercial uses being conducted in residential areas on or near the premises that are not normal for residential use.
- 15. The home occupation use shall not create a nuisance to neighbors.

7. The renting of the pool for profit constitutes a home occupation, as defined by the City's Municipal Code, which is defined by Section 615.340 of the City's Municipal Code as "An accessory use, including any business, commercial activity, or service for a financial consideration, conducted by members of the family residing on the premises of the dwelling units."

8. The manner in which the pool is being rented violates Section 615.350, subsections 14 and 15, of the City's Municipal Code, to wit: (a) the commercial renting of the pool in a residential area is not consistent with the normal residential use of the area; (b) it creates additional noise in the area; (c) it creates additional traffic in the area; and (d) is causing a nuisance to the residential neighbors.

9. In addition, the commercial renting of the swimming pool violates Section 615.360, subsection 7; of the City's Municipal Code which provides that "[t]ourist home[s], bed

and breakfast[s], or rooming house[s]” are prohibited home occupations. The rental of the swimming pool constitutes a “tourist home” under the City’s Municipal Code.

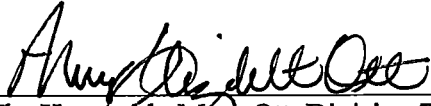
Order and Judgment

10. Defendant Nicole Graham is preliminarily and permanently enjoined from: (1) offering the pool at the Property for rental; and (2) operating any home occupation in violation of the Plaintiff City of Town and Country, Missouri’s Municipal Code of Ordinances.

11. If subsequent to the entry of this Order and Judgment, Plaintiff City of Town and Country believes that Defendant Nicole Graham has violated the terms of this Order and Judgment, the City shall provide written notice to Ms. Graham stating the nature of the alleged violation. If Ms. Graham disputes the alleged violation, she shall provide a written response within 48-hours. Failure to timely respond shall be deemed an admission of the alleged violation. If Ms. Graham timely disputes the alleged violation and the City still believes a violation occurred, then this Court shall hold an evidentiary hearing to determine whether there has been a violation by Ms. Graham. For each violation of this Order and Judgment, either admitted to by Ms. Graham or found by this Court, Ms. Graham shall pay to the City: (1) the greater of \$250 or the actual damages suffered by the City; and (2) the City’s reasonable attorneys’ fees and costs. The City may file any appropriate motion to enforce the terms of this Order and Judgment.

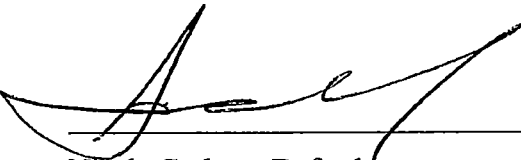
WHEREFORE, it is hereby adjudged, ordered and decreed that the Plaintiff’s Request for Preliminary and Permanent Injunction is GRANTED as set forth herein. The Request for Temporary Restraining Order is denied as moot due to the issuance of this Order and Judgment. This Order and Judgment finally and completely resolves the above captioned matter.

SO ORDERED:

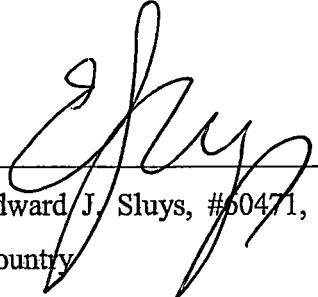

The Honorable Mary Ott, Division 7, Sitting for Division 2

Date: 9-1-2022

Consented to by:


Nicole Graham, Defendant *pro se*

Date: 9/1/2022


Edward J. Sluys, #60471, Assistant City Attorney on behalf of Plaintiff City of Town and Country

Date: 9/1/2022