

STATE OF WISCONSIN, ex rel.
QEMAL ALIMI, individually and
d/b/a NEW PINE RIDGE RESTAURANT
300 S. Pine Ridge Avenue
Merrill, Wisconsin 54452

Petitioner-Plaintiff

-vs-

Case No. _____

CITY OF MERRILL
a Wisconsin municipal corporation,
1004 East First Street
Merrill, Wisconsin 54452

Case Code: 30955

Respondent-Defendant.

PETITION FOR WRIT OF MANDAMUS

Qemal Alimi, by his attorneys, Ryan D. Lister and Peter D. Bear, petitions the court for a writ of mandamus, pursuant to §783.01, Wis. Stats.

Peter D. Bear, attorney for the petitioner, alleges and shows to the court the following facts in support of this petition:

1. I am an attorney licensed to practice law in the State of Wisconsin, and I represent and appear for the Petitioner in this action.
2. The Petitioner is the owner of the real estate and business located at 300 S. Pine Ridge Avenue, Merrill, Wisconsin 54452. At said location, the Petitioner conducts a business known as the New Pine Ridge Restaurant, hereinafter "New Pine Ridge Restaurant," and gas station.
3. The Respondent is a municipal corporation, organized and existing under the laws of the State of Wisconsin, with offices located at 1004 East First Street, Merrill, Wisconsin

54452.

4. Directly to the south of Petitioner's property is a Mobil gas station, hereinafter "Mobil," located at 3350 E. Main Street, Merrill, Wisconsin 54457.
5. The Respondent has failed and refused to enforce its municipal code and ordinances regarding a 6' high wooden fence located between the New Pine Ridge Restaurant and Mobil. Said fence is in violation as follows:
 - A. Said fence is limited to 4' high pursuant to Respondent's municipal code and ordinances.
 - B. Said fence is not 50% open as required by Respondent's municipal code and ordinances.
 - C. On June 7, 2011, the Respondents's Zoning Board of Appeals ruled that said fence was not in compliance with Respondent's municipal code and ordinances and deemed to be illegal.
6. The Respondent's Zoning Administrator incorrectly issued permit #11163 for an 8' chainlink fence, with enclosing ribbons, for the Mobil property. Said fence is in violation as follows:
 - A. M.M.C. Sec. 113-320 does not allow nor permit enclosure of 8' chainlink fences.
 - B. Pursuant to M.M.C. Secs. 113-320(j) and 113-320(i), ribbons in chainlink fences are "other materials" and therefore can not exceed 4' in height and must comply with M.M.C. Sec. 113-320(i).
7. The Respondent's Zoning Administrator incorrectly issued permit #10212 for a sign on the Mobil property. Said sign is in violation as follows:

- A. Said permit allowed the sign to be erected in front of a sign on Petitioner's property. Petitioner had a legal permit issued from a complete site plan in compliance with M.M.C. Sec.113-192.
 - B. Said permit resulted in Mobil's sign blanketing the sign of New Pine Ridge Restaurant, in violation of M.M.C. Sec. 113-200.
8. The Respondent has failed and refuses to take any action regarding the removal of a light on the New Pine Ridge Restaurant by the owner of the Mobil gas station.
 9. That as a result of the illegal fences and the blanketing of Petitioner's sign, visibility of Petitioner's restaurant and gas station has been reduced, resulting in loss of business and damages to the Petitioner.
 10. Pursuant to Wis. Stat. Sec. 783.04, the Petitioner is entitled to damages and costs.

The petitioner therefore requests that this court issue a writ of mandamus commanding the Respondent to enforce its municipal code and ordinances regarding the above allegations and commanding the Respondent to take immediate action to correct said violations. Further, that the Court award the Petitioner damages and costs.

Dated this ___ day of September, 2011.

Attorney Peter D. Bear
Attorney for Qemal Alimi
State Bar No. 1004871

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Signed and sworn to before me
on September ____, 2011.

Ryan D. Lister
Notary Public, State of Wisconsin
My commission is permanent.