

IN THE IOWA DISTRICT COURT FOR LEE COUNTY
AT KEOKUK

LEE COUNTY HEALTH
DEPARTMENT,

CVEQ _____

PETITION FOR TEMPORARY
AND PERMANENT INJUNCTION
REQUEST FOR IMPOSITION OF
CIVIL PENALTIES

Vs.

RICHARD MOORE AND
WILMA JANE MOORE

COMES NOW Michael P. Short as County Attorney of Lee County, State of Iowa and states to the Court as follows:

1. The Lee County Health Department is created by Chapter 137, Code of Iowa, for the purpose of enforcing state and local health laws and rules and making reasonable rules and regulations necessary to protect and improve public health. Its office address is 2218 Avenue H, Fort Madison, Iowa.
2. Richard Moore and Wilma Jane Moore reside at 1220 High Street in the City of Keokuk, Lee County, Iowa. They are husband and wife.
3. The Defendant's own three properties on Lake Road in the unincorporated settlement of Mooar, Jackson Township, Lee County, Iowa and legally described as follows:

3539 Lake Road:

Lot No. 19, Block 1, fronting 50 feet on Lake Drive as shown on a certain map entitled, "Lake County Auditor's Plat No. 1, Block No. 1, Plat Town of Mooar-Iowa," made by C. J. Nelson, dated May 9, 1949, and filed in the Office of the Recorder of Lee County, Iowa, at Keokuk, under a date of May 12, 1949, as Instrument No. 1436,

3561 Lake Road:

Lot Twenty-five (25), Block One (1), Auditor's Plat #1, Town of Mooar, Lee County, Iowa.

3563 Lake Road:

Town of Mooar, Lot Twenty-six (26), Block One (1), Lee County, Iowa.

4. Each of the above-described properties contains a single-family residence.
5. The single family residence contained on each of the described properties does not have an approved onsite sewage system.
6. The Defendants have a duty under §455B.172 and Lee County Ordinance V-2 to install and maintain an onsite sewage system within the parameters of law.
7. The lack of an onsite sewage system causes each of the residence to discharge untreated sewage into a ravine which then runs to Chatfield Lake.
8. Chatfield Lake is owned by the Lee County Conservation Department and operated as a public park.
9. That the Defendants have contributed to contaminating Chatfield Lake beyond limits acceptable to the Iowa Department of Natural Resources.
10. That the sewage disposable system used by the Defendants represents a hazard.
11. The Defendants' conduct pose great irreparable injury.
12. There is no lesser available alternative provided by law.
13. This Petition for temporary and permanent injunction has not been presented to any other court or justice.

WHEREFORE, the Petitioner asks for a temporary and permanent injunction barring the Defendant's from occupying or permitting the occupation of each of the three properties described above; that costs be assessed against the Defendant's, and for such other and further relief as deem equitable.

COUNT II

COMES NOW Michael P. Short as County Attorney of Lee County, State of Iowa and in support of an application for civil penalties states to the Court as follows:

1. The Petitioner re-alleges the statements contained in paragraphs 1 through 13 as alleged under count I.

2. Iowa Code Section 455B.191 provides for civil penalties in an amount not to exceed \$5,000 a day for each day of violation for individuals knowingly and who negligently discharges a hazardous substance in violation of law.
3. Untreated sewage is a hazardous substance.
4. Lee County Health Department asks for the Court to determine whether the actions are intentional or negligent and assess penalties accordingly on a daily basis for each day of noncompliance.
5. The Petitioner asks that penalties be assessed against the Defendant's for each of the three properties owned by the Defendants.

WHEREFORE, the Petitioner asks that the Defendant's be required to pay a civil penalty for each day of violation for each of the three property's owned by the Defendant's, that costs be assessed against the Defendant's and for such other relief as may be deemed equitable.

/S/ M P Short
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STATE OF IOWA)

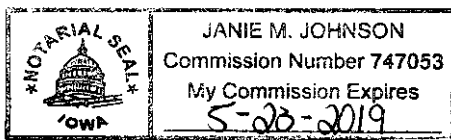
: ss.

COUNTY OF LEE)

I, Rosa Haukedahl, being first duly sworn upon my oath and affidavit do depose and state that I am a sanitarian assigned to the Lee County Health Department. I have read the above and foregoing Petition for Temporary and Permanent Injunction and Application for Civil Penalty. The contents of the Petition are true and correct to the best of my knowledge and belief.

Rosa H. Haukedahl
 Rosa Haukedahl

Subscribed and sworn to before me by the said Rosa Haukedahl on this the 5th day of January, 2017.



Janie M. Johnson
 Notary Public