

**IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
CIVIL TRIAL DIVISION**

CITY OF PHILADELPHIA,
Plaintiff,

v.

BRITH SHOLOM WINIT, L.P.
3939 CONSHOHOCKEN AVENUE,
PHILADELPHIA, PA 19131

and

10 HILL STREET,
NEWARK, NJ 07102

and

6931 RINGS ROAD,
NO. 234
AMLIN, OH 43002

BRITH SHOLOM FOUNDATION, INC.

3939 CONSHOHOCKEN AVENUE,
PHILADELPHIA, PA 19131

and

10 HILL STREET,
NEWARK, NJ 07102

and

6931 RINGS ROAD,
NO. 234
AMLIN, OH 43002

BSH USA LLC

3939 CONSHOHOCKEN AVENUE,
PHILADELPHIA, PA 19131

and

10 HILL STREET,
NEWARK, NJ 07102

and

6931 RINGS ROAD,
NO. 234
AMLIN, OH 43002

COURT OF COMMON PLEAS
PHILADELPHIA COUNTY
CIVIL TRIAL DIVISION

NOVEMBER TERM, 2023

NO. 01738

231101738-City Of Philadelphia Vs Brith Sholom Winit L.P Eta



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JUDICIAL RECORDS
1ST JUDICIAL DISTRICT
2023 NOV 17 PM 3:00
FILED

ORDER FOR PRELIMINARY INJUNCTION

AND NOW, this 17 day of November, 2023, upon consideration of the Emergency Motion for Preliminary Special Injunction filed by the Plaintiff, the City of Philadelphia, any response thereto, and the hearing held thereupon, the City's Motion is hereby **GRANTED** and the Court **FINDS** that:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Defendants, Brith Sholom Winit, L.P., Brith Sholom Foundation, Inc., and BSH USA LLC (collectively, "Defendants") are the owners and responsible parties for the property located at 3939 Conshohocken Avenue, Philadelphia, Pennsylvania (the "Subject Premises") and are responsible for maintaining it in accordance with the Philadelphia Code.

2. The City of Philadelphia, by and through the Department of Licenses and Inspections (the "Department"), has determined that the Subject Premises is in violation of the Philadelphia Code and is unsafe.

3. Notices of Violation No. CF-2023-092788, CF-2023-092800, CF-2023-092814, CF-2023-092983, CF-2023-093578, CF-2023-094823, CF-2023-093417, CF-2023-092788, CF-2023-092800, CF-2023-092814, CF-2023-092983, CF-2023-093578, CF-2023-094823, and CF-2023-093417 have been served upon Defendants notifying them:

- a. that the property was not in compliance with the Philadelphia Code;
- b. of the right to challenge the violations through a timely appeal to the Boards Administration;
- c. that the property is unsafe;



d. that the failure to bring the Subject Premises into compliance with the Philadelphia Code would result in the City commencing legal action and/or seeking abatement of the violations.

4. Defendants have not filed an appeal to the Boards Administration for any of the above-noted notices of violation.

5. The violations cited in the above-noted notices of violation and conditions at the Subject Premises include but are not limited to:

- a. hundreds of violations of the Fire Code, including:
 - i. failure to maintain the sprinkler system;
 - ii. lack of approved evacuation plans
 - iii. missing emergency signage;
 - iv. numerous obstructions to ingress and egress;
 - v. accumulation of combustible materials;
 - vi. lack of illumination in fire towers;
 - vii. missing, improperly mounted, uncertified, and/or defective smoke detectors and fire extinguishers;
 - viii. lack of automatic sprinkler system in trash chutes;
 - ix. multiple certifications relating to the fire safety systems;
- b. electrical hazards in and around the building's electrical room and equipment;
- c. ongoing interior demolition and construction without permits;
- d. stairs, balconies, wall(s), and/or overhangs in an unsafe condition due to partial collapses, fractures, and bulges; and



e. a lack of security at the Subject Premises that permits unauthorized persons to access the building;

6. Defendants have not applied for a Make Safe Building Permit or corrected the violations of the Philadelphia Code at the Subject Premises.

7. Defendants continue to hold out the property as code compliant and fit for its intended purpose.

8. Defendants have an extensive history of non-compliance with the Philadelphia Code and failure to generally maintain the Subject Premises.

9. Defendants' failure to maintain the Subject Premises has led to numerous investigations by the Department, the issuance of hundreds of violations of the Philadelphia Code, and prior enforcement proceedings.

10. Defendants' failure to maintain and secure the Subject Premises has led to hundreds of complaints to the Philadelphia Fire Department and Philadelphia Police Department.

11. Defendants—despite a sophisticated understanding of the obligations of a property owner/property manager—continue to violate the Philadelphia Code and fail to promptly take steps necessary to comply violations.

12. Defendants' continued failure to maintain the Subject Premises resulted in the Department declaring it unsafe.

13. Defendants' conduct has put visitors, occupants, first responders, Department personnel, and members of the public in danger.


14. Defendants' actions and inactions are knowing, intentional, improper, indecent, and/or unlawful and have injured the public and will continue to do so if not abated.

15. The conditions at the Subject Premises constitute a public nuisance in fact and present a clear and continuing danger to its occupants and the public.

16. Injunctive relief is warranted as:

- a. the City has a clear right to relief because there is indisputable evidence that Defendants continue to operate the Subject Premises in violation of the Philadelphia Code, permit conditions to further deteriorate, and maintain a public nuisance;
- b. immediate and irreparable harm will result if the request for preliminary injunction is not granted due to, among other things, the extensive and serious violations of the Fire Code and the lack of security at the Subject Premises;
- c. greater injury will result from denying preliminary injunctive relief as it would protect the occupants of the Subject Premises and the public at large whereas denying it would provide Defendants with further opportunities to shirk their responsibilities to the Subject Premises' occupants, the public, and the City;
- d. granting preliminary injunctive relief will not disrupt the status quo as the last lawful, peaceable, and uncontested status of the Subject Premises was a multi-story rental property that was safe, secure, and in compliance with the Philadelphia Code;
- e. no other adequate remedy at law exists as Defendants consistently and continually fail in their obligations as property owners and injunctive relief is necessary to begin to address the harm and abate the nuisance;

17. The evidence presented by the City of Philadelphia before this Court is deemed credible.

18. ~~The evidence presented by Defendants and their witnesses before this Court lacks persuasive credibility.~~ 

WHEREFORE, the Court **ORDERS** the following:

1. Defendants shall apply for, obtain, and start work under valid permit(s) to comply the unsafe violations denoted in Notice of Violation CF-2023-093578 within ten (10) days;
2. Defendants shall immediately take all necessary actions to comply the following violations and conditions cited in the above-noted notices of violation within thirty (30) days:
 - a. have a licensed contractor upload the current sprinkler/standpipe certification;
 - b. have a licensed contractor upload the current fire alarm certification;
 - c. have a licensed contractor upload damper certification report;
 - d. have a licensed contractor upload the current fire-pump certification;
 - e. have a licensed contractor upload the current emergency light/standby power certification;
 - f. submit a façade-inspection summary report; have the emergency lights serviced/tested and submit the test report to the Department;
 - g. obtain Philadelphia Fire Department approved evacuation and fire-safety plans;
 - h. provide the lock-down/shelter-in-place plans;
 - i. maintain elevator keys on site at all times;
 - j. remove obstructions from all exit doors;
 - k. remove bolt locks from auditorium doors and any exit doors;
 - l. provide illumination in all fire towers;
 - m. install automatic sprinkler systems and self-closing/latching doors in trash chutes on every floor;

- n. install, replace, and/or repair all smoke alarms, fire extinguishers, and other components of the fire alarm system; and
- o. repair all electrical deficiencies identified in the basement of the Subject Premises;

3. Defendants shall immediately cease any and all work at the Subject Premises that Defendants are undertaking without required permits;

4. Defendants shall immediately secure and seal the second floor of the Subject Premises and restrict access to it to licensed contractors operating under valid permits, where applicable;

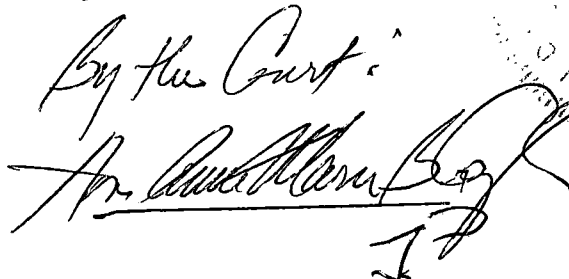
5. Defendants shall immediately take whatever action is necessary to secure the Subject Premises, including but not limited to retaining an appropriately licensed security company to manage access to the Subject Premises;

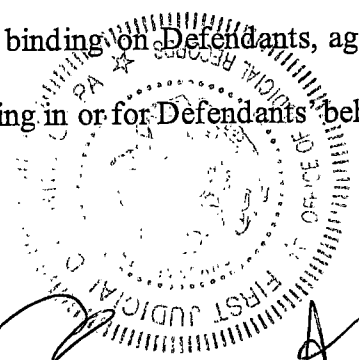
6. Defendants are prohibited from filing any eviction action premised on non-payment of rent until such time that each violation case denoted herein is complied;

7. This matter shall be relisted for further proceedings on January 10, 2024.
2023;

8. Defendants shall permit the City access to inspect the Subject Premises to determine compliance with this Order and the Philadelphia Code, including but not limited to a re-inspection no later than two (2) days prior to the hearing date denoted in the preceding paragraph;

9. The terms of this Order shall be binding on Defendants, agents, lessees, heirs, assigns, successors in interest, and all persons acting in or for Defendants' behalf or occupying or controlling the Subject Premises.

By the Court:

A



BY THE COURT:

J.

