


FILED 

MAY 31 2017

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF HUMBOLDT

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF HUMBOLDT**

[REDACTED]

CASE NO. SC170034

Plaintiff,

JUDGMENT

vs.

FLOYD SQUIRES, III, and BETTY SQUIRES,

Defendants.

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The above Small Claims matter came on for hearing on March 13, 2017 and continued daily thereafter for 17 days. All parties personally appeared. Evidence (both testimony and exhibits) was received. The matter was argued and submitted for decision.

The case was consolidated for trial with 20 related Small Claims cases. Such procedure has been sanctioned when a large number of individuals file separate Small Claims cases for nuisance against the same defendant. City and County of San Francisco v. Small Claims Court (1983) 141 Cal.App.3d 471.

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1 Plaintiff claimed damages in the amount of \$10,000.00 for "loss of value of home  
2 and not having peaceful, safe and quiet enjoyment of my home," for general nuisance.  
3 This claim relates to 1625 and 1635 G Street, Eureka (hereinafter referred to as  
4 1625/1635). Plaintiff seeks those damages for the period of December 1, 2015 and  
5 ongoing. The claim also references that damages are being sought for 365 days.  
6 Accordingly, I will consider the case based on a calendar year from December 1, 2015  
7 through November 30, 2016.

8 A nuisance is "anything which is injurious to health, including, but not limited to,  
9 the illegal sale of controlled substances, or is indecent or offensive to the senses, or an  
10 obstruction to the free use of property so as to interfere with the comfortable enjoyment  
11 of life or property, or unlawfully obstructs the free passage or use, in the customary  
12 manner, of any navigable lake, or river, bay, stream, canal, or basin, or any public park,  
13 square, street, or highway." Civil Code section 3479.

14 A public nuisance is a nuisance "which affects at the same time an entire  
15 community or neighborhood, or any considerable number of persons, although the  
16 extent of the annoyance or damage inflicted upon individuals may be unequal." Civil  
17 Code section 3480.

18 The remedies against both a public nuisance and a private nuisance include a  
19 civil action. Civil code section 3491 and 3501.

20 A nuisance is also defined as "every building or place used for the purpose of  
21 unlawfully selling, serving, storing, keeping, manufacturing, or giving away any  
22 controlled substance, precursor, or analog specified in this division, and every building  
23 or place wherein or upon which those acts take place." Health and Safety Code section  
24 11570.

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1 An informative case discussing issues similar to those in this case is Lew v.  
2 Superior Court (Byrd) (1993) 20 Cal.App.4<sup>th</sup> 869. In that Small Claims case, 66  
3 neighbors sought damages for nuisance from the owners of an apartment complex.  
4 The Appellate Court upheld the trial court decision, finding liability and awarding  
5 damages. Plaintiff's evidence showed that the apartment complex was a drug house  
6 where drugs were sold and distributed. Among the statements of the Appellate Court  
7 were:

- 8 • A drug house is a nuisance for which damages may be recovered, whether it is a  
9 public or private nuisance.
- 10 • "The fact that the immediate and specific injury plaintiffs suffered from this  
11 nuisance was due to the acts of third parties, rather than, for example, being due  
12 to noxious gases, is not relevant to the issue of whether the property qualifies as  
13 a nuisance under section 11570. That section does not require that the unlawful  
14 activity which makes the building a nuisance be conducted by the owner of the  
15 building, a tenant of the building, or a person entering with permission."
- 16 • "The important problem in this case relates to the fact that many of the acts  
17 which were injurious to the peace of mind of plaintiffs were committed off  
18 petitioners' property by persons who were not identified as tenants of the  
19 property and were not on petitioners' property. It bears emphasis that real  
20 parties did not seek to recover for the acts of those third parties, but for the acts  
21 of petitioners in maintaining their property as a nuisance. Although a nuisance  
22 and liability therefore may exist without negligence [citation omitted], we need not  
23 determine whether it would ever be appropriate to impose liability upon owners  
24 whose property, without any fault of theirs, was a nuisance as defined by section

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1 11570. Liability was imposed in this case on a theory of active fault on the part of  
2 petitioners in the management of their property."

- 3 • "The rule of law is well settled and familiar that every man is bound to use his  
4 own property in such manner as not to injure the property of another, or the  
5 reasonable and proper enjoyment of it; and that the carrying on of an offensive  
6 trade or business which creates noisome smells and noxious vapors or causes  
7 great and disturbing noises, or which otherwise renders the occupation of  
8 property in the vicinity inconvenient and uncomfortable, is a nuisance for which  
9 any person whose property is damaged, or whose health is injured, or whose  
10 reasonable enjoyment of his estate as a place of residence is impaired or  
11 destroyed thereby, may well maintain an action to recover compensation for the  
12 injury."
- 13 • "The mental suffering which is the main component of the injuries alleged by  
14 plaintiffs is compensable under a nuisance theory. It is settled that, regardless of  
15 whether the occupant of land has sustained physical injury, he may recover  
16 damages for the discomfort and annoyance of himself and the members of his  
17 family and for mental suffering occasioned by fear for the safety of himself and  
18 his family when such discomfort or suffering has been proximately caused by a  
19 trespass or nuisance. [citations omitted]. Damages recoverable in a successful  
20 nuisance action for injuries to real property include not only diminution in market  
21 value, but also damages for annoyance, inconvenience, and discomfort [citations  
22 omitted]. Mental distress caused by the nuisance created and maintained by the  
23 defendant is an element of loss of enjoyment."
- 24 • "Not only was there substantial evidence that the property was used in the sale of  
25 drugs and the harboring of drug dealers, the conclusion that petitioners did not

1 take all reasonable measures available to them to control their property is  
2 supported by the evidence. Mr. Rucker testified that it was possible to clear up  
3 drug centers with the help of cooperative and aggressive management.

4 Sergeant Nielsen suggested several specific steps that could be taken to meet  
5 the problem at that location. The steps that the court found could have been  
6 taken were not extraordinary, i.e., employment of a live-in manager, more secure  
7 fencing and a key-card gate. Under these circumstances, this court cannot say  
8 as a matter of law that petitioners acted reasonably in their efforts to meet the  
9 problem they knew existed on their property."

10 Substantial, credible evidence was submitted that supports that 1625/1635 were  
11 nuisances. That evidence included evidence regarding:

- 12 • Drug sales
- 13 • Drug usage
- 14 • Drug raids
- 15 • Excessive garbage and litter on and about the properties
- 16 • Abandoned, dilapidated vehicles
- 17 • People working on cars late at night causing excessive noise
- 18 • Fire hazards – described by City officials as an imminent threat of fire causing a  
19 legitimate fear to the neighbors
- 20 • Fighting
- 21 • Gunshots and shootings
- 22 • Yelling
- 23 • Swearing
- 24 • Violence

25 ///

- 1 • Dilapidated exterior including lack of paint and broken and missing windows.
- 2 Described by witnesses, including City officials, as squalor, blight, urban slum,
- 3 egregious violations, ugly, significant blight on the neighborhood and very
- 4 rundown
- 5 • Excessive police emergency responses at all hours of the day and night
- 6 • Loud music
- 7 • People sleeping in and living in cars
- 8 • Dogs left in vehicles for excessive periods of time – up to 7 dogs at one time –
- 9 with excessive barking
- 10 • Needles in and around property
- 11 • Condoms in and around property
- 12 • Theft in the neighborhood
- 13 • Trespassing in the neighborhood
- 14 • Structure and vehicle break-ins
- 15 • Dumpster diving
- 16 • Bizarre behavior
- 17 • Neighbors hassled by people going to or coming from 1625/1635
- 18 • Vandalism

19 Defendants submitted testimony and evidence that they have put significant  
20 effort into maintaining the properties and controlling the numerous issues with the  
21 properties. I find that these efforts were inadequate and/or short-lived. As an example,  
22 1625 and 1635 were cleared of building code violations in August 2016, and yet in  
23 January 2017 (beyond the timeframe of liability and damages in this case), the Building  
24 Department "red tagged" 1635 after finding more than 200 new building code violations.  
25 A City building official described 1635 as looking like a tornado had gone through it.

1 Based on the totality of the evidence, including the above-listed items, I find that  
2 the properties at 1625/1635 were negligently operated, managed, and maintained by  
3 defendants and constituted a nuisance.

4 Plaintiff [REDACTED] resides at [REDACTED]. She testified to the negative effect  
5 on the peaceful, safe, and quiet enjoyment of her house caused by the nuisance at  
6 1625/1635 and the activities and conditions constituting that nuisance.

7 Evidence was presented on the issue of loss of fair market value of the property  
8 because of the nuisance at 1625/1635. While it is certainly true in general that the  
9 nuisance at 1625/1635 would decrease the value of properties in the surrounding  
10 neighborhood, the evidence as to the amount of damage was inadequate to support an  
11 award for damages for this loss.

12 Plaintiff is awarded damages against defendants, jointly and severally, in the  
13 amount of \$3,000.00 plus costs of suit.

14  
15 Dated: May 25, 2017

TIMOTHY P. CISSNA

16 Timothy P. Cissna, Judge of the Superior Court