



September 11, 2019

In Re: Appeal of Code Case 000748-2019
4256 Mount Carmel Tobasco Road, Unit A

WMSC Variance Board Members:

The property owner of 4256 Mount Carmel Tobasco Road, Unit A, is appealing the findings of the Clermont County Building Inspections Department (CCBID) for Code Case 000748-2019. The Code Case involves a roof drain located 8-9 feet off the ground and directly discharges onto the adjoining property. The CCBID originally treated this code case as a building issue and not a WMSC issue. After the first two responses from CCBID claimed there were erosion issues but no building violations, the CCBID revisited the complaint and determined the issue is in fact a WMSC violation due to the erosion nuisance. Below is a summary of the items contained in your packet.

- 1) Original Complaint Form dated April 10, 2019.
- 2) Response letter sent to property owner and complainant with the findings of the CCBID dated April 19, 2019.
- 3) Clermont Cares Form received July 16, 2019. Code Case 000640-2019 created for the Clermont Care Complaint.
- 4) Letter received from the attorney of the property owner.
- 5) Response letter sent to property owner and Clermont Cares dated July 22, 2019.
- 6) Letter from tenant dated August 2, 2019.
- 7) Code Case 000748-2019 created to respond to second Clermont Cares Complaint. Response letter from CCBID dated August 22, 2019 to property owner and Clermont Cares.
- 8) Request for Appeal Hearing dated September 3, 2019.

Sincerely,

A handwritten signature in black ink, appearing to read "Heath Wilson".

Heath Wilson, P.E.

1



CLERMONT COUNTY OHIO

BOARD OF COUNTY COMMISSIONERS
EDWIN H. HUMPHREY • DAVID L. PAINTER • CLAIRE B. CORCORAN

Permit Central/Building Inspection Department

COMPLAINT FORM

Complaint Number

BLD-000271-2019

Complainant Name: Shay Melah Eastgate Pines Apt. Phone: (513) 752-7577
(Your Name and Address)
Mailing Address: 4260 Mt Carmel Tolasco Rd cin oh 45244

Fax: _____ E-mail: _____

Shay Melah GREB NICHOLS 4-10-19
(Signature of Complainant) (Print or type name here) (Date)

Briefly Describe Complaint about the Property Causing the Problem:

Water draining off Building directly on our
property causing swamps
Call Greg so he can meet you out there

Is this rental property? _____ Manager's Name: _____ Manager's Phone: _____
Were you aware of this problem when you moved in? _____ How long has this problem
existed? _____
Have you discussed this problem with the owner? yes
What was the property owner's reaction? _____

RECEIVED
APR 10 2019
CLERMONT COUNTY
PERMIT CENTRAL

Address of Property Causing the Problem: 413214B288.
4256 Mt. Carmel Tolasco Rd 45244
(Street No.) (Street Name) (Zip Code)

Driving Directions: _____

Village: _____ Township: Union

Property Owner: KDM Capital LLC Phone: _____

Address: 9148 Cummings Farm Ln Cincinnati OH 45242

Fax: _____ E-mail: _____

#2 file



CLERMONT COUNTY OHIO

BOARD OF COUNTY COMMISSIONERS
EDWIN H. HUMPHREY • DAVID L. PAINTER • CLAIRE B. CORCORAN

Permit Central/Building Inspection Department

April 19, 2019

Code Case Number & General Information

Owner - Primary's Name and Address:

KDM CAPITAL LLC
9148 CUMMINGS FARM LN
CINCINNATI, OH 45242

Complainant - Primary's Name and Address:

GREG NICHOLS
EASTGATE PINES APT
4260 MOUNT CARMEL TOBASCO RD
CINCINNATI, OH 45244

Case/Complaint Number: **BLD-000271-2019**
Name: **WMSC ISSUES**
Address: **4256 MOUNT CARMEL TOBASCO RD**
CINCINNATI, OH 45244
Location/PIN #: Union Township/413214B282.

The Building Inspection Department is directed to investigate, review and respond to public concerns and verify compliance with County Regulations and State Building Codes. The Department has received a Public Complaint as described below:

Water is running off building and causing damage to property.

The Department has investigated the issues identified above and have determined the following:

Inspector visited site of complaint. No new work being done. Observed small area of erosion located behind building next door to site. This is an existing building that has water running of the roof. I spoke to complainant by phone and he explained this is the problem. There are no WMSC or Ohio Building Code violations at this property.

This letter has been prepared to communicate our findings to the Complainant and Property Owner.

If you have questions, please contact the applicable Inspector or our Permit Specialists, Monday-Friday, 8:00 am - 4:30pm at 513-732-7213. Your help and cooperation with this issue is greatly appreciated.

Sincerely,

Carl Lamping
Director/Building Official

CLERMONT CARES FORM

640-2019 - 7/18/19

INFORMATION ON PROBLEM

LOG # 19-07

3

NAME: Greg Nichols
ADDRESS: 1007 Crisfield Drive, Cincinnati, Ohio 45245
EMAIL: NA
TELEPHONE: 513-752-7575

LOCATION AND NATURE OF PROBLEM: Greg Nichols contacted the Commissioners' Office regarding an issue with the Building Department. Mr. Nichols owns the Eastgate Pines Apartments at 4260 Mt.-Carmel Road. Mr. Nichols stated that the commercial building beside his property, was purchased in 2018 by the present owner. Mr. Nichols said that instead of putting a downspout on the building to divert, HVAC, storm water and other drainage from the property, the new owner installed a pipe, which extends 2 to 3 feet out of the window and drains all of the water from the neighbor's property onto his (Mr. Nichols) property. Mr. Nichols said this is causing erosion and considerable damage to his property and rendering that area useless and a liability for his residents. Mr. Nichols reported this to the Building Department and was told that they could not prove that this was new and that it hadn't always been that way, therefore they could not consider it new construction. Mr. Nichols said that he has pictures of the date on the pipe which is 2017, and that it is clearly new. Mr. Nichols said that he has done numerous construction projects and updates to his property and has always had to go through the Building Department, he feels that this should be the case for everyone. Mr. Nichols said that he feels that the Building Department is simply giving him the run around and they simply do not want to do their job (he said that the inspector, Gary even told him that he hadn't received information because he didn't know how to do email). Mr. Nichols would like someone from this office to look at the situation, and feels that the issue is very clear. He would like someone from this office to contact him.

FOLLOW-UP NOTES:

RECEIVED BY: Christine H.
RECEIVED VIA: Phone
DATE RECEIVED: 07/16/19

4260 - Mt Carmel

ASSIGNED TO: Sukie/Tom

DATE ASSIGNED: 07/16/19

DATE DUE:

DATE FORWARDED TO ADMINISTRATION: 07/16/19

complaint - 271-2019

APPROVAL/DIRECTION BY ADMINISTRATION:

ACTION TAKEN/OR RECOMMENDED:

NAME OF PERSON HANDLING CARES ISSUE:

DATE COMPLETED:

DATE TRANSFERRED TO PROJECT LOG:

COMPLETED? Yes or No

#4.1

THE AYLOR LAW OFFICE, P.S.C.
ATTORNEYS AND COUNSELORS AT LAW

Jeffrey R. Aylor*

*Admitted in Kentucky and Ohio

859-647-8400

859-647-8404 (Fax)

jeff@aylor-law.com

June 20, 2019

Carl Lamping
Clermont County
Building Inspection Department
2275 Bauer Road
Batavia, OH 45103

RECEIVED

JUN 24 2019

CLERMONT COUNTY
PERMIT CENTRAL

Re: My Client: KDM Capital, LLC
Property located at: 4256 Mount Carmel Tobasco Road
Cincinnati, OH 45244
Complainant: Greg Nichols – Clough Corner Apt., L.L.C.

Dear Mr. Lamping:

I am writing as legal counsel for KDM Capital, LLC in follow-up to your letter dated April 19, 2019, a copy of which is enclosed. In response to complaint from the adjoining property owner, Greg Nichols of Clough Corner Apt., L.L.C. you inspected my client's property and you found no violations. As you may or may not be aware, Clough Corner Apt., L.L.C. later filed a small claims suit against my client and that suit has now been moved to regular civil docket, much to the displeasure of Mr. Nichols. It is my understanding that Mr. Nichols, for lack of a better way to say it, is pressuring your department to try and get you to take another look at my client's property. In fact, you or someone from your office called my client this week and tried to convince my client that they needed to install some new drain pipe to satisfy Mr. Nichol's complaints.

I would like for you to have a better understanding of the facts. My client purchased this property in February of 2018, and they have made no structural changes or added any pipe to the building since acquiring it in February of 2018. As I understand it, the only thing that my client has done on the exterior of the building was dealing with some exterior lighting. You inspected the property in April of this year and found no violations. However, for whatever reason and after all these years, Mr. Nichols does not like the way the water is running and when my client did not react in a way that Mr. Nichols wanted, he simply filed suit and ask for some arbitrary sum.

4.2

My client has asserted certain claims against Mr. Nichols' company and that has him even more upset and he is apparently trying to get your office to help fight his battles. I can assure you that my client wants nothing more than to be done dealing with Mr. Nichols, but they are not going to simply give in to his strong-arm tactics. I can further assure you that my client takes very seriously the manner in which their property is maintained and that they also want to be in compliance with all laws and regulations. If your office had indicated any violations, I can assure you that my client would have acted accordingly. Instead your office found no such violations and my client has relied upon those findings. We would hope that your office would not be pressured by Mr. Nichols and/or his representatives into revisiting some issues upon which you have already made a finding.

My client has made no changes since April of 2019. In fact, the only thing that is different since April of 2019, is that we have had record amounts of rain this year making the ground more saturated than it has ever been and causing any rain that falls to run off. Mr. Nichols has been neither fair nor reasonable with my client and we sympathize with how he may be dealing with your office, but again, we hope that you will allow the legal system to address these issues and not be swayed by Mr. Nichols or his tactics.

If you have any questions in regards to this matter or would like to discuss this situation in more detail, I can be contacted at 859-647-8400, Ext. 103 or by writing to me at the address stated herein. Thank you for your attention to this matter.

Sincerely,

The Aylor Law Office, P.S.C.



Jeffrey R. Aylor

Cc: KDM Capital, LLC



CLERMONT COUNTY OHIO

BOARD OF COUNTY COMMISSIONERS
EDWIN H. HUMPHREY • DAVID L. PAINTER • CLAIRE B. CORCORAN

Permit Central/Building Inspection Department

#4.3

April 19, 2019

Owner - Primary's Name and Address:

KDM CAPITAL LLC
9148 CUMMINGS FARM LN
CINCINNATI, OH 45242

Complainant - Primary's Name and Address:

GREG NICHOLS
EASTGATE PINES APT
4260 MOUNT CARMEL TOBASCO RD
CINCINNATI, OH 45244

Code Case Number & General Information

Case/Complaint Number: BLD-000271-2019
Name: WMSC ISSUES
Address: 4256 MOUNT CARMEL TOBASCO RD
CINCINNATI, OH 45244
Location/PIN #: Union Township/413214B282

The Building Inspection Department is directed to investigate, review and respond to public concerns and verify compliance with County Regulations and State Building Codes. The Department has received a Public Complaint as described below:

Water is running off building and causing damage to property.

The Department has investigated the issues identified above and have determined the following:

Inspector visited site of complaint. No new work being done. Observed small area of erosion located behind building next door to site. This is an existing building that has water running of the roof. I spoke to complainant by phone and he explained this is the problem. There are no WMSC or Ohio Building Code violations at this property.

This letter has been prepared to communicate our findings to the Complainant and Property Owner.

If you have questions, please contact the applicable Inspector or our Permit Specialists, Monday-Friday, 8:00 am - 4:30pm at 513-732-7213. Your help and cooperation with this issue is greatly appreciated.

Sincerely,

Carl Lamping
Director/Building Official



CLERMONT
COUNTY OHIO

BOARD OF COUNTY COMMISSIONERS
EDWIN H. HUMPHREY • DAVID L. PAINTER • CLAIRE B. CORCORAN

Permit Central/Building Inspection Department

Close/ALW

#5.1

July 22, 2019

Code Case Number & General Information

Owner - Primary's Name and Address:

KDM CAPITAL LLC
9148 CUMMINGS FARM LN
CINCINNATI, OH 45242

Complainant - Primary's Name and Address:

CLERMONT CARES
CLERMONT COUNTY BOARD OF
COMMISSIONERS
101 E MAIN ST
BATAVIA, OH 45103

Case/Complaint Number: **BLD-000640-2019**
Name: **CLERMONT CARES 19-07**
Address: **4256 MOUNT CARMEL TOBASCO RD**
CINCINNATI, OH 45244
Location/PIN #: Union Township/413214B282.

The Building Inspection Department is directed to investigate, review and respond to public concerns and verify compliance with County Regulations and State Building Codes. The Department has received a Public Complaint as described below:

Greg Nichols contacted the Commissioners' Office regarding an issue with the Building Department. Mr. Nichols owns the Eastgate Pines Apartments at 4260 Mt.-Carmel Road.

Mr. Nichols stated that the commercial building beside his property, was purchased in 2018 by the present owner. Mr. Nichols said that instead of putting a downspout on the building to divert, HVAC, storm water and other drainage from the property, the new owner installed a pipe, which extends 2 to 3 feet out of the window and drains all of the water from the neighbor's property onto his (Mr. Nichols) property. Mr. Nichols said this is causing erosion and considerable damage to his property and rendering that area useless and a liability for his residents.

Mr. Nichols reported this to the Building Department and was told that they could not prove that this was new and that it hadn't always been that way, therefore they could not consider it new construction. Mr. Nichols said that he has pictures of the date on the pipe which is 2017, and that it is clearly new. Mr. Nichols said that he has done numerous construction projects and updates to his property and has always had to go through the Building Department, he feels that this should be the case for everyone. Mr. Nichols said that he feels that the Building Department is simply giving him the run around and they simply do not want to do their job (he said that the inspector, Gary even told him that he hadn't received information because he didn't know how to do email). Mr. Nichols would like someone from this office to look at the situation, and feels that the issue is very clear. He would like someone from this office to contact him

The Department has investigated the issues identified above and have determined the following:

#5.2



Case/Complaint Number: **BLD-000640-2019**

CLERMONT CARES 19-07

Clermont County Permit Central/Building Inspection Department

July 22, 2019

The Building Inspection Department was instructed to review and prepare a response to the Clermont Cares Case 19-07 received by the BCC on July 17, 2019.

The Building Inspection Department received a Compliant from Mr. Nichols in April of 2019. Our Inspector visited the site and the Office prepared a Response Letter dated April 29, 2019 (information under Case # BLD 271-2019). See attached letter to Mr. Nichols responding to the April Complaint. Our Inspector observed the existing pipe at the existing building and no new work being performed. We observed small area of erosion located behind building next door to site. Our conclusion is that this is an existing piping condition in an existing building.

Ohio Building Code, Section 102.7 Existing structures; indicates that any structure (or plumbing/storm drainage system) currently existing on the date of adoption of this code shall be permitted to continue without change provided there are no orders of the building official pending, no evidence of fraud, or no serious safety or sanitation hazard. This code was officially adopted by the State of Ohio on August 1, 2018.

Lamping and Pitzer have both spoken extensively to Mr. Nichols several times over the phone and have attempted to explain that this is an existing condition, and since there are no Serious Hazards observed, the Ohio Building Code allows the existing condition is allowed to remain.

The Building Inspection Department does not consider the existing storm drainage system to be a Serious Hazard and is not requiring the existing condition to be altered.

This letter has been prepared to communicate our findings to the Complainant and Property Owner.

If you have questions, please contact the applicable Inspector or our Permit Specialists, Monday-Friday, 8:00 am - 4:30pm at 513-732-7213. Your help and cooperation with this issue is greatly appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read "Carl Lamping".

Carl Lamping
Director/Building Official

8-2-19

6



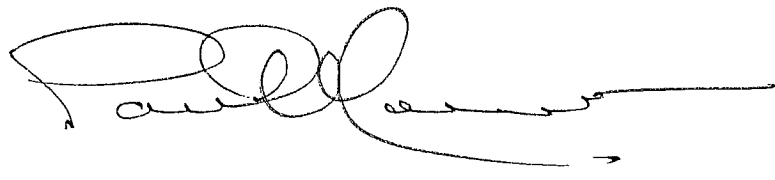
Little Caesars

To whom it may concern,

I was asked by Greg Nichols to explain what I know about the roof drain that comes off the building in which I lease a space from for my business - Little Caesars.

Approx. 2-3 years ago the building maintenance man - Tom Rering requested permission to enter the back area of my leased space to do some work up in the ceiling. I granted him access to do so. A day or two later I noticed that Tom had installed a roof drain that came down through the roof and into the ceiling area then out the back wall of the building. The drain pipe is approx. 8' to 9' off the ground and drains water off the roof of the building.

Paul Morrow - owner

 8-2-19

RECEIVED

AUG 16 2019

CLEVELAND COUNTY
SCHOOL DISTRICT



CLERMONT
COUNTY OHIO

BOARD OF COUNTY COMMISSIONERS
EDWIN H. HUMPHREY • DAVID L. PAINTER • CLAIRE B. CORCORAN

Permit Central/Building Inspection Department

#7

August 22, 2019

Owner:
KDM Capital LLC
9148 Cummings Farm Ln
Cincinnati, Ohio 45242

Complainant:
Clermont Cares
Clermont County Board of Commissioners
101 E. Main Street
Batavia, Ohio 45103

**Re: BLD #748-2019, 4256 Mount Carmel Tobasco Road, Cincinnati, Ohio 45244
Union Township, Parcel # 413214B282.**

The Building Inspection Department is directed to investigate, review and respond to public concerns and verify compliance with County Regulations and State Building Codes. The Department has received a Public Complaint as described below:

Greg Nichols provided a statement from Little Caesars Owner which details that 2-3 years ago the maintenance man installed a roof drain that came down through the roof and into the ceiling area and then out the back wall of the building. The drainpipe is approximately 8 to 9 feet off the ground and drains water off the roof of the building creating a nuisance.

The Department's Inspection Staff have researched and investigated the issues identified within the Case/Complaint regarding the applicable county and state rules and regulations and have determined the following:

Inspection staff observed the conditions on site and determined that the drainage pipe as installed created an erosion hazard and nuisance condition under the Clermont County Water Management Sediment Control Regulations, Section 340.1. This condition needs to be corrected with the next 15 days to comply with regulations.

This letter has been prepared to communicate our findings and provided recommendations to the Property Owner of Record. The Department is requesting that you review and/or resolve the issues described above or communicate your intentions with us within 30 days.

If you have questions concerning this issue, please contact the applicable Inspector or Permit Specialists, Monday-Friday, 8:00 am - 4:30 pm at 513-732-7213. Your help and cooperation with this issue is greatly appreciated.

Sincerely,

Steven J. Rivera
Back Up Building Official

Cc: Response Letter, BLD 748-2019

#8

THE AYLOR LAW OFFICE, P.S.C.
ATTORNEYS AND COUNSELORS AT LAW

Jeffrey R. Aylor*
*Admitted in Kentucky and Ohio
August 28, 2019

859-647-8400
859-647-8404 (Fax)
jeff@aylor-law.com

Clermont County Appeals Board
2275 Bauer Road
Batavia, OH 45103

Sent Via Federal Express
Next Business Day Delivery

RECEIVED

SEP 03 2019

CLERMONT COUNTY
TRUST CENTRAL

Re: Request for Appeal Hearing
Alleged Violation of WMSC Regulation Section 340.01
BLD#748-2019

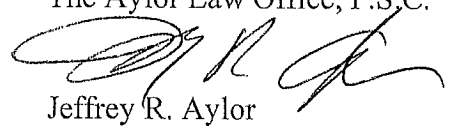
Dear Sir or Madam:

Enclosed please find the Request for Appeal Hearing along with a Statement of the Items Appealed, including the basis for the Appeal and the relief sought, along with supporting documentation. Also enclosed is a check made payable to the Clermont County Treasurer in the sum of \$100.00. We would respectfully request that this appeal be filed upon receipt and that a hearing be scheduled.

If you have any questions in regards to this filing, please contact me at 859-647-8400, Ext. 103 or at the email address listed above. Thank you.

Sincerely,

The Aylor Law Office, P.S.C.



Jeffrey R. Aylor

Cc: KDM Capital, LLC