

IN THE COURT OF COMMON PLEAS OF HENRY COUNTY, OHIO

THE CINCINNATI INSURANCE
COMPANY, et al.

Plaintiffs,

vs.

SHANNON COOKE

Defendant.

CASE NO. 08 CV 0143

Judge Keith P. Muehlfeld

**AFFIDAVIT OF
THOMAS ZIMMERMAN**

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I, Thomas Zimmerman, being first duly sworn, depose and state that the following is true to the best of my knowledge and belief.

1. I have personal knowledge of all of the facts indicated in this affidavit.
2. I was the Building Inspector for the City of Defiance from 2001 through 2004.
3. I am presently the Building and Zoning Department Official for the City of Napoleon, 255 W. Riverview, Napoleon, Ohio 43545, and have been the Building and Zoning Official since 2005.
4. I have been certified by the Ohio Board of Building Standards pursuant to Section 3781.10 of the Ohio Revised Code and Section 103 of the 2006 Residential Code

Of Ohio, and was so certified on May 27, 2007. Consequently, I am the enforcement authority for the City of Napoleon and act as first source in interpreting building codes and regulations and determine if a property owner was in compliance of the city building code.

5. All my opinions contained in this affidavit are given to within a reasonable degree of probability and in my capacity as the building code official for the City of Napoleon.

6. I was the Building and Zoning Official on 9/5/07 when a fire damaged property at 1214 Woodlawn Avenue, Napoleon, Ohio.

7. I have personally reviewed the City of Napoleon Building Department file on 1214 Woodlawn Avenue.

8. Records indicate the 1214 Woodlawn Avenue home underwent a renovation on or about 1958 after persons identified on the application as the owners of the home completed an Application for City Building Permit on 4/10/58. The application was approved by the City on 4/16/58.

9. The 1958 renovation was to expand two rooms within the home, the kitchen and the living room. No carpentry or electrical renovation was indicated on the application as to be performed on the west side of the home where the bedrooms are located.

10. From the time of the two-room renovation in 1958 through the time of the fire on 9/5/07, no renovations or inspections were identified in the City records as having been performed on the home.

11. The 2006 Residential Code of Ohio was in effect in the City of Napoleon on 9/5/07. The purpose of the Residential Code Of Ohio is to establish rules and regulations for the construction, alteration, removal, demolition, equipment, use and occupancy,

location and maintenance of buildings and structures, and thereby to provide for the safety health and general welfare of the public.

12. R102.6 of the 2006 Residential Code Of Ohio states "The occupancy of any structure currently existing on the date of adoption of this Code shall be permitted to continue without change, provided the alleged occupancy can be shown to have existed and there are no orders of the building official pending, no evidence of fraud or no serious safety or sanitation hazard". This concept of code enforcement for existing buildings is typically referred to as the "grandfather clause".

13. The occupancy of the 1214 Woodlawn property existed as a single-family dwelling at the time of the adoption of the 2006 Residential Code of Ohio on May 27, 2006. There were no outstanding Building Department orders relevant to the general safety and welfare of the occupants and public against the Lewis Joseph property prior to the fire identified in City records.

Further affiant sayeth naught.

Thomas Zimmerman
Thomas Zimmerman

STATE OF OHIO)
COUNTY OF Henry) ss:

Sworn to and subscribed in my presence this 17th day of June, 2009.

Sheryl K. Rathge
Notary Public



SHERYL K. RATHGE
Notary Public, State of Ohio
Henry County
Commission Expires October 15, 2011