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**FILED/ENDORSED**  
Clerk of the Superior Court

JAN 21 2020

By [Signature]  
DEPUTY CLERK

\$435 GIVE

**ASSIGNED TO**  
**JUDGE Bradley Nelson**  
**FOR ALL PURPOSES**

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
10 **COUNTY OF SOLANO**

11 CITY OF VALLEJO, a Municipal Corporation,

12 Plaintiff and Real Party in Interest,

13 vs.

14 WAL-MART STORES INC., ROTHBART  
15 DEVELOPMENT CORPORATION, and DOES 1  
16 - 100,

17 Defendants.

Case No.: **FC S054250**

**COMPLAINT FOR INJUNCTIVE AND  
OTHER RELIEF FOR MAINTAINING A  
PUBLIC NUISANCE AND NUISANCE PER  
SE; APPOINTMENT OF A RECEIVER**

**Public Nuisance**  
**[Civ. Code §3480; Code of Civ. Proc. §731;**  
**Vallejo Municipal Code §1.12.020]**

*Exempt from filing Fees (Gov. Code §6103)*  
*Deemed Verified (Code Civ. Proc. §446)*

21  
22 Plaintiff PEOPLE OF THE STATE OF CALIFORNIA, by and through the CITY OF VALLEJO,  
23 alleges as follows:

24 **PRELIMINARY ALLEGATIONS**

25 1. This action arises out of the maintenance by Defendants WAL-MART STORES INC.,  
26 ROTHBART DEVELOPMENT CORPORATION, and DOES 1-100 (hereafter referred to collectively as  
27 "Defendants") of a public nuisance (California Civil Code §3480) at 500 Redwood Street, Vallejo,  
28 California 94590, 510 Redwood Street, Vallejo, California 94590, and 520 Redwood Street, Vallejo,

**COMPLAINT FOR INJUNCTIVE AND OTHER RELIEF FOR MAINTAINING A PUBLIC NUISANCE AND  
NUISANCE PER SE; APPOINTMENT OF A RECEIVER**

California 94590, collectively a commercial lot on Solano County Assessor parcel number 0051-010-320. This property is now, has been, and continues to be maintained as a public nuisance, in violation of state and local laws, and is a nuisance *per se*.

2. Claudia Quintana, as the Vallejo City Attorney, in the name of the People of the State of California, brings this action pursuant to Code of Civil Procedure §731.

3. Plaintiff PEOPLE OF THE STATE OF CALIFORNIA, by and through the CITY OF VALLEJO, requests that this court declare the Property a public nuisance and issue an injunction against Defendants WAL-MART STORES INC., ROTHBART DEVELOPMENT CORPORATION, and DOES 1-100 prohibiting them from the following:

- a. Maintenance of a public nuisance as defined by §3480 of the Civil Code.
- b. Maintenance of a public nuisance as defined by §1.12.020 of the Vallejo Municipal Code.

### **PARTIES**

4. Plaintiff CITY OF VALLEJO (the "City") is a municipal corporation and a charter city, duly organized and existing under and by virtue of Article XI §7 of the Constitution of the State of California and is charged with maintaining the public health, welfare, and safety of its citizens.

5. The real property subject to this action is:

- a. The vacant lot located at 500 Redwood Street, Vallejo, California 94590, 510 Redwood Street, Vallejo, California 94590, and 520 Redwood Street, Vallejo, California 94590;
- b. The parcel of land upon which the vacant lot sits, located in the State of California, County of Solano, with a situs address of 500 Redwood Street, Vallejo, California 94590, 510 Redwood Street, Vallejo, California 94590, and 520 Redwood Street, Vallejo, California 94590, with a tax assessor number of 0051-010-320;
- c. The vacant lot described in subsection (a) above and parcel described in subsection (b) above are hereinafter referred to collectively as the "Property."

6. Defendants are legal entities who are owners, operators, landlords, trustees, administrators, property managers, lessors, lessees, sublessors, sublessees, users, invitees, guests, occupants, recorded

1 interest holders, or anyone who exercises dominion and control over the Property and who permit or  
2 maintain a nuisance on the Property, including violations of the Vallejo Municipal Code ("V.M.C."). All  
3 violations alleged within this complaint occurred during the course and conduct of Defendants' ownership,  
4 possession, tenancy, dominion, control, interest, or occupancy of the Property.

5 7. Plaintiff is informed and believes, and thereon alleges, that from August 15, 2019, to the  
6 present time, the Property has been owned and controlled by Defendants WAL-MART STORES INC.  
7 and ROTHBART DEVELOPMENT CORPORATION.

8 8. Plaintiff is informed and believes, and thereon alleges, that Defendants DOES 1-20 have  
9 been at all times relevant to this complaint and may currently still be owners, landlords, and property  
10 managers of the Property.

11 9. Plaintiff is informed and believes, and thereon alleges, that Defendants DOES 21-50 hold  
12 and have held, at all times relevant herein, an interest in the Property in the form of a lease, rental  
13 agreement, ownership interest, or other informal interest or agreement, and pursuant thereto have had, and  
14 continue to have, the use and possession of the Property for residential purposes.

15 10. Plaintiff is informed and believes, and thereon alleges, that Defendants DOES 51-70 have  
16 a recorded or other legal interest in the Property.

17 11. Plaintiff is informed and believes, and thereon alleges, that Defendants DOES 71-100 are  
18 additional lessees, sublessees, frequent and regular users, invitees, guests and/or occupants of the Property.

19 12. Plaintiff sues fictitiously named Defendants DOES 1-100 inclusive pursuant to Code of  
20 Civil Procedure §474, because their names, capacities, status or facts showing them to be liable are not  
21 presently known. Plaintiff is informed and believes, and thereon alleges, that each of the fictitiously-  
22 named Defendants are responsible in some manner for the occurrences herein alleged, including  
23 permitting, creating, and maintaining a public nuisance at the Property. The true names and capacities,  
24 whether individual, corporate or otherwise, of DOES 1-100 are at this time unknown to Plaintiff. Plaintiff  
25 will amend this complaint to show the true names of each when they have been ascertained.

#### 26 VENUE

27 13. Venue is proper because the Property is located in the City of Vallejo, which is located in  
28 the County of Solano, State of California.

## GENERAL ALLEGATIONS

14. Plaintiff incorporates by reference the allegations in Paragraphs 1 through 13 as if fully set forth herein.

15. Government Code §38771 states that a city's legislative body may declare what constitutes a nuisance.

16. V.M.C §1.12.020(A) provides that "[a]ny use of property contrary to the provisions of any of the ordinances of the City is, and is declared to be, unlawful and a public nuisance."

17. Plaintiff is informed and believes, and thereon alleges, that at least since April 20, 2017, and continuing up to the present time, Defendants WAL-MART STORES INC., ROTHBART DEVELOPMENT CORPORATION, and DOES 1-100 have unlawfully used or maintained the Property, or caused, suffered or permitted the Property to be used in such a manner that the following conditions have and continue to exist at the Property:

a. The Property is a vacant lot that is inadequately maintained. The City of Vallejo Code Enforcement Division opened an enforcement action due to violations of the City's property maintenance ordinance (V.M.C. Chapter 7.54) in August of 2019, for violations of V.M.C. §§ 7.54.030(F) (Damaged lumber, junk, trash, salvage materials, household materials, etc.), 7.54.030(K) (Dead, decayed, diseased or otherwise hazardous trees, weeds or overgrown vegetation); 7.54.030(M) (Any wall, fence or hedge maintained in a condition of deterioration or disrepair as to constitute a hazard to persons on property), 7.54.030(S) (Maintenance of property in such a manner as to constitute a public nuisance); and 7.54.030(T) (Unauthorized camping on private property in a place which can be viewed from the public right-of-way or in a manner that constitutes a public nuisance). The initial warning notice was issued on or about August 15, 2019. A Notice of Violation was issued on or about December 18, 2019 after a re-inspection observed the same violations. This case has resulted in \$361.00 in fines and fees.

b. Prior to the most current investigation for violations of the V.M.C., the Code Enforcement Division opened at least five cases for similar violations on the

1 following dates: October 24, 2016, February 6, 2017, December 6, 2017, October  
2 31, 2018, and May 30, 2019. These cases resulted in \$1,481.00 in fines and fees.  
3 These Code Enforcement Division cases were closed because the violations and  
4 nuisances were temporarily abated.

- 5 c. Despite the numerous administrative notices, the Property continues to be out of  
6 compliance with several sections of V.M.C. Chapter 7.54. Accordingly, the  
7 Property is a nuisance *per se* pursuant to V.M.C. §7.54.040 (“All property found to  
8 be maintained in violation of any one or more of the provisions of this chapter is  
9 declared to be a public nuisance...”) and V.M.C. §1.12.020 (“Any use of property  
10 contrary to the provisions of any of the ordinance of the city is, and is declared to  
11 be, unlawful and a public nuisance.”).
- 12 d. Due to the property maintenance violations, the Property is a blight and poses a  
13 health and safety risk to the surrounding neighborhood and businesses. The  
14 Property is a hub for loitering and nuisance activity. The loitering and nuisance  
15 activity obstructs the surrounding neighbors’ free use of their property.
- 16 e. City staff and the Vallejo Police Department have and continue to receive numerous  
17 complaints from neighbors of the Property. The complaints allege loitering,  
18 trespassing, and suspicious activity. Accordingly, the Property gained a reputation  
19 among police officers, City staff, and neighbors as a growing tent city that is out of  
20 control that is causing havoc to the neighboring businesses and community.
- 21 f. On multiple occasions, Code Enforcement and the Community Services Section  
22 (CSS) of the Vallejo Police Department attempted to reach out to Defendants to  
23 address the transients occupying the property and the ever-growing encampments.  
24 Coordinating with Defendants, CSS scheduled clean-ups of the Property on  
25 September 5, 2019 and November 27, 2019. (See, Declaration of Angela Hodgins,  
26 at ¶5.) Defendants and/or its representatives failed to show up at the scheduled  
27 clean-up dates, on September 5, 2019 and November 27, 2019. (Id., at ¶6.) Since  
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November 27, 2019, the nuisance and blighted conditions on the Property have not been addressed. (Id.)

18. Defendants' continuing, repeated, ongoing, severe, egregious, and unrelenting violation of the law at the Property has caused the neighborhood to deteriorate to a great degree which contributes to an increased presence of criminal trespassing activity, disturbing the peace, and an overall sense of lawlessness in the area.

19. The conditions described in paragraphs 1 through 18 constitute a public nuisance and a nuisance *per se* and cause a diminishment in the appearance of the neighborhood, a reduction of property values, are offensive to the senses, and most importantly, are a cause for a severe decrease in the use and enjoyment of neighboring properties.

20. The Property requires an excessive amount of municipal services directed to this location to protect the health, welfare, and safety of Vallejo citizens.

**FIRST CAUSE OF ACTION**

**INJUNCTIVE RELIEF FOR A VIOLATION OF PUBLIC NUISANCE LAW AGAINST  
DEFENDANTS WAL-MART STORES INC., ROTHBART DEVELOPMENT CORPORATION,  
AND DOES 1-100**

**[Civil Code §3479 *eq. seq.*]**

21. Plaintiff re-alleges and incorporates by reference the foregoing paragraphs, 1 through 20 above, with the same force and effect as if fully set forth herein.

22. Plaintiff brings this action pursuant to Code of Civil Procedure §731 and Civil Code §3494.

23. Plaintiff is informed and believes, and thereon alleges, that Defendants permit, participate, engage, allow, or fail to take adequate efforts to stop the illegal, annoying, and disruptive activities described above that are allowed to occur and exist at the Property.

24. Due to Defendants' inaction or failure to act, Defendants have caused and maintained a continuing public nuisance within the meaning of Civil Code §§3479 and 3480. The activities are injurious to health, offensive to the senses, and an obstruction to the free use of property so as to interfere with the comfortable enjoyment of life or property in an entire community.

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1        25. Plaintiff is informed and believes, and thereon alleges, that the deteriorated fence on the  
2 Property for the past 6 months resulted in increased trespassing and an increasing amount of unauthorized  
3 camping.

4        26. Plaintiff is informed and believes, and thereon alleges, that the Property's vacant lot is  
5 filled with trash, debris, human and animal excrement, and other junk. In addition, since at least August  
6 2019, the increasing number of unauthorized camping tents on the vacant lot is an eyesore for the  
7 community. The increasing unauthorized camping activities create a health and safety risk to the  
8 community due to the unsanitary nature from the lack of running water and appropriate hygiene facilities.

9        27. Plaintiff is informed and believes, and thereon alleges, that City staff received numerous  
10 phone calls and emails from citizens regarding the nuisance conditions at the Property. These nuisance  
11 conditions are interfering with the community's comfortable enjoyment of their property.

12        28. Plaintiff is informed and believes, and thereon alleges, that the Property gained a reputation  
13 as a place where transients and vagrants are allowed to loiter and engage in unauthorized camping and  
14 trespassing on private property. These activities interfere and obstruct the neighbors' free use of their  
15 property.

16        29. Plaintiff is informed and believes, and thereon alleges, that transient people who occupy  
17 the Property repeatedly damage City property in the area.

18        30. These aforementioned activities have affected a substantial number of people, and would  
19 reasonably bother, annoy, or disturb an ordinary person.

20        31. At all times herein mentioned, Defendants had notice and knowledge that the Property  
21 constituted a public nuisance.

22        32. Plaintiff has not and will not consent to Defendants' conduct, and Plaintiff has no adequate  
23 remedy at law in that damages are insufficient to protect the public from the harm caused by the conditions  
24 described above.

25        33. Plaintiff is informed and believes that Defendants will continue to maintain the Property in  
26 the above-described condition as a public nuisance.

27        34. Unless said nuisance is abated, the surrounding community and neighborhood, and the  
28 residents and citizens of the City of Vallejo, will suffer irreparable injury and damage in that said

1 conditions will continue to be injurious to the enjoyment and the free use of the life and property of said  
2 citizens of the City of Vallejo.

3 **SECOND CAUSE OF ACTION**

4 **INJUNCTIVE RELIEF FROM A NUISANCE “*PER SE*” FOR VIOLATIONS OF THE**  
5 **VALLEJO MUNICIPAL CODE AGAINST DEFENDANTS WAL-MART STORES INC.,**  
6 **ROTHBART DEVELOPMENT CORPORATION, AND DOES 1-100**

7 **[Govt. Code §§38771 *et seq.*, V.M.C. §§1.12.020 and 7.54.030]**

8 35. Plaintiff re-alleges and incorporates by reference the foregoing paragraphs, 1 through 34  
9 above, with the same force and effect as if fully set forth herein.

10 36. Plaintiff is informed and believes, and thereon alleges, that Defendants continue to violate  
11 V.M.C. §7.54.030 and thus have created a public nuisance pursuant to V.M.C. §§1.12.020 and 7.54.040.

12 37. Plaintiff is informed and believes, and thereon alleges, that Defendants are specifically  
13 maintaining their property in violation of V.M.C. §7.54.030(F) (Damaged lumber, junk, trash, salvage  
14 materials, household materials, etc.), 7.54.030(K) (Dead, decayed, diseased or otherwise hazardous trees,  
15 weeds or overgrown vegetation); 7.54.030(M) (Any wall, fence or hedge maintained in a condition of  
16 deterioration or disrepair as to constitute a hazard to persons on property), 7.54.030(S) (Maintenance of  
17 property in such a manner as to constitute a public nuisance); and 7.54.030(T) (Unauthorized camping on  
18 private property in a place which can be viewed from the public right-of-way or in a manner that  
19 constitutes a public nuisance).

20 38. Pursuant to V.M.C. §7.54.010(B), the current and future values and general welfare of  
21 the community are significantly affected by the appearance and maintenance of real property and  
22 property values. The purpose of V.M.C. Chapter 7.54 is to “promote the maintenance of real property,  
23 both improved and unimproved, and by doing so, improve the livability, appearance and social and  
24 economic conditions of the community.”

25 39. Plaintiff is informed and believes, and thereon alleges, that as the Property is in violation  
26 of V.M.C. §7.54.030, the Property is significantly and negatively impacting the current and future values  
27 and general welfare of the community.

28 //



40. Pursuant to V.M.C. §7.54.010, the regulation by the City of the use of real property reasonably relates to the proper exercise of police power by the City to protect the health, safety and general welfare of its residents.

41. The aforementioned continuing violation of the Vallejo Municipal Code is a public nuisance and constitutes a nuisance *per se*.

42. These aforementioned activities have affected a substantial number of people, and would reasonably bother, annoy, or disturb an ordinary person.

43. Plaintiff has not and will not consent to Defendants' conduct, and Plaintiff has no adequate remedy at law in that damages are insufficient to protect the public from the harm caused by the conditions described above.

44. Plaintiff is informed and believes that Defendants will continue to maintain the Property in the above-described condition as a public nuisance.

45. Unless said nuisance is abated, the surrounding community and neighborhood, and the residents and citizens of the City of Vallejo, will suffer irreparable injury and damage, in that said conditions will continue to be injurious to the enjoyment and the free use of the life and property of said citizens of the City of Vallejo.

## PRAYER

WHEREFORE, Plaintiff prays:

### A. Declaratory Relief

1. That the Property is declared a public nuisance in violation of Civil Code §3479 *et seq.*, and Vallejo Municipal Code §§1.12.020 and 7.54.040.

## B. Injunctive Relief

2. That the public nuisance be preliminarily and permanently abated in accordance with California Civil Code §3491 *et seq.*, California Code of Civil Procedure §731, and Vallejo Municipal Code §1.12.020.

3. That all Defendants, their agents, officers, managers, representatives, employees, and anyone acting on their behalf, or in concert with, be perpetually and permanently enjoined from operating, conducting, using, occupying, maintaining, suffering, allowing or in any way permitting the use of the

1 Property, as a public nuisance pursuant to Civil Code §3480 and in violation of Vallejo Municipal Code  
2 §7.54.030.

3 4. For an order requiring Defendants, and each of them, to show cause, if any they have, why  
4 they should not be enjoined as set forth above in this complaint during the pendency of this action.

5 5. For a preliminary injunction, and a permanent injunction, enjoining and restraining  
6 Defendants WAL-MART STORES INC., ROTHBART DEVELOPMENT CORPORATION, and DOES  
7 1-100, and each of them, and their agents, servants and employees, and all persons acting under, in concert  
8 with, or for them:

9 a. From conducting, allowing, permitting, or maintaining the Property as a public  
10 nuisance.

11 b. From maintaining the property in violation of any local, state, or federal law,  
12 specifically V.M.C. §§7.54.030.

13 6. That under the court's discretion and supervision, a receiver be appointed pursuant to Code  
14 of Civil Procedure §564.

15 **C. Penalties**

16 7. That pursuant to V.M.C. §1.12.020(B), since August 15, 2019, Defendants WAL-MART  
17 STORES INC., ROTHBART DEVELOPMENT CORPORATION, and DOES 1-100 are liable for a civil  
18 penalty of two hundred and fifty dollars for each and every day during any portion of which any violation  
19 of the Vallejo Municipal Code is committed, continued or permitted by any such person, firm or  
20 corporation.

21 **D. Damages**

22 8. That pursuant to Code of Civil Procedure §731, Defendants WAL-MART STORES INC.,  
23 ROTHBART DEVELOPMENT CORPORATION and DOES 1-100 are liable for the City's damages of  
24 having to clean up and dispose of the trash and debris on City property caused by the nuisance property.

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10. The court grant further relief as this court should find just and proper.

Respectfully submitted,

  
VU HAIN N. PHAN  
Deputy City Attorney  
CITY OF VALLEJO