

UNITED STATES DISTRICT COURT
for the
DISTRICT OF NEW HAMPSHIRE

JOSEPH TORRO
5 Greenhouse Lane
Bradford, NH 03221

Plaintiff,

v.

MARK GOLDBERG
2927 State Route 114
Bradford, N.H. 03211

MARILYN GORDON
2927 State Route 114
Bradford, N.H. 03211

THE TOWN OF BRADFORD
134 East Main Street,
Bradford, N.H. 03211

Defendants.

CASE NO. _____

COMPLAINT AND DEMAND FOR
JURY TRIAL

COMPLAINT

PRELIMINARY STATEMENT

Pursuant to 42 U.S.C. §1983, RSA 91-A, and New Hampshire common law, plaintiff Joseph Torro brings this action against Mark Goldberg, Chief of the Bradford Fire Department, Marilyn Gordon, Treasurer of the Town of Bradford, and the Town of Bradford. This action is the result of the defendants' concerted and ongoing efforts to deny the plaintiff the equal protection of the laws and an equal opportunity secure the same benefits of government granted to other persons similarly situated. Further,

defendants have engaged in conduct that violates the plaintiff's right to due process of law, in that they have acted with such complete and total lack of regard for the rule of law and obligation to treat similarly treated individuals equally, that it shocks the conscience.

JURISDICTION AND VENUE

1. This Court has original jurisdiction under 28 U.S.C. §§1331 and 1343 over the plaintiff's federal causes of action arising out of violations of the Constitution of the United States and 42 U.S.C. §1983 *et seq.* This Court has supplemental jurisdiction over the plaintiff's state law claims pursuant to 28 U.S.C. §1367.

2. This Court may exercise personal jurisdiction over all defendants because they reside in or do business within the District of New Hampshire.

3. Proper venue lies in the District of New Hampshire because a substantial part of the events giving rise to the plaintiff's claims occurred in Bradford, New Hampshire.

PARTIES

4. Joseph Torro is an adult citizen and resident of the Town of Bradford, New Hampshire. He is a long-term resident of the Town of Bradford.

5. Mark Goldberg is and was at all relevant times the duly elected fire chief of the Town of Bradford, New Hampshire. At all times relevant to this lawsuit, Goldberg acted under color of state law as fire chief. At all times relevant to this lawsuit, Goldberg was and is a "person" as that term is used by 42 U.S.C. §1983. Goldberg is sued in his individual and official capacities.

6. Marilyn Gordon is the treasurer for the Town of Bradford. She also was owner of the property formerly known as the Candlelite Inn. At all times relevant to

this lawsuit, Defendant Gordon was and is a “person” as that term is used by 42 U.S.C. §1983. Gordon is sued in her individual and official capacities.

7. Defendant Town of Bradford is a municipal entity created under the laws of the State of New Hampshire. It is authorized by law to maintain a fire department, which acts as its agent and for which it is ultimately responsible. At all times relevant to this lawsuit, defendant Town of Bradford was and is a “person” as that term is used by 42 U.S.C. §1983. Defendant Town of Bradford is the public employer the defendants.

BACKGROUND AND FACTS

8. In 2014, Gordon, the treasurer from the Town of Bradford, owned and operated the property located at 5 Greenhouse Lane, Bradford, New Hampshire, as the Candlelite Inn. She had run the Candlelite Inn for at least ten years prior to 2014.

9. At least as far back as 2010, Gordon had been trying to sell the Candlelite. She listed the property both as a commercial property and as a residential property. In October 15, 2010, Gordon listed the property for sale with the Four Seasons Sotheby’s agency. The residential listing price was \$500,000. Six days later, on the October 21, 2010, Gordon listed the property as a commercial sale for \$600,000. The property did not sell. Ex. 1. The property history detail shows that the for the next five years, Gordon repeatedly attempted to sell the Candlelite, both as a commercial and residential property, without success. Ex. 1.

10. In August of 2014, the plaintiff made an offer to purchase the property for \$175,000. This offer was rejected by Gordon. He made an increased offer of \$195,000, but this offer was rejected as well.

11. While Gordon was running the Candlelite, she became romantically involved with Mark Goldberg, the Chief of the Bradford Fire Department. At some point, Goldberg took up residence at the Candlelite and lived in the Candlelite as his

principal place of residence. This occurred while Goldberg was going through a protracted divorce.

12. During the time that Goldberg was living at the Candlelite, the Candlelite was actively being run as a Bed & Breakfast and Goldberg was actively serving as Chief of the Bradford Fire Department. Photographs that were part of the Sotheby's real estate listing clearly show Goldberg's fire equipment inside the Candlelite. Ex. 2. The fire equipment is shown in the photograph on the fourth page of the listing entitled "owner's mudroom."

13. Shortly after the plaintiff's offer to purchase the Candlelite was rejected, the property was listed for sale at auction. Prior to the auction, the plaintiff approached selectmen Sonny Harris and John Pfieffe and made them aware of his interest in purchasing the property. He asked them if they were aware of any outstanding issues with the Candlelite that would preclude its continued operation as a B&B. He was advised by the selectmen that he would be able to operate as a B&B, there were no such issues, and that he would be able to continue running the property as an inn as the new owner.

14. As one would expect, the select board members expressed their belief that continued local ownership and running of the business would be to the benefit of the town.

15. The auction was conducted in August of 2014. The plaintiff was the high bidder, and successfully purchased the property for \$258,000. He took possession and moved in shortly thereafter. The sale at foreclosure auction clearly reflects that Gordon was unable to run the Candlelite successfully and ultimately failed in her efforts to do so.

16. Shortly after the plaintiff took over possession of the property, Gordon telephoned the plaintiff and informed him that the auction sale did not include permission to use the name "Candlelite Inn" when he took over operations of the Inn. She stated that she intended to retain the rights to use the trade name "Candlelite Inn," and that he was not allowed to use it. However, she offered to sell him the rights to use the "Candlelite Inn" name. The plaintiff politely declined the offer and informed Gordon that he intended to use a different business name.

17. After purchasing the Inn at the foreclosure auction, the plaintiff renamed the business and began doing business under the trade name "Bradford Village Inn."

18. The plaintiff also began investing in improvements to the building. For example, the plaintiff upgraded electrical wiring by installing 220v circuits for clothes dryers on the first floor, upgraded multiple fixtures and outlets, hardwired and looped smoke and carbon monoxide detectors in the basement and in guest rooms, and improved exterior outlets leading to a new deck. Chimneys were lined with stainless flues, stainless steel weather caps were installed, and all chimneys were cleaned and tested for safety.

19. While making improvements, the plaintiff was visited by the Town of Bradford Code Enforcement Officer, Walter Royal. Royal stated that he foresaw no code issues and that he intended to issue the certificate of occupancy. As the two men stood outside, Goldberg drove up the driveway to where they men were talking amicably about the improvements the plaintiff intended to make to the property. Goldberg was clearly in a state of rage or distress and approached the plaintiff and Royal in a manner that any ordinary onlooker would have perceived as threatening and aggressive.

20. Goldberg told the plaintiff that he could not open the inn because of "all the deficiencies."

21. The plaintiff was surprised by Goldberg's unwarranted, aggressive approach. He was also shocked by Goldberg's claim that the plaintiff would be unable to open the property as a B&B because of all the deficiencies.

22. The plaintiff asked Goldberg why the deficiencies did not present a problem that prevented his girlfriend - and the town treasurer – Gordon, from running an ongoing B&B business on the property. Goldberg did not respond, and stormed off.

23. To date, no explanation for this unequal treatment has been forthcoming, either from Goldberg or from any official with the town.

24. On October 6, 2014, the plaintiff attended a meeting of the board of selectmen. At that meeting, the plaintiff addressed the selectmen about improvements he was making to the property that made it significantly safer than that it had been when Gordon and Goldberg were cohabitating there and Gordon was actively running the Candlelite Inn. In the meeting, Goldberg asserted that because he "knew" the previous owner he was not able to conduct a fire safety check and would be recusing himself for anything having to do with the building. In fact, Goldberg did not merely "know" the previous owner, he was living with her, in the then-named Candlelite Inn.

25. Goldberg asserted that because of this supposed conflict of interest, he was unable to perform an inspection of the property. This was merely an elaborate ruse, concocted by Goldberg and Gordon together, to cause the state fire marshal's office to inspect the plaintiff's property. By creating this ruse, Goldberg and Gordon ensured that the plaintiff would be subjected to different treatment than the former owner, Gordon, who was running the property as a B&B while Goldberg lived in the building.

26. This ruse ensured that the plaintiff would be subjected to unequal treatment compared to Gordon.

27. Goldberg's manipulation succeeded. Goldberg ensured that the state fire marshal applied a standard different than the standard he had enforced against Gordon. As a result, the plaintiff was unable to obtain a certificate of occupancy from the Town.

28. In December of 2014, the Bradford Business Association had planned a luncheon at the Bradford Village Inn to welcome the plaintiff to the Bradford business community. Gordon objected to holding the luncheon at the Bradford Village Inn and, as a result, the meeting was held elsewhere. Gordon intimated that the emotional distress of presiding over a failing business and losing the building to a foreclosure auction had caused her to suffer emotional distress. As a result of Gordon's influence, the Bradford Business Association scheduled its meeting elsewhere and the plaintiff was denied an opportunity to host the event.

29. On March 10, 2015, and despite representing to the plaintiff that he was recused from matters involving the property, Goldberg, with the cooperation of Gordon, sent an email to the state fire marshal. That email clearly shows that, far from being recused, Goldberg and Gordon remained actively involved in efforts to harm the plaintiff's opportunity to run a successful business on the property. Ex. 3. As the email clearly shows, Gordon emailed a link to a homeaway.com listing to Goldberg on March 11, 2015. The next day, March 12, 2015, Goldberg forwarded that link to the state fire marshal's office with the following message:

I found this on the web last night, can this be legal, you will notice at the bottom someone stayed with 13 people and they are also use the top floor according to the ad.

The email was signed by Goldberg as follows:

Mark Goldberg, Chief, 82-C1
Bradford Fire and Rescue Department
P.O. Box 203
Bradford, NH 03211

30. On that same day, Eric Berube of the fire marshal's office wrote a report memorializing his interaction with Goldberg. Ex 4. In that report, Berube wrote that he had been assigned to investigate the former Candlelite Inn on March 10th. Berube also wrote that on the 11th he:

spoke with Fire Chief Mark Goldberg, of the Bradford Fire Department regarding this investigation. He [Goldberg] informed me [Berube] that he had heard from Marilyn Gordon that she had heard from Fay [sic] Torro (the Inn owner's ex-wife) that Fay's daughter had told Fay that the inn had been renting to skiers and snow boarders over the past several weekends. Chief Goldberg also said that he has heard from several reliable sources that the parking lot of the Inn has had multiple cars with ski and snowboard racks parked there as if the Inn were rented to clients.

Ex 4.

31. The above statement reveals the depth to which Goldberg and Gordon, together, were willing to go to destroy the plaintiff's attempt to run a successful business, whether a B&B or short-term rental, in Bradford. Although it is not clear from Berube's report who was responsible, someone contacted the state fire marshal's office on or before March 10 to make a complaint that caused the fire marshal to initiate an investigation.

32. On March 11, Goldberg spoke to Berube for the purpose of feeding him information about the property, with the clear hope that the fire marshal would take action adverse to the plaintiff's interest. In support of this effort, Goldberg provided a jaw-dropping, quadruple-hearsay accusation concerning activities at the property, some of which is based on unnamed sources. In terms of investigative integrity, the report is preposterous. As a reflection of Goldberg's intent, it is deeply revealing.

33. On March 12, 2015, Goldberg sent *further* information in an additional effort to advance his active campaign against the plaintiff.

34. Gordon's efforts to bring harm to the plaintiff's attempts to run the inn were not limited to conspiring with Goldberg. In April or May of 2015, the selectmen were considering a petition for a tax abatement that the plaintiff and his wife filed with the town.

35. In Bradford, the select board acts as the assessing body, so the decision of whether to grant the tax abatement fell to the select board. The selectmen were prepared to grant the plaintiff a tax abatement of 50 percent, reflecting the decreased value of the property due to it not opening as a B&B. In other words, the selectmen were prepared to recognize the hardship caused by Goldberg's and Gordon's machinations through a tax reduction.

36. Gordon protested the selectmen's preliminary decision to grant the plaintiff a tax abatement. Further, Gordon made her protestations during an improper non-public meeting that violated RSA 91-A, the New Hampshire Right to Know law. Gordon made a strong objection to the proposal to reduce the plaintiff's taxes and she insisted that she lodge her complaint to the selectmen behind closed doors, outside of public view. After she did this, the plaintiff's tax abatement was never granted.

37. The conduct described above constitutes a continuing course of conduct, committed by two people conspiring together, intended to achieve the result of denying the plaintiff of equal protection of the law, due process of law, and the opportunity to make an honest attempt at succeeding at a business where the defendant Gordon had failed.

DAMAGES

38. To date, the plaintiff has never been able to open the property as a B&B. As a result, the plaintiff has suffered business losses and losses in the value of the property that were proximately caused by the conduct of the defendants. Further, he has suffered extreme emotional distress as a result of being the target of unequal treatment by the defendants. Until one has been the target of government unequal treatment and vindictiveness, it is difficult to image the degree of stress and upset that such targeting can cause. The defendants' conduct in this matter caused strain in the plaintiff's marriage to Terry Torro that ultimately led to separation and divorce. In addition to the above economic and emotional damages, the plaintiff is entitled to punitive damages against the defendants as well. The plaintiff is also entitled to recover his attorney's fees and case costs.

JURY DEMAND

39. The plaintiff requests a trial by jury on all issues triable by jury.

CLAIMS

COUNT I

42 U.S.C. §1983 Violation of 14th Amendment Equal Protection – Class of One – Against All Defendants

40. All of the allegations contained in the preceding and succeeding paragraphs are incorporated herein by reference.

41. At all times relevant to this allegation, Goldberg was the duly elected fire chief for the Town of Bradford. At all times relevant to this allegation, Gordon was the duly appointed treasurer for the Town of Bradford.

42. As fire chief, Goldberg established the practice or policy of not conducting life and fire safety inspections and fire code inspections of businesses such as the former

Candlelite Inn. Goldberg and Gordon together conspired together to deny the plaintiff equal protection of the law.

43. Despite the existence of this policy or practice, the defendants Goldberg and Gordon, acting together, ensured that a fire inspection of the former Candlelite Inn occurred after the plaintiff acquired the property. They did this by intentionally manufacturing a supposed conflict of interest with the plaintiff. Goldberg then brought in the fire marshal name of “fairness.” In fact, this ruse was nothing more than an attempt by Goldberg to hide his intent to subject the plaintiff to a different level of scrutiny than that faced by Goldberg’s domestic partner Gordon, and Goldberg himself, when they lived together in the Candlelite Inn.

44. Generally, in order to bring an equal protection claim under 42 U.S.C. §1983, a plaintiff must be a member of a protected class. However, the United States Supreme Court has held that an individual may maintain an equal protection claim as a “class of one” against a governmental unit if the plaintiff can establish that that he or she “has been intentionally treated differently from others similarly situated and that there is no rational basis for the difference in treatment.” *Village of Willowbrook v. Olech*, 528 U.S. 562, 564 (2000).

45. “In a class of one equal protection claim, proof of a similarly situated, but differently treated, comparator is essential.” See *Cordi-Allen v. Conlon*, 494 F.3d 245, 250 (1st Cir.2007). In particular, “plaintiff’s must show an extremely high degree of similarity between themselves and the persons to whom they compare themselves. *Id.* at 251.

46. The comparator here easily meets this standard. Given the unique facts of this case, the requirement of “an extremely high degree of similarity” is met because the comparator is not just *similar to* the plaintiff’s property, *it is* the plaintiff’s property. The *only* difference between the comparator property and the plaintiff’s property was that

the former residents were town officials, one of whom was the government official apparently responsible for inspecting it, and the new resident was not. That is not a rational basis.

47. Goldberg and Gordon together were motivated to conspire against, and assist each other in discriminating against the plaintiff for one or both of the following reasons: (1) Gordon and/or Goldberg were embarrassed by the failure of the Candlelite, and would be further embarrassed if the plaintiff succeeded where they had failed; and/or (2) they hoped to buy the property back, with the valuable improvements made by Torro, after his eventual failure, which the defendants Goldberg and Gordon hoped to facilitate through the exercise of government power and influence.

48. There was no rational basis for Goldberg and Gordon to discriminate against the plaintiff in the manner set forth in this complaint. Their action violated the plaintiff's clearly established right to equal protection of the law.

49. Goldberg and Gordon both acted with intentional disregard for the plaintiff's clearly established right to equal protection of the law and with malicious intent.

50. For her part, Gordon conspired with Goldberg by participating in his efforts to create a ruse supposedly creating a need to call on the state fire marshal due to a "conflict of interest." She did this by conspiring with Goldberg and providing him with information about the property that Goldberg could use in his attempts subject the plaintiff to unequal treatment as described above.

51. These attempts by Goldberg and Gordon occurred as part of an ongoing course of conduct to injure the plaintiff that began when he purchased the property at a foreclosure auction.

52. Further, as part of her ongoing campaign to ruin the plaintiff's business and finances, Gordon took an active and illegal role in making sure that the plaintiff was denied a tax abatement by using her influence as town treasurer and convincing the selectmen to deny the plaintiff's meritorious tax abatement petition.

53. The Town of Bradford is liable for the unconstitutional actions of its fire chief and treasurer pursuant to *Monell v. Dept. of Soc. Svcs.*, 436 U.S. 658 (1978). At the outset, Goldberg was the final policymaker for the Town as the duly elected fire chief and, thus, established this unconstitutional pattern and practice of the Town.

54. In addition, the defendant Town of Bradford failed to train its fire chief about the Fourteenth Amendment right of citizens to equal protection under the law, thereby placing Goldberg, assisted by Gordon, in the position to violate the plaintiff's equal protection rights. Further, the Town of Bradford is also liable because it was deliberately indifferent to its obvious failure to adequately train its fire chief to treat all person equally and to not engage in improper discrimination against any individual without a rational basis. Put another way, the Town knew or should have known that such training was inadequate and would lead to improper conduct by its employee Goldberg, but nonetheless exhibited deliberate indifference to the unconstitutional effects of those inadequacies. The failure of the Town of Bradford to do so proximately caused the plaintiff to suffer the damages described herein.

55. Further, the Town of Bradford knew or should have known about the existence of the ongoing discrimination based on an impermissible practice or policy adopted by its fire chief.

COUNT II
42 U.S.C. § 1983 – 5th and 14th Amendment Substantive Due Process
All Defendants.

56. All of the allegations contained in the preceding and succeeding paragraphs are incorporated herein by reference.

57. The Fourteenth Amendment protects citizens against government conduct that “shocks the conscience.” Goldberg and Gordon together engaged in conduct that shocks the conscience because individually and jointly, they acted to use government power to prevent a citizen from doing exactly what they, Goldberg and Gordon, themselves had done shortly before: use the Candlelite Inn/Bradford Village Inn as a B&B, by renting rooms to guests.

58. Goldberg and Gordon were unable to continue operating the Candlelite Inn because they were unable to keep up with the mortgage payments and meet other expenses of running the business.

59. Once they lost the property at foreclosure auction, Goldberg and Gordon began a campaign, which continues to this day, to deny the plaintiff the opportunity to receive the benefit of his purchase of the property and to deny him a fair chance to succeed where they had failed at running the Inn at 5 Greenhouse Lane.

60. Goldberg and Gordon acted with malice, ill-will and evil intent.

61. The use of government power and influence to stop an ordinary citizen from doing the *exact same act* that the government personnel *themselves* were performing mere months before is corrupt, disgusting, and shocks the conscience of any reasonable, law-abiding person. The notion that government officials, or other people who could be considered “insiders” or “connected,” are able to obtain benefits that other people who are “outsiders” or not part of a governmentally approved “in-group” is simply appalling to a person of average sensibilities.

62. The Town of Bradford is liable as set forth in paragraphs 53-55 above.

COUNT III
RSA 91-A – Violation of New Hampshire Right to Know Law
All Defendants

63. All of the allegations contained in the preceding and succeeding paragraphs are incorporated herein by reference.

64. Under New Hampshire law, meetings of public bodies are required to occur with public notice, and in public view. RSA 91-A:2. There are limited exceptions to the public meeting requirement, which are set forth in RSA 91-A:3. None of the statutory exceptions to the public meeting requirement apply to consideration of a petition for a tax abatement.

65. Despite the fact that the subject of the plaintiff's tax abatement petition did not permit it to be considered in non-public session, the selectmen for the Town of Bradford, did, in fact, consider and discuss the plaintiff's petition in non-public session. Further, they permitted defendant Gordon, the town treasurer, to participate in the illegal, non-public session. In the illegal, non-public session, Gordon argued strenuously against the plaintiff's tax abatement petition.

66. Pursuant to RSA 91-A:8, "the court may invalidate an action of a public body or public agency taken at a meeting held in violation of the provision of this chapter, if the circumstances justify such invalidation."

67. Accordingly, this Court should invalidate the denial of the plaintiff's tax abatement petition and grant consequential damages.

68. Furthermore, RSA 91-A:8, I states that, "[i]f any public body or public agency or officer, employee, or other official thereof, violates any provision of this chapter, such public body or public or public agency shall be liable for reasonable

attorney's fees and costs incurred in a lawsuit under this chapter..." As set forth below, the plaintiff requests attorney's fees.

COUNT IV
Intentional Infliction of Emotional Distress
All Defendants

69. All of the allegations contained in the preceding and succeeding paragraphs are incorporated herein by reference.

70. Goldberg and Gordon engaged in a pattern of extreme and outrageous conduct that intentionally or recklessly caused severe emotional distress to the plaintiff.

71. That conduct included engaging in a long-term campaign intended to bring about unequal treatment under law by the government. Further, the defendants intentionally attempted to prevent the plaintiff from succeeding in his business where the defendants had failed.

72. The defendants' "crabs in a bucket" mentality led them to use and misuse their positions of public trust to harm the plaintiff, causing him to suffer extreme, unbearable, and severe mental suffering.

73. The defendants knew or should have known that their conduct in attempting to destroy the plaintiff's business prospects as owner of the property would cause the plaintiff to suffer severe emotional distress because they themselves had been through the process of failing at business and were fully aware of the emotional consequences of such failure.

74. Unlike the plaintiff, however, the defendants' failure at running the Candlelite was not caused by the malicious and outrageous exercise of the power and influence of Town of Bradford officials. The plaintiff was victimized by the defendant's outrageous use of government power and influence to interfere with his business.

75. The Town of Bradford is responsible for damages caused by Goldberg and Gordon under the doctrine of *respondent superior*.

COUNT V – Official Oppression/Misuse of Office

76. New Hampshire law defines official oppression as follows:

643:1 Official Oppression. – A public servant, as defined in RSA 640:2, II, is guilty of a misdemeanor if, with a purpose to benefit himself or another or to harm another, he knowingly commits an unauthorized act which purports to be an act of his office; or knowingly refrains from performing a duty imposed on him by law or clearly inherent in the nature of his office.

77. Goldberg and the selectmen agreed that Goldberg would “recuse” himself from matters involving the Bradford Village Inn.

78. By recusing himself, Goldberg agreed to allow another entity, the state fire marshal’s office, to address any fire inspection issues related to the Bradford Village Inn that had previously been handled locally. Accordingly, after recusing himself, Goldberg had no public duty relative to the plaintiff’s property.

79. Despite the fact that he had no public duty in this area, Goldberg, with a purpose to benefit himself at the plaintiff’s expense and /or to harm the plaintiff, knowingly committed the unauthorized act of making one or more reports to the state fire marshal’s office. In making one or more such reports, Goldberg purported to be acting in his official capacity, in that he signed the March 12, 2015 email “Mark Goldberg, Chief, Bradford Fire and Rescue, 82-C1.

80. This use of his official designation was unauthorized but intended to create the impression that it was, in fact, an official report under authority of the Town of Bradford fire and rescue department.

81. Likewise, Gordon committed an unauthorized act in that she participated in an illegal, unnoticed, non-public meeting in violation of the state right to know law. Had she not been town treasurer, she would not have been permitted to participate in this meeting.

82. As town treasurer, Gordon knowingly used the influence and access that accompanies her official position to benefit herself at the plaintiff's expense and/or to harm the plaintiff.

83. In her role as town treasurer, Gordon had no authority to influence or argue against the plaintiff's tax abatement petition. Despite her lack of authority in this area, Gordon's position as town treasurer allowed her to influence the selectmen, who had the responsibility to review and decide the plaintiff's tax abatement request.

84. Gordon knowingly committed the unauthorized act of using her influence with the selectmen to cause them to deny the plaintiff's tax abatement request, even though they knew that the request was meritorious and had planned to grant the plaintiff a 50 percent tax reduction.

85. These acts by Goldberg and Gordon caused economic damages to the plaintiff, emotional distress, and other compensable damages.

86. The Town of Bradford is liable for the plaintiff's damages under the theory of *respondeat superior*.

RELIEF REQUESTED

WHEREFORE, the plaintiff respectfully requests that this Court grant the following relief:

A. Monetary damages in an amount to be determined at trial in an amount no less than \$2,000,000 (two million dollars); and

B. Punitive damages; and

- C. Costs, expenses, and reasonable attorney's fees pursuant to 42 U.S.C. §1988(b); and
- D. Such other relief as may be just or equitable within the jurisdiction of the Court.

RESPECTFULLY SUBMITTED
JOSEPH TORRO
By and through his attorney,

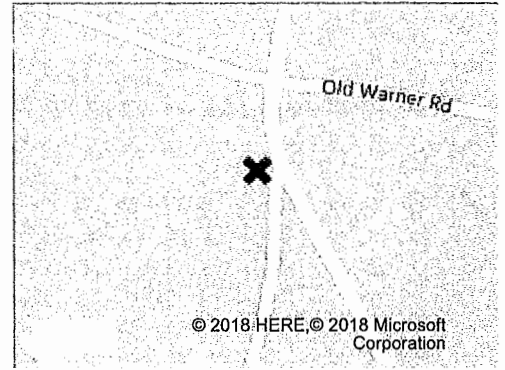
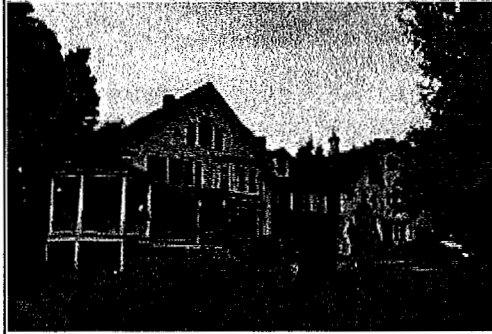
/s/ Richard J. Lehmann

Richard J. Lehmann, (Bar No. 9339)
Lehmann Law Office, PLLC
835 Hanover Street, Suite 301-A
Manchester, N.H. 03104
(603) 731-5435
rick@nhlawyer.com

Address

5 Greenhouse Lane
Bradford, NH 03221

MLS #4029374



MLS # 4030315		Class	Commercial Sale		List Date	10/21/2010		DOM 1407	
Chg Date	Chg Type				Listing Status	Price	List Agent - Agent Name	Listing Office - Office Name	
01/26/2015 12:00:00 AM	List Agent				Expired	\$499,000	House	Four Seasons Sotheby's Int'l Realty /NL	
08/29/2014 12:00:00 AM	Listing Status, Date - Expiration				Expired	\$499,000	Linda Rosenthal	Four Seasons Sotheby's Int'l Realty /NL	
08/27/2014 12:00:00 AM	Listing Status				Withdrawn	\$499,000	Linda Rosenthal	Four Seasons Sotheby's Int'l Realty /NL	
01/24/2014 12:00:00 AM	Price - List				Active	\$499,000	Linda Rosenthal	Four Seasons Sotheby's Int'l Realty /NL	
02/02/2012 12:00:00 AM	Price - List				Active	\$561,500	Linda Rosenthal	Four Seasons Sotheby's Int'l Realty /NL	
10/21/2010 12:00:00 AM	First Recorded Entry				Active	\$600,000	Linda Rosenthal	Four Seasons Sotheby's Int'l Realty /NL	

MLS # 4029374		Class	Residential		List Date	10/15/2010		DOM 1413	
Chg Date	Chg Type				Listing Status	Price	List Agent - Agent Name	Listing Office - Office Name	
08/29/2014 12:00:00 AM	Listing Status, Date - Expiration				Expired	\$399,000	Linda Rosenthal	Four Seasons Sotheby's Int'l Realty /NL	
08/27/2014 12:00:00 AM	Listing Status				Withdrawn	\$399,000	Linda Rosenthal	Four Seasons Sotheby's Int'l Realty /NL	
01/24/2014 12:00:00 AM	Price - List				Active	\$399,000	Linda Rosenthal	Four Seasons Sotheby's Int'l Realty /NL	
02/02/2012 12:00:00 AM	Price - List				Active	\$468,000	Linda Rosenthal	Four Seasons Sotheby's Int'l Realty /NL	

MLS # 4029374

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Class Residential

List Date 10/15/2010

DOM 1413

Chg Date

Chg Type

Listing Status

Price

List Agent -
Agent Name

Listing Office
- Office
Name

10/15/2010 First Recorded Entry
12:00:00 AM

Active

\$500,000

Linda
Rosenthal

Four Seasons
Sotheby's
Int'l Realty
/NL

05/15/2017 08:17 PM

Page 1 of 2

Commercial Sale
4030315
Expired

5 Greenhouse Lane
Bradford NH 03221

Unit/Lot #:
Price - List \$499,000
Price - Closed
Date - Closed



Year Built 1897
SqFt-TotBld/Src
SqFt-TotAvail/Src
Zoning Res/Bus
Road Front/Lgth Yes 175
Flood Zone Unknown
Lot Acres/SqFt 2.90 / 126,324
Traffic Count
Loss Factor %
DOM 1407
Sub Property Type Hospitality

Taxes TBD
Gross Taxes/Year \$9,688.00 /
Gross Income
Expenses-Annual
Net Income
Expenses-CAM
Expenses-Taxes
Expenses-Utilities
Expenses-Insurance
Expenses-Managmnt
Vacancy Factor
Sub Prop Type Use Bed/Breakfast

Directions Route 114 to Bradford to right on Greenhouse Lane - Inn is on your right. Need 24 hours to notice to show.

What a great opportunity to own a well established business! Located in the heart of the scenic Lake Sunapee Region, the Candlelite Inn is situated in historic Bradford known as the gateway to the region. The Inn features four luxurious and individually decorated bedrooms and two comfortable suites. Each room features a queen size bed and private bath. This fine Victorian structure shows graceful detail, such as the gazebo porch where you can enjoy a cool drink on a hot summers day or move inside to the parlor and sit in front of a cozy fire with a hot cup of cocoa or cider while the snow falls outside. The inn is nestled on 2.9 acres of countryside with a pond and is within minutes to skiing, great restaurants, boating, hunting, fishing & many other outdoor activities. Also being offered as a residential property without some of the furnishings at \$399,000. See MLS# 4029374.

STRUCTURE

Building #	Units Per Building	Total Stories
Divisible SqFt Min/Max /	Basement/Access Type Yes / Interior	
Foundation Fieldstone, Poured Concrete	Basement Description Full	
Roof Other, Shingle - Asphalt	Construction Wood Frame	
Exterior Wood Siding		
Total Drive-in Doors	Door Height	
Total Loading Docks	Dock Height	Dock Levelers
Ceiling Height	Total Elevators	

LEVEL TYPE DESCRIPTION

UNIT 1
 UNIT 2
 UNIT 3
 UNIT 4
 UNIT 5
 UNIT 6
 UNIT 7
 UNIT 8

UTILITIES

Heating Baseboard, Steam
Heat Fuel Gas - LP/Bottle
Gas - Natural Available
Cooling
Water Private
Sewer Private Available
Electric

Services Cable - Available, DSL - Available

Management Co/Phone /

Fuel Company HR Clough
Phone Company TDS
Cable Company TDS
Electric Company PSNH

LOT / LOCATION

Page 2 of 2

County	NH-Merrimack	Submarket	
Water Body Access		Project Building Name	
Water Body Type		ROW-Parcel Access	
Water Body Name		ROW-Length/Width	/
Water Frontage Lngth		ROW to other Parcel	
Water Restrictions		Surveyed/By	/
Lot Desc		Area Desc	Business District, Rural

FEATURES

Transport/Access	Major Road Access, State Highway	Flooring	Combination
Parking	On-Site, Parking Spaces 1 - 10	Features - Commercial	Furniture Included, Inventory Included, Living Space Available, Smoke/Heat Detectors
		Features - Accessibility	Paved Parking

Air Conditioning %		Sprinkler	
Railroad Avail/Provider	/	Signage	
Green Verification Progm		Green Verification Rating/Metric	/
Green Verification Body		Green Verification New Construction	
Green Verification Status/Year	/	Green Verification URL	

PUBLIC RECORDS

Deed - Recorded Type	Warranty	Deeds - Total		Deed Book/Page	3033 / 518
Map	17	Block		Lot	44
SPAN #		Property ID		Plan Survey Number	
Assment Amount/Year	\$432,100 /	Assments - Special		Current Use	No
Tax Class		Tax Rate	22.42	Land Gains	

DISCLOSURES

Listing Service		Sale Includes	Land/Building/Business
Comp Only/Type	No /	Items Excluded	
Short Sale	No	Negotiable	
Seasonal	No	Foreclsd/BankOwnd/REO	No
Investment Info		Financing	
Covenants	No	Auction Date/Time	/
Auction	No	Auctn Price Determnd By	
Auctioneer - Responsible		Auction Info	
Auctioneer License #			
Delayed Showing/Begin Date	N /		

PREPARED BY

Laura J Hallahan - Cell: 603-848-2020

laura@tallpinesnh.com

Tall Pines Realty - Off: 603-938-2366

1 Center Road
Bradford NH 03221

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Listed By:

House / Four Seasons Sotheby's Int'l Realty/NL

05/15/2017 08:17 PM

4030315

Page 1 of 5

5 Greenhouse Lane

Bradford NH 0322



Beautiful Country Inn



Another View



Back Side of Inn



Reception



Breakfast Sunroom



Kitchen



Kitchen



Living Room

Prepared by: Laura J Hallahan

Tall Pines Realty

Listed by: House

Four Seasons Sotheby's Int'l Realty/NL

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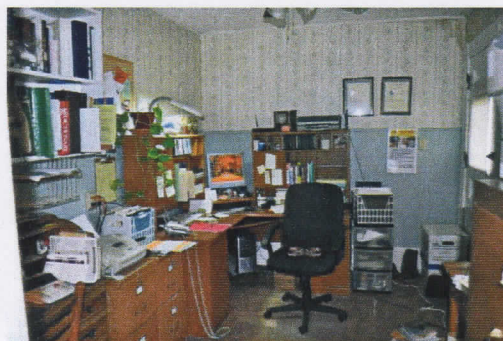
Page 2 of 5

5 Greenhouse Lane

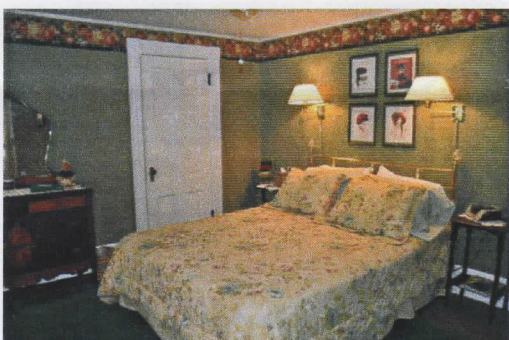
Bradford NH 0322



Dining Room



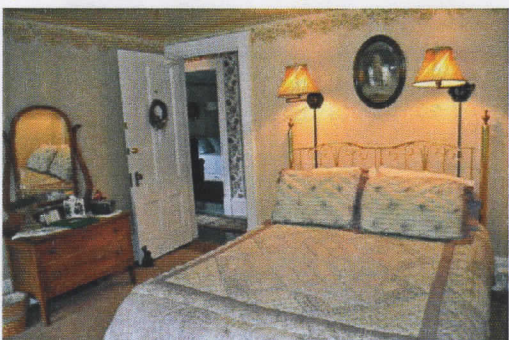
Office



Green Room



Green Room View 2



Lavender Room



Mini Suite



Mini Suite View 2



Rose Room

Prepared by: Laura J Hallahan Tall Pines Realty

Listed by: House

Four Seasons Sotheby's Int'l Realty/NL

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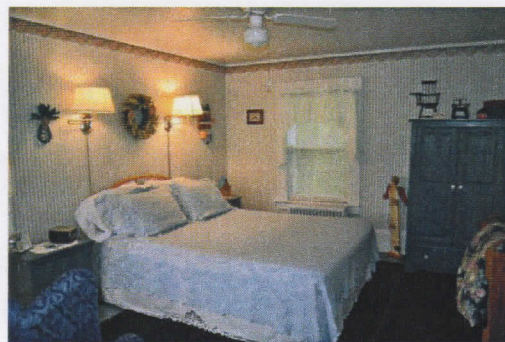
Page 3 of 5

5 Greenhouse Lane

Bradford NH 0322



Peach Room



Blue Room



Owners Quarters



Owners Quarters 2



Owners Mudroom



Picturesque Setting



Tranquil Setting



Tranquil Setting

Prepared by: Laura J Hallahan Tall Pines Realty

Listed by: House

Four Seasons Sotheby's Int'l Realty/NL

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2140472

Berube, Eric

From: Mark Goldberg <mark@valleyfireequipment.com>
Sent: Thursday, March 12, 2015 9:43 AM
To: Cole, Danielle; Berube, Eric
Cc: 'Rob Steiz'; preston@valleyfireequipment.com
Subject: FW: Grand Victorian Home, 15 minutes from... - HomeAway Bradford

Importance: High

Danielle

I found this on the web last night, can this be legal, you will notice at the bottom someone stayed with 13 people and they are also using the top floor according to the ad.

Thank You

Mark

Mark Goldberg, Chief, 82-C1
Bradford Fire and Rescue Department
PO Box 203
Bradford, NH 03221
603-938-2496 Home
603-938-2271 Work
mark@valleyfireequipment.com

From: Marilyn Gordon [<mailto:candlelite@mcttelecom.com>]
Sent: Wednesday, March 11, 2015 4:43 PM
To: Mark Goldberg
Subject: Grand Victorian Home, 15 minutes from... - HomeAway Bradford

<http://www.homeaway.com/vacation-rental/p667840vb>

**NEW HAMPSHIRE STATE FIRE MARSHAL'S OFFICE
CONTINUATION OF INVESTIGATION REPORT**

CASE #: 2140472	INVESTIGATOR: Eric J. Berube	ID#: 906	TOWN: Bradford
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ALLEGATIONS OF UNLAWFUL USE INVESTIGATED
MARCH 12th, 2015


On March 10th, 2015, I was assigned to investigate allegations that the Candlelight Inn, also known as the Bradford Village Inn, was being operated as a Bed and Breakfast (Lodging or Rooming House Occupancy) without having addressed fire code violations cited by then Investigator Danielle Cole, of the NH State Fire Marshal's Office under inspection number 2140472.

On March 11th, I spoke with Fire Chief Mark Goldberg, of the Bradford Fire Department regarding this investigation. He informed me that he had heard from Marilyn Gordon that she had heard from Fay Torro (the Inn owner's ex-wife) that Fay's daughter had told Fay that the inn had been renting to skiers and snow boarders over the past several weekends. Chief Goldberg also said that he has heard from several reliable sources that the parking lot of the Inn has had multiple cars with ski and snowboard racks parked there as if the Inn were rented to clients. Chief Goldberg stated that he did not know if the "clients" were relatives, paying guests, or what the nature of the rental relationship was, but he was providing us with the information pursuant to our open inspection process regarding the building.

On March 12th, Chief Goldberg sent me an email with additional information. He stated that he had located a web site that had a review of the Inn by a client, and the review stated that a party of 13 had stayed at the Inn in February of 2015. The web site was identified as www.homeaway.com/vacation-rental/p667840vb. This web site was the site of a rental marketing service, and the Bradford Village Inn was listed as being for rent. The rental terms were listed as the entire house being for rent, rather than specific rooms.

I located the review regarding the party of 13. The review indicated that one large party had rented the entire facility for a ski vacation in February of 2015.

The rental of an entire dwelling unit to one person or one group does not fall under the Fire Code's definition of a Lodging or Rooming House. As such, the use of

SIGNATURE: 	PAGE 1 OF 2	DATE: 03/12/15
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**NEW HAMPSHIRE STATE FIRE MARSHAL'S OFFICE
CONTINUATION OF INVESTIGATION REPORT**

CASE #: 2140472	INVESTIGATOR: Eric J. Berube	ID#: 906	TOWN: Bradford
----------------------------------	---	---------------------------	---------------------------------

the estate for complete facility rentals is not prohibited by the fire codes. With no evidence to conclude that the building is being used as a Lodging or Rooming House, no action is taken by this office at this time.

END OF REPORT.

SEE ATTACHED WEB SITE PRINTOUT AND EMAIL FROM CHIEF GOLDBERG.

SIGNATURE: 	PAGE 2 OF 2	DATE: 03/12/15
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