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Original Filed

MAR 20 2023

TIMOTHY W. FITZGERALD
SPOKANE COUNTY CLERK

SUPERIOR COURT, STATE OF WASHINGTON, COUNTY OF SPOKANE

CITY OF SPOKANE, a municipal corporation,

Plaintiff,

v.

STATE OF WASHINGTON;
WASHINGTON STATE DEPARTMENT OF TRANSPORTATION; ROGER MILLAR, in his official capacity as Secretary of Transportation, Washington State Department of Transportation; MIKE GRIBNER, in his official capacity as Assistant Secretary Regions / Chief Engineer, Washington State Department of Transportation; and MICHAEL FRUCCI, in his official capacity as Regional Administrator for Development, Washington State Department of Transportation Eastern Region;

Defendants.

No.

23201083-32

COMPLAINT FOR ABATEMENT OF A PUBLIC NUISANCE AND INJUNCTIVE RELIEF – DRUG AND CHRONIC NUISANCE

23201083-32

COMES NOW the Plaintiff, the City of Spokane, by and through Lynden P. Smithson, Spokane City Attorney, and complains and alleges as follows:

COMPLAINT FOR ABATEMENT OF A PUBLIC NUISANCE AND INJUNCTIVE RELIEF – DRUG AND CHRONIC NUISANCE - 1

Lynden P. Smithson, Interim City Attorney
OFFICE OF THE CITY ATTORNEY
808 W. Spokane Falls Blvd.
Spokane, WA 99201-3326
(509) 625-6225
FAX (509) 625-6277

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I. BACKGROUND.

1.1 The real property known as WSDOT Encampment, parcel numbers 35222.1101, 35222.1105, 35222.1109, 35222.1111, 35222.1312, 35222.2101, and 35222.2311, in the City and County of Spokane (the "Property") is a chronic nuisance property pursuant to Chapter 10.68 of the Spokane Municipal Code and a drug nuisance property pursuant to Chapters 7.43, 7.48, and 9.66 of the Revised Code of Washington.

1.2 The ongoing illegal drug and criminal activity continues to have a tremendous negative impact upon the quality of life, safety, and health of the surrounding neighborhood and community.

1.3 The City of Spokane seeks relief through the only available remedy: the equitable remedy of immediate abatement of this public nuisance.

II. JURISDICTION AND VENUE.

2.1 The Superior Court has original jurisdiction over this cause of action pursuant to Wash. Const. art. 4 § 6; RCW 2.08.010; RCW 7.48.010 *et seq.*; RCW 9.66.010 as this action is to abate a nuisance.

2.2 Venue is appropriate pursuant to RCW 4.12.010 and .020, and RCW 4.92.010(3), as the real property that is the subject of this action is located in Spokane County, Washington and all acts complained of occurred in Spokane County, Washington.

1 2.3 The drug and chronic nuisance violations alleged in this complaint have
2 been, and are being, committed upon public property, identified as tax parcel numbers
3 35222.1101, 35222.1105, 35222.1109, 35222.1111, 35222.1312, 35222.2101, and
4 35222.2311, and legally described as:

5
6 35222.1101 KNOWN AS 102 S GREENE ST

7 LOT 1, BLOCK 7, KAUFMAN'S SECOND ADDITION, AS PER PLAT
8 RECORDED IN VOLUME "B" OF PLATS, PAGE 4, RECORDS OF
9 SPOKANE COUNTY

10 35222.1105 KNOWN AS 124 S GREENE ST

11 LOT 5, BLOCK 7, KAUFMAN'S SECOND ADDITION, AS PER PLAT
12 RECORDED IN VOLUME "B" OF PLATS, PAGE 4, RECORDS OF
13 SPOKANE COUNTY

14 35222.1109 KNOWN AS 115 S FISKE ST

15 LOT 9, BLOCK 7, KAUFMAN'S SECOND ADDITION, AS PER PLAT
16 RECORDED IN VOLUME "B" OF PLATS, PAGE 4, RECORDS OF
17 SPOKANE COUNTY

18 35222.1111 KNOWN AS 103 S FISKE ST

19 LOT 12 AND THE NORTH HALF OF LOT 11, BLOCK 7,
20 KAUFMAN'S SECOND ADDITION, AS PER PLAT RECORDED IN
21 VOLUME "B" OF PLATS OF PAGE 4, RECORDS OF SPOKANE
22 COUNTY;
23 EXCEPT A PORTION FOR HIGHWAY

24 35222.1312 KNOWN AS 123 S RAY ST

25 LOT 8, BLOCK 9, KAUFMAN'S SECOND ADDITION, AS PER PLAT
26 RECORDED IN VOLUME "B" OF PLATS, PAGE 4, RECORDS OF
27 SPOKANE COUNTY

1 35222.2101 KNOWN AS 204 S RAY ST

2 LOT 1, BLOCK 17, KAUFMAN'S SECOND ADDITION, AS PER
3 PLAT RECORDED IN VOLUME "B" OF PLATS, PAGE 4,
4 RECORDS OF SPOKANE COUNTY

5 35222.2311 KNOWN AS 3002 E PACIFIC AVE

6 LOT 12, BLOCK 5, BISBEE'S ADDITION, AS PER PLAT
7 RECORDED IN VOLUME "B" OF PLATS, PAGE 1, RECORDS OF
8 SPOKANE COUNTY;
9 EXCEPT A PORTION FOR HIGHWAY

10 ALL SITUATE IN THE CITY OF SPOKANE, COUNTY OF SPOKANE,
11 STATE OF WASHINGTON.

12 Hereinafter referred to as "the Property."

13 **III. PARTIES.**

14 3.1 The Plaintiff, City of Spokane, is a municipal corporation, organized and
15 existing under the laws of the State of Washington, and authorized under Article XI,
16 Section 11, of the Washington State Constitution to make and enforce police, sanitary
17 and other regulations.

18 3.2 The Property is owned by the STATE OF WASHINGTON and
19 WASHINGTON STATE DEPARTMENT OF TRANSPORTATION. Aff. of Matthew
20 Folsom, Ex. B at 2, 12.

21 3.3 Defendant State of Washington is a political entity.

22 3.4 Defendant Washington State Department of Transportation is an agency
23 of the State of Washington.
24

1 the Revised Code of Washington (providing for a warrant of abatement and for a
2 judgment for abatement costs at the expense of the defendants); Sections 35.80.010
3 and .030 of the Revised Code of Washington (permitting the cost of vacating and
4 closing conditions which are inimical to the health and welfare of the City to be
5 assessed and entered upon the tax rolls against the real property); Chapter 7.43 of the
6 Revised Code of Washington (relating to an abatement of a drug nuisance); Chapter
7 10.68 of the Spokane Municipal Code (“SMC”) (relating to the abatement of a chronic
8 nuisance property); and Chapter 9.66 of the Revised Code of Washington (relating to
9 an abatement of a public nuisance).

11
12 4.3 A chronic nuisance property, as defined by SMC 10.68.020(D)(1), is:

13 a property on which nuisance activity is observed on three or more
14 occasions during any sixty-day period or on which nuisance activity is
15 observed on seven or more occasions during any twelve-month period

16 SMC §10.68.020(D) (2022).

17 4.4 Nuisance activity includes “any civil code violation” as well as “any
18 criminal conduct” having a nexus to the property. SMC §10.68.020 (H) (2022).

19 4.5 Drug Nuisance is defined in Section 7.43.010(1) of the Revised Code of
20 Washington:

21 Every building or unit within a building used for the purpose of unlawfully
22 manufacturing, delivering, selling, storing, or giving away any controlled
23 substance as defined in chapter 69.50 RCW, legend drug as defined in
24 chapter 69.41 RCW, or imitation controlled substances as defined in
25 chapter 69.52 RCW, and every building or unit within a building wherein
26 or upon which such acts take place, is a nuisance which shall be
enjoined, abated, and prevented, whether it is a public or private
nuisance.

1 Evidence of a drug nuisance property may include:
2

3 [s]earch warrants served on the property where controlled substances
4 were seized; investigative purchases of controlled substances on or near
5 the property by law enforcement or their agents; arrests of persons who
6 frequent the property for violation of controlled substances laws;
7 increased volume of traffic associated with the property; and the number
8 of complaints made to law enforcement of illegal activity associated with
9 the property.

10 RCW § 7.43.020 (1988).

11 4.6 The City of Spokane has determined the Property to be a nuisance
12 pursuant to chapters 7.48, 7.43 and 9.66 of the RCW, ordinance 10.68 of the SMC, a
13 nuisance *per se*, and a nuisance under common law.

14 4.7 Burden of Proof. The City of Spokane has the initial burden to prove, by
15 a preponderance of the evidence, that the Property is a chronic nuisance under SMC
16 10.68, drug nuisance under RCW 7.43, a public nuisance under RCW 7.48, a public
17 nuisance under RCW 9.66, a nuisance *per se*, and/or a nuisance under common law.

18 4.8 No bond or security is required of the City of Spokane for this action.
19 RCW § 7.43.040 (1888); see also RCW § 4.92.080 (1935); CR 65(c).

20 **V. FACTUAL ANALYSIS.**

21 5.1 The affidavits and declarations of Spokane Police Department (“SPD”)
22 Crime Analyst Ryan Shaw, City of Spokane Code Enforcement Supervisor Jason
23 Ruffing, Spokane Fire Department Fire Marshal Ian Dahl, SPD Sergeant Art Dollard,
24 SPD Crime Analyst Karla Tafoya, SPD Detective Jason Curtis, SPD Lieutenant David
25 Overhoff, City of Spokane Deputy Building Official Dermott Murphy, Assistant City

1 Attorney Matthew Folsom, City of Spokane Director of Community, Housing, and
2 Human Services Division Jennifer Cerecedes, City of Spokane City Administrator
3 Johnnie Perkins, Chief Administrative Officer for the Spokane County Sheriff's Office
4 Todd Mielke, CMS Security Guard and Revive Employee Timothy Morgan, and
5 neighbors and business owners/employees Branden Beier, Bryan Best, Ryan Bishop,
6 Judie Burbank, Ken Craudell, Timothy Day, William Normand Demers, Lisa Ehli, John
7 S. Hansen, Ronald Hardin, Jeffrey Holten, Sheldon Jackson, Debra Jamison, Kay
8 Kallenbach, Dug Karlson, Scott Kates, Kevin Kuntz, Ryan Lamphere, Steve Liberty,
9 Tracy Longinotti, Karina Lunning, Ken Marks, Laurie Martinchuck, Rachel Nicholson,
10 Tracie Oxford, Rusty Palmer, Jeff Peer, Maximus Piskun, Caroline Sheikh, Todd Wylie,
11 and Lisa Youngestablish that the occupants of the WSDOT encampment at the
12 Property are: distributing controlled substances; littering used syringes; stealing
13 property; trafficking in stolen property; disposing of human waste on roads and nearby
14 properties; recklessly burning; prowling vehicles; stealing vehicles; burglarizing
15 properties; causing lost business revenue; creating direct costs to nearby businesses;
16 diminishing nearby business reputations; intimidating; harassing; raping; engaging in
17 sex trafficking; causing shootings; causing stabbings; and generating deaths, and
18 present substantial evidence to support the argument that the Property continues to be
19 a chronic nuisance under SMC 10.68 and a drug nuisance under RCW 7.43. Said
20 affidavits are filed herewith and incorporated herein as if fully set forth.
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1 5.2 The Property continues to create a substantial financial burden and pose
2 a significant strain on limited city services and resources. The Spokane Police
3 Department had over 3,100 calls for service to the Property between 12/16/21 and
4 12/15/22. Aff. of Ryan Shaw Ex. A at 2. Calls for service incidents are up 10.9%
5 between 12/16/22 to 3/4/23 compared to the same dates one year prior within a ¼ mile
6 radius from the Property (the encampment existed in both time periods). *Id.* at 5. Within
7 a ¼ mile radius of the Property, calls for service are up an average of +41.0%, in
8 comparison to the four-year average. *Id.* During 2022 the Spokane Fire Department
9 responded to over 320 calls for service. Aff. of Ian Dahl Ex. 1 at 18.

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12 5.3 The Property continues to interfere with other's use and enjoyment of
13 their lands. The Property is holding hostage this neighborhood's right to quiet
14 enjoyment, "I can't go to the Chevron operated by my neighbor with my kids anymore.
15 I can't take my eyes off my kids for 10 seconds in a Fred Meyer that has to have a
16 WSP officer guard the doors . . . my son cannot stand out and wait for a school bus on
17 his own in a neighborhood like this." Aff. of Ryan Bishop 3 ¶ 7. "I have a three-year-old
18 daughter and don't feel she can go outside. I feel as though I can't allow her to be a
19 kid because I fear what would happen if I turned my back on her." Aff. of Ryan
20 Lamphere 3 ¶ 8.

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22 5.4 **Chronic Nuisance Notice.** On October 5, 2022, Assistant Chief
23 Lundgren mailed, via U.S. First Class mail, a Chronic Nuisance Notice to Roger Millar,
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1 Secretary of Transportation, Amy Scarton, Deputy Transportation Secretary, and
2 Jewels Helping Hands. This notice states:

3 **THE FOLLOWING PROPERTY IS IN DANGER OF BEING DECLARED**
4 **A CHRONIC NUISANCE PROPERTY UNDER SMC 10.08A / 10.68**
5 **[WSDOT ENCAMPMENT] ... failure to respond as required or abate the**
6 **conditions giving rise to this notice may subject you and this property to**
7 **further legal action ... including ... closure and securing of the premises,**
8 **... assessment of civil fines, penalties, damages....**

9 Aff. of Matthew Folsom Ex. B at 1, 5.

10 **5.5 Opportunity to Abate.** Defendants were given notice and an
11 opportunity to voluntarily abate the activity giving rise to this public nuisance.
12 Defendants have failed to provide an adequate abatement plan and failed to stop the
13 drug and criminal activity that is robbing this neighborhood of their peace and quiet
14 enjoyment. Despite the fence, badges and curfew, the camp is still lawless. They have
15 no plan to abate the nuisance. In ongoing meetings between the City and
16 representatives of Washington State, it is apparent that the State has no plan to abate
17 the nuisance that is created by the encampment. The State Commerce department
18 has spent over \$20 million and has not created a single low barrier bed. Rather, the
19 State has contracted for 120 high barrier beds that continue to be mostly unused. The
20 State has established the encampment as a *de facto* low barrier shelter space. See
21 Aff. of Johnnie Perkins.

22 **5.6 Drug Activity.** The Property is being used to deliver, sell, store, or give
23 away controlled substances. . "I am seeing drug deals taking place on local corners."
24 Aff. of Ronald Hardin 2 ¶ 9. Suspected fentanyl pills were purchased from within the
25

1 WSDOT encampment on 9/22/22 (2022-20168562), 9/29/22 (2022-20168562),
2 10/11/22 (2022-20181713), 10/13/22 (2022-20181713), and 10/15/22. Aff. of Art
3 Dollard 3–4 ¶¶ 7–8, 10, 13–14. Spokane County Sheriff's Office (SCSO) Special
4 Deputy Mark Voigtlaender "listened to the jail call between Daniel Guy Taylor and
5 Sarah Dodge...[and] Taylor explained that he would use a hiding place, while staying
6 at the camp and pull out a quarter at a time...meaning a quarter of an ounce...which
7 indicates drug distribution...." Aff. of Matthew Folsom Ex. D at 8 (hereinafter
8 "Voigtlaender Declaration"). "SPD's...investigative analysts [have information that] a
9 known suspect was selling controlled substances within the WSDOT camp." Aff. of Art
10 Dollard 3 ¶ 9. On February 23, 2023, incident number 2023-20035831, complainant
11 reported a resident of the WSDOT Camp appeared high and was all over the place,
12 threatening to hit staff, was aggressive and armed with a pocketknife. Aff. of Karla
13 Tafoya 27 ¶ 144. On March 4, 2023, incident number 2023-20041954, complainant
14 reported a suspicious vehicle where the registered owner was considered armed and
15 dangerous; Security at camp told officers they were having ongoing issues with the
16 female driver trying to sell drugs at WSDOT Camp and to WSDOT Camp residents.
17 Aff. of Karla Tafoya 29 ¶ 152.

21 **5.7 Property Crime.** Defendants are failing to prevent occupants of the
22 Property from entering vehicles, homes and property with the intent to commit crimes.
23 On September 4, 2022 SCSO arrested Jesse James White for 1 count of Controlled
24 Substance Possession with Intent to Distribute (300-500 Fentanyl pills) and 1 Count of
25

1 Possession of Stolen Property (the stolen MacBook was pinging at the WSDOT
2 encampment). Voigtlaender Decl. 8–9 ¶ 8. “On October 14, 2022, incident number
3 2022-20183667, Corigliano was coming from the WADOT Camp with a black Glock 21
4 he retrieved from a bush ... He was taken into custody for a warrant and Possession
5 of a Stolen Firearm and Unlawful Possession of a Firearm 1st.” Aff. of Karla Tafoya 14
6 ¶ 84. On January 6, 2023, incident number 2023-20003348, Ken Marks with PM Auto
7 Sales called in a male on their surveillance camera taking batteries from cars and
8 siphoning gas from vehicles; Marks recognized the male as a homeless man from
9 WSDOT Camp. Aff. of Karla Tafoya 21 ¶ 118.

12 **5.8 Trafficking in Stolen Property.** Defendants are failing to prevent
13 occupants of the Property from organizing, planning, financing, directing, managing or
14 supervising the theft of property for sale or trade to others. On November 17, 2022,
15 SPD followed a gold Chevy Tahoe away from the Property and arrested the driver on
16 1 charge of Possession of a Stolen Motor Vehicle, 1 count of Unlawful Possession of
17 a Firearm, and 4 counts of Possession of Stolen Property. Voigtlaender Decl. 8 ¶ 8.
18 On September 24, 2022, incident number 2022-20169900, a victim reported her stolen
19 cell phone was pinging inside the WSDOT encampment. While looking for her phone
20 at the Property her vehicle was damaged. Aff. of Karla Tafoya 12–13 ¶ 77. On January
21 10, 2023, incident number 2023-20005947, complainant has video of suspect using
22 stolen credit cards at Conoco; the employee stated the suspects live at the WSDOT
23 Camp and that he has video of the suspects walking back to the WSDOT Camp after
24

1 making purchases with the stolen credit cards. Aff. of Karla Tafoya 22 ¶121. On
2 January 22, 2023, incident number 2021-20014280, a business owner tracked
3 footprints from a theft at the business to the Property where two stolen propane tanks
4 were located and brought to the front of the camp by security. Aff. of Karla Tafoya 23
5 ¶ 129.
6

7 **5.9 Litter and Rubbish.** The Property has accumulated litter, refuse,
8 rubbish, garbage, discarded items and waste material which jeopardizes the health
9 and safety of the community. Spokane Code Enforcement Supervisor, Jason Ruffing,
10 reviewed illegal camping and code complaints related to the WSDOT encampment at
11 the Property, which showed: illegal camping; loose dogs; cars and RV's lining the street
12 surrounding the camp; illegal fires; litter and rubbish; limited toilet facilities; illegal
13 dumping; right of way obstruction; increased criminal activity; driveway access
14 obstruction; and raw sewage on the ground. Aff. of Jason Ruffing 2-5 ¶ 5-21. "Having
15 to clean up human feces once a month makes me nauseas." Aff. of Ronald Hardin 4
16 ¶ 14. "Daily I have had to pick up trash and clean up needles in the parking lot and
17 surrounding property." Aff. of Ken Craudell 2 ¶ 5.
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20 **5.10 Reckless Burning.** Defendants are failing to prevent occupants of the
21 Property from knowingly causing fires on the Property that recklessly place other
22 structures in danger of destruction or damage. Fire Marshall Ian Dahl conducted
23 research into Fire Department activity involving the WSDOT encampment at the
24 Property, which revealed the following SFD responses during 2022: 37 drug
25

1 overdoses; 18 assaults; 18 illegal burns; 12 traumas; 7 exposures to the elements; 4
2 animal bites; 4 deadly assaults (stabbing and/or gunshot); 4 reported deaths; 2 smoke
3 investigations; 1 non-recent death; and 1 hazmat investigation. Aff. of Ian Dahl 2 ¶ 6.
4 “We have had three different places where occupants of the camp have built fires
5 against our building and burnt the paint on our building.” Aff. of Ken Craudell 3 ¶ 9.
6 “[W]e observed a man throw a firebomb into our dumpster.” Aff. of John Hansen 3 ¶ 7.
7 “I was on a call where a small compact pickup was completely engulfed in flames
8 approx... 30-40 feet from the cooling tent.” Aff. of Jason Curtis 5 ¶ 15. On January 5,
9 2023, incident number 2023-20002442, WSDOT security called in a fire in one of the
10 tents, possibly a propane tank, and lots of smoke. Aff. of Karla Tafoya 20 ¶ 115.

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13 **5.11 Vehicle Prowling & Stolen Vehicles.** Defendants are failing to prevent
14 occupants of the Property from entering vehicles with the intent to commit crimes, are
15 unlawfully possessing stolen vehicles, and are also wrongfully obtaining control over
16 vehicles. During hours of video review, “I observed SPD Officers arresting a suspect
17 who was in possession of a stolen vehicle at the WSDOT encampment...A white male
18 egressed the camp by climbing the fence...one black male entered the camp by
19 climbing the fence...a white male appeared to be ransacking an empty RV...[he was
20 in possession of] a large key ring...typical...of burglary tools...[and he] had an apparent
21 glass pipe...smoking methamphetamine, crack or possibly crushed pills. Voigtlaender
22 Decl. 7 ¶ 7. “On May 10, 2022, incident number 2022-20078001, a stolen vehicle was
23 recovered from the WSDOT camp” Aff. of Karla Tafoya 4 ¶ 21. On February 9,
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1 2023, incident number 2023-20026565, a stolen vehicle was recovered at the WSDOT
2 Camp. Aff. of Karla Tafoya 25 ¶ 136.

3 5.12 **Burglary.** Defendants are failing to prevent occupants of the Property
4 from entering buildings with the intent to commit crimes. "On August 15, 2022, incident
5 number 2022-20142612, Patricia and James Stokes were contacted at WADOT Camp
6 ... Patricia was arrested for Assault 3rd and James was arrested for Burglary 2nd." Aff.
7 of Karla Tafoya 10 ¶ 61. On October 21, 2022, incident number 2022-20187734, a
8 victim reported that her tent was broken into and her tools stolen. Aff. of Karla Tafoya
9 14 ¶ 81. On January 3, 2023, incident number 2023-10000637, a nearby business
10 reported a burglary where \$12,000 in tools were stolen; the suspect left behind
11 personal documents including two WSDOT Camp ID's. Aff. of Karla Tafoya 20 ¶ 114.

12 5.13 **Loss of Business.** The Defendants are failing to prevent occupants of
13 the Property from generating an inordinate amount of property damage, loss of
14 business revenue and direct costs to local businesses. "The approximate financial
15 impact...[to] our property over the last year...[is] \$27,500.00." Aff. of Judie Burbank 3-
16 5 ¶ 10.

17 "Customer activity has noticeably diminished since Camp Hope
18 arrived...[this area is now] a cesspool of lawlessness...Our business has
19 lost \$20,000-\$30,000 from stolen property. Our business revenue is down
20 50-60%. This is all down to the criminal nuisance activity coming from the
21 WADOT Camp. We are now contemplating closing our business after forty
22 years. Normal people do not want to come down to that area anymore
23 because they no longer feel safe."
24

1 Aff. of Ronald Hardin 2–4 ¶¶ 7, 9, 12. “Late last fall when the encampment was moved
2 from the front of the Courthouse, crime in the area skyrocketed.... There has also been
3 a major increase in people with severe drug problems and mental health issues which
4 have scared a large percentage of our customers away.” Aff. of Ken Craudell 2 ¶ 5.

5
6 **5.14 Intimidation and Harassment.** Defendants are failing to prevent
7 occupants of the Property from knowingly and maliciously threatening neighbors with
8 bodily injury, property damage, and other acts intended to threaten neighbors’ physical
9 or mental health or safety. “On March 23, 2022, incident number 2022-20048362,
10 Daniel Lee Murphy was arrested for Indecent Liberties Forcible Compulsion and
11 Kidnapping 1D that occurred in a vehicle parked just west of the WADOT Camp.” Aff.
12 of Karla Tafoya 3 ¶ 13. “On September 30, 2022, incident number 2022-20174059,
13 security at WADOT Camp reported a victim was stabbed by the suspect, her boyfriend
14 “Tacoma” at the WADOT Camp.” Aff. of Karla Tafoya 13 ¶ 79. “On October 24, 2022,
15 incident number 2022-20189807, [a] victim was reportedly assaulted by suspects at
16 the WADOT Camp” Aff. of Karla Tafoya 15 ¶ 88. “[O]ne of my people was
17 threatened with a gun.” Aff. of John Hansen 2 ¶ 3. “There has been a gun pulled on
18 an employee at the store. I have been there when a pellet gun was confiscated from
19 someone.” Aff. of Lisa Ehli 2 ¶ 4. “Once, someone pulled a knife on an employee, and
20 another time someone threatened an employee with a gun.” Aff. of Ryan Lamphere 2
21 ¶ 4. On February 4, 2023, incident number 2023-20023392, a male believed to live at
22 the WSDOT Camp was asked to leave by a security guard at Fred Meyer. The man
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1 responded by threatening to “smoke” the security guard, pulling a pistol out of his front
2 pocket to show the guard, then shining a high powered blue laser in the security guard’s
3 eyes. Aff. of Karla Tafoya 24–25 ¶ 135. On February 18, 2023, incident number 2023-
4 20033045, complainant reported he was threatened and robbed as he walked by
5 WSDOT Camp; the two males came out of the WSDOT Camp. Aff. of Karla Tafoya 27
6 ¶ 142.

8 **5.15 Rape and Indecent Liberties.** The Property is being used to knowingly
9 cause persons to have sexual contact by forcible compulsion and exploitive
10 relationships. “Numerous things have been brought to my attention such as [REDACTED]
11 [REDACTED] being raped [and] Robert Moody dealing drugs.” Aff. of Timothy Morgan 2 ¶ 9.
12 Timothy Morgan further reported “[a] changed [Camp] curfew due to the working girls
13 schedule.” Aff. of Timothy Morgan 2 ¶ 9. On November 1, 2022 SPD Safe Streets
14 Task Force interviewed a hospital patient who recently escaped from the WSDOT
15 encampment. This individual reported sexual assaults, prostitution, trading sex for
16 drugs, “young women like 12 to 13 years old being passed around,” and people not
17 living at the camp coming to the area to look for that sort of thing. Aff. of Art Dollard Ex.
18 A. “On August 15, 2022, incident number 2022-20142467, victim claimed she was
19 raped by a suspect while two other suspects held her down. The incident occurred near
20 WADOT Camp [where the victim lives].” Aff. of Karla Tafoya 10 ¶ 59.

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23 “[I] work for Revive Counseling...down at the camp...[and] have
24 physically seen people dealing drugs...individuals selling girls as if they
25 were property...observed numerous stolen guns...[and] a number of
26 people have...reported that they were either molested or raped in the

1 Camp...I would like to see the victims of these heinous crimes removed
2 to a safer place. I would also like to see the perpetrators held
3 accountable. The only reason they are getting away with these crimes
4 (selling drugs, human trafficking, and rape) is because they live in this
5 lawless Camp.”

6 Aff. of Timothy Morgan ¶¶ 3–20. On February 26, 2023, incident number 2023-
7 20037711, complainant called in worried about their friend at WSDOT Camp claiming
8 she was being sexually assaulted, locked up by a female and was in danger. Aff. of
9 Karla Tafoya 28 ¶ 146.

10 **5.16 Threat to Public Health and Safety.** The occupants of Defendants’
11 Property present a danger to the neighborhood and threat to public safety. On
12 November 30, 2022 there were 40 active arrest warrants associated with individuals at
13 the WSDOT encampment on the Property; 20 of the arrest warrants originated from
14 agencies outside of Spokane County. Voigtlaender Decl. 9 ¶ 8. “On June 13, 2022,
15 incident number 2022-20100369, victim was inside his tent at the WADOT Camp and
16 was stabbed by an unknown black male, who is at the camp daily.” Aff. of Karla Tafoya
17 6 ¶ 35.

18
19 “On October 5, 2022, incident number 2022-20177049, Security at the
20 WADOT Camp reported that Rackliff picked up a girl outside of the WADOT
21 Camp and took her to a gas station nearby. When he came out, she was
22 gone and had stolen items from him. She was staying in the WADOT
23 Camp. Rackliff then demanded that she be brought out so he could get his
24 stuff back. Shortly afterwards, he began firing shots from his vehicle
25 towards the WADOT Camp.”

26 Aff. of Karla Tafoya 13 ¶ 81.

1 On January 28, 2023, incident number 2023-20018420, a man was swinging a
2 large stick around outside of the nearby Mobil 2 gas station before walking off to the
3 WSDOT camp. Aff. of Karla Tafoya 24 ¶ 132. On February 28, 2023, incident number
4 2023-20039000, complainant called in saying someone attacked her boyfriend with an
5 axe in a camper at WSDOT Camp; complainant also had a warrant. Aff. of Karla
6 Tafoya 28 ¶ 147.

8 **5.17 The Impact.** The impact the WSDOT encampment continues to have on
9 this neighborhood is devastating. "I have determined that there are no variables, other
10 than the presence of the illicit WSDOT encampment, that could explain the increase of
11 crime in the study area and the encampment is the fundamental factor for the increase
12 in local crime." Voigtlaender Decl. 11 ¶ 9. SPD Crime Analyst Shaw shows a **65.6%**
13 increase in crime in a 1/4 mile radius from the WSDOT encampment compared to the
14 four-year average. Aff. of Ryan Shaw Ex. A at 2.

16 "Last year, after the camp began to establish itself, we began to see
17 things near the school that we had never seen before. We saw a
18 couple people flagrantly injecting drugs within a block of the school
19 property...two times, two people having oral sex, with the man fully
20 exposed, on the sidewalk kitty-corner to the school. This very much
21 seemed like a woman "paying" for her drugs...she didn't look like a
22 prostitute but did look like a drug addict....The people at the camp
23 need to stop living lawlessly, taking advantage of the neighborhood,
24 committing crimes and getting away with it....I would like to see DOT
25 take more responsibility for what is happening on their property...It has
26 been over a year now, and that is way too long....It makes me angry.
27 It feels like the only people that matter are the people in the camp and
28 that residents and businesses do not matter."

Aff. of Rachel Nicholson 2-3 ¶¶ 4, 8-10.

1 Some of the adverse impacts described by the neighbors include:

- 2 • Concern for safety;
- 3 • Loss of sleep;
- 4 • Anxiety and stress;
- 5 • Depression;
- 6 • Constant odor from the encampment area (human waste and burning
- 7 garbage);
- 8 • Raw, untreated, human waste;
- 9 • Burning garbage fumes;
- 10 • Fear, at all hours of the day and night;
- 11 • Stolen property;
- 12 • Property damage;
- 13 • Transients urinating in the open;
- 14 • Garbage all over;
- 15 • Loss of customers, revenue and business reputation;
- 16 • Impacting every area of our lives;
- 17 • Purchasing a firearm;
- 18 • Increased insurance rates;
- 19 • Making sure a taser is available at every desk and a baseball bat behind the
- 20 bathroom door; and
- 21 • Feeling exhausted and burdened.

22 On February 14, 2023, incident number 2023-20030111, a neighbor called to
23 report he and his neighbors in the area of WSDOT Camp were tired of the prowlers,
24 were preparing to take matters into their own hands, saying the police need to do
25 their job. Aff. of Karla Tafoya 26 ¶ 140.

26 On March 17, 2023, patrol officers responded to a loud explosion, smoke and
27 a large fire coming from the northwest corner of the WSDOT Camp. Officers
28 observed a tent fully engulfed in flames and propane tanks shooting up into the sky.
Flames and smoke could be seen from miles away and the explosion could be heard
throughout the city. Two WSDOT occupants were transfilling propane tanks in the tent

1 where a propane heater was in operation causing the explosion and subsequent fire.
2 There were multiple propane tanks at the scene still releasing propane. This was an
3 extremely dangerous situation which could have been far worse. Aff. of Matthew
4 Folsom Ex. D.
5

6 **VI. EQUITABLE RELIEF.**

7 6.1 The continued existence of public nuisance on the subject property has
8 caused the City and the public actual and substantial harm. This harm is immediate
9 and irreparable.

10 6.2 The City has no plain, adequate or speedy remedy at law and will
11 continue to suffer irreparable harm unless the defendants are restrained from
12 continuing to use, maintain or allow the property to be used for the illegal drug and
13 criminal activities detailed herein.
14

15 6.3 The City of Spokane has established by a preponderance of the evidence
16 that the Property is both a chronic nuisance and a drug nuisance.
17

18 The City of Spokane is committed to protecting its citizens from the
19 dangers of properties...where crime repeatedly occurs. Such properties
20 are known as "nuisance properties" because of their adverse impact on the
21 quality of life of Spokane's citizens. Additionally, when owners...fail to take
22 responsible action to secure and care for these properties, they deteriorate
23 and become "chronic nuisance" properties. Chronic nuisance properties
24 create a substantial financial burden, pose a significant strain on city
25 services, interfere with other's use and enjoyment of their lands, and are a
26 prohibited public nuisance. Persons in charge of such properties have a
27 duty to take all reasonable measures to prevent and abate nuisance
28 activity. It is the purpose of this chapter to hold legally and financially
accountable the owners and persons in charge of nuisance and chronic
nuisance properties, and to provide for the restoration and abatement of
such properties.

1 SMC § 10.68.010 (2022).

2
3 6.4 While “the abatement of a nuisance does not prejudice the right of any
4 person to recover damages for its past existence,” the City is seeking the equitable
5 remedy of injunction. RCW §§ 7.48.180 (1883), 7.43.130 (1988). “The expense of
6 abating a nuisance, by virtue of a warrant, can be collected...in the same manner as
7 damages and costs are collected on execution....” RCW §§ 7.48.280 (1881), 7.43.120
8 (1989). The cost of vacating the conditions which are inimical to everyone’s health and
9 welfare and closing the Property shall be assessed against the real property and
10 entered upon the tax rolls. RCW §§ 35.80.010 (1989), .030 (2005).

11
12 **VII. EQUITABLE RELIEF REQUESTED.**

13 WHEREFORE, Plaintiff prays that this Court:

14
15 1. Enter an order declaring the Property to be a drug nuisance pursuant to
16 the provisions of Chapter 7.43 RCW, a chronic nuisance pursuant to the provisions of
17 Chapter 10.68 SMC, and a public nuisance pursuant to the provisions of Chapters 7.48
18 and 9.66 RCW.

19 2. Enter a temporary restraining order prohibiting defendants, their agents,
20 officers, employees, and anyone acting on their behalf from using, maintaining,
21 occupying, permitting or failing to prevent the use and occupation of the Property, for
22 the purpose of manufacturing, delivering, selling, storing, or giving away any controlled
23 substance, legend drug or imitation controlled substance or for the purposes of
24 continuing a pattern of criminal activity.
25

1 3. Enter a preliminary injunction and warrant of abatement:

2 (a) PROVIDE NOTICE – the City of Spokane shall provide notice
3 and a practical opportunity for all occupants to find new shelter before any
4 removal efforts are made.

5 (b) SAFEGUARD PROPERTY – the City of Spokane shall store
6 property of obvious value that is not removed from the encampment for 90
7 days.

8 (c) SAFEGUARD VEHICLES – the City of Spokane shall secure and
9 maintain vehicles removed from the encampment that cannot be turned over
10 to the possessor for at least 30 days.

11 (d) COORDINATION OF AGENCIES – the City of Spokane shall
12 make good faith efforts to conduct outreach, provide transportation, and
13 connect people to appropriate shelter. Every individual removed from the
14 WSDOT encampment will have a meaningful sheltering option and access to a
15 bed, relocation services, and property storage.

16 (e) EXECUTE THE OPERATIONAL PLAN – this operational plan
17 may take an extended amount of time to protect the occupant’s rights, provide
18 occupants with bonified shelter opportunity, provide outreach and transport
19 services, securing of the perimeter, removal of all occupants, and the clearing
20 and clean up of all property, litter and refuse.

1 (f) Vacate the premises – all residents, including property owners,
2 tenants, occupants, and guests of the premises, shall vacate the premises
3 pursuant to the posted notice.

4 (g) Immediate closure – the Property shall be CLOSED against its
5 use for any purpose until further order of the court.

6 (h) Secure the premises – the Property shall be immediately
7 secured. After the posted notice period has ended, and after the occupants
8 have been given an opportunity to relocate to safer and healthier shelter, the
9 Spokane Police Department shall search each domicile in order to both vacate
10 the premises and secure personal property of obvious value. Occupants who
11 refuse to vacate the premises may be arrested for trespass.
12

13 (i) Remove litter and rubbish – the City of Spokane, through its
14 Office of Neighborhood Services and Code Enforcement, may enter, abate,
15 remove and properly dispose of all refuse, rubbish, pallets and vehicles left on
16 or about the property including the removal and impoundment of all vehicles,
17 trailers, fifth wheels, RV's, or motorhomes not immediately removed from the
18 premises.
19

20 (j) Removal of personal property – defendants and tenants shall be
21 permitted an opportunity to remove their personal items from the Property. The
22 Spokane Police Department shall remove all personal property subject to
23 seizure and forfeiture pursuant to RCW 69.50.505.
24
25


1 (k) Defendants shall not, directly or indirectly, contact, intimidate,
2 threaten, or otherwise interfere with any property or person residing or visiting
3 within two city blocks of the Property and is hereby excluded from coming
4 within two city blocks of the Property.
5

6 4. Enter a final order of abatement providing for the immediate closure of the
7 property against use for any purpose until further order of the Court.

8 5. Award costs to the City of Spokane pursuant to SMC 10.68.060(c)(3) for
9 the expenses incurred by the City of Spokane for security, garbage collection and other
10 services foist upon the City by the establishment of the encampment. The total of all
11 expenses incurred for such services by the City of Spokane approaches \$1,000,000, an
12 exact amount will be determined before the conclusion of the abatement process.
13

14 6. Order such relief as the Court deems just and equitable.

15 DATED this 20th day of March, 2023.

16
17 
18 _____
19 Lynden P. Smithson
20 Interim City Attorney
21 Office of the City Attorney
22 City of Spokane
23
24
25
26