

City's battle with homeowner back in court

**BY PAUL R. PACE
STAFF WRITER**

Farmington Hills and the Oxford Estates Homeowners Association battle with the Shah family appears to be back where it started.

While the family has said in the past they are doing their best to complete the home in the upscale subdivision, neighbors want to know what it will take to finish the job, now approaching its fifth year of incompleteness.

The matter was held up for the past five months after Ajay Shah filed for personal bankruptcy. That matter was concluded in federal court recently, said Hills attorney Steven Joppich.

Now the city is back in Oakland County Circuit Court with Betty and Ajay Shah, who are suing the city for trespassing and nuisance violations.

The city was granted a court order to allow the Building Department to examine the home's interior and exterior last week.

A list of 35 items needed to be completed was given to the council for review Monday. The list includes electrical, plumbing, heating and cooling and building issues.

A court-ordered certificate of occupancy, which the family received several months ago to remain living in the unfinished home, has expired.

A new occupancy permit could be issued if the 35 changes are made, but Joppich did not say if or when a deadline would be given to the family.

The list will be given to the court for review, said Dale Countegnan, planning and community development director.

Betty Shah said Tuesday the punch list was already done, but added she still believes the family is being unfairly treated by the city to the point of harassment.

She said as long as progress is being made to the home, there is no state building code that states when a home must be completed.

Betty Shah said the city is now-towing to appease homeowners association board members who want the family out.

She said the interior of the home has nothing to do with the bylaws of the homeowners association.

"Why are they interested in that?" she said.

At Monday's council session, Councilman Jerry

Ellis said he was shocked by how long the list is.

"This tells me they're living in the basement," he said, pointing out that only the home's basement kitchen appears to be complete.

Oxford Estates resident Rich Smolek said he wondered what happened to the city's intention to ask the judge to assign a receiver to finish the home and evict the family.

There may not be enough equity in the home to appoint a receiver who would make a profit on the home after he completed the work, Joppich said.

However, Ellis, an attorney, said Oakland County Circuit Court Judge Stephen Andrews already gave a verbal approval to appoint a receiver and that Joppich should pursue a written agreement.

"Any receiver worth his salt knows how to get paid," he said.

"It seems to me they are squatters," said Councilwoman Vicki Barnett after reviewing the list.

Smolek said the homeowners association has its own lawsuit against the Shahs and a claim of not meeting the association rules regarding the home's exterior and landscape.

Joppich said some of the subdivision rules and the city's laws tie together, so the cases have been combined. The attorney said Monday no court date has been set to address the issue again before Andrews.

Smolek said the association has tried to resolve issues with the Shahs, but a meeting with the family has not been set.

Countegnan said the Shahs were issued a ticket recently for blight and for having an abandoned vehicle on the property.

Mayor Nancy Bates put an end to the discussion after 40 minutes Monday, requesting the council discuss the case in closed session Dec. 16 since the city is a defendant in the lawsuit.

The council's Christopher McRae told Oxford Estates residents the city hasn't determined its latest strategy in the case.

"We'll look at all the options," he said.

Meanwhile, Betty Shah said Tuesday a lawsuit against the homeowners association and possibly individual neighbors is in the works.

"The truth will come out then," she said.

TRUCKING

FROM PAGE A1

\$32,000, revenues have increased, but the high of \$132,000 last year isn't typical. City Manager Steve Brock said fines depend on what's happening on the road, as well as how much time officers can allocate towards enforcing motor carrier laws.

"Our net is break even at best, overall we're in the hole," he said. "Initially the thought was you'd make all this money. That doesn't bear fruit. It's about safety of the motoring public and condition of the roads."

The law has also changed so that libraries get a share of the fine revenues, he added.

Farmington Hills was among 29 metro-Detroit cities named in the suit filed by Bull Transport on behalf of four trucking companies in U.S. District Court. The City of Livonia's Law Department served as co-lead counsel with the Butzel Long legal firm.

Livonia, with heavy truck traffic on I-275 and I-96, stood to lose \$120,000 annually.

In addition to taking away the cities' right to ticket trucks, the plaintiffs asked that all fines collected since 1996 - believed to be several millions of dollars - be refunded.

Judge Avern Cohn threw out the suit once the U.S. Supreme Court ruled in favor of local municipalities in a similar case involving a Columbus, Ohio, towing company.

The higher court's ruling "essentially gutted (the trucking industry's) legal theory," said

Michael Fisher, Livonia's assistant city attorney.

The latest court action was but one in a series of efforts by the trucking industry to streamline enforcement. Michigan has what is considered liberal carrier weight limits, which are based on weight per axle as opposed to overall gross weight.

By stopping municipalities from collecting fines, trucking companies figure cities will leave enforcement up to Michigan State Police, which only has two troopers to patrol all of Wayne County, Fisher said. Trucking safety standards are not the issue, a Michigan Trucking Association spokesman said. The industry wants consistency in how those regulations are enforced.

There has been a sense that there are certain communities - I'm not going to name them - that view trucks as a cash cow," said Walter Heinritz, Michigan Trucking Association executive director.

"We'd prefer (the state) Motor Carrier division do it because you would get more consistent enforcement."

Two years ago, cities successfully fought a lawsuit filed by the trucking industry that reached the state Supreme Court.

The trucking industry sued, maintaining cities didn't have authority to collect commercial motor vehicle fines under state law. Local authorities eventually prevailed in the state appellate court.

Staff writer Joni Hubert also contributed to this story.

Jacobsen's FLOWERS & GIFTS

Happy Holidays

Large \$54.95
Medium \$44.95
Small \$34.95

The FTD® Christmas Traditions® Bouquet
The FTD® Polaris™ Basket Deluxe™ available in a variety of colors and sizes.

Call 24 hours a day, 7 days a week to place your phone orders.
2600 Elizabeth Lake Rd. Garden Town, 545 S. Broadway
Bloomfield Hills, MI 48304-1000
248-681-5300 248-645-2650 248-693-8383

www.jacobsensflowers.com • Email: order@jacobsensflowers.com

Get in the pink with Health & Fitness.

Move in to select suites at West Bloomfield by December 30... Pay no entrance fee and save up to \$2000

A Season for Sunrise

For seniors this holiday...and always

Families today are in search of much needed care for their senior family members—even during the holiday season. They know that the institutional environment of a nursing home is not always a good choice, especially during this season of joy.

There is a better senior care option—Sunrise Assisted Living.

Here, residents enjoy supportive care for the realities of advanced age, delivered in a beautiful setting—now festively decorated for the holidays!

Visit Sunrise today. See how we can help you and a senior in your life. Ask about our innovative Reminiscence Program for those with Alzheimer's disease or other types of memory impairment. Short-term stays available.

SUNRISE ASSISTED LIVING

Visit our website at www.sunriseassistedliving.com

Clarkston / 248-625-0500 • Farmington Hills / 248-538-9200 • Rochester / 248-601-9000
Troy / 248-293-1200 • West Bloomfield / 248-738-8101

2.00% APY*

Your Choice Checking

Zero Fees** and No Waiting in Line...all the Time?

NO BULL!

The Fed continues to cut interest rates but Sterling Bank and Trust maintains its high standards on products like "Your Choice Checking," where you can earn 2.00% APY* on \$2500 or more and Direct Deposit. This is one of the highest rates in the state but this offer won't last forever.

Open a "Your Choice Checking" account with Direct Deposit and you'll receive:

FREE

- Checking
- Online Banking
- Bill Pay
- ATM Card

and Sterling will even pay each month up to your first five ATM fees from other banks.

Sterling bank & trust

"We Create Solutions."

www.sterlingbank.com

CLAWSON	DEARBORN	GROSSE PT. WDS.	LIVONIA	ROCHESTER HILLS
248-435-7840	313-274-3030	313-882-7880	734-427-4106	248-658-5780
ROSELVILLE	SOUTHFIELD	STERLING HTS.	WATERFORD	W. BLOOMFIELD
586-234-2950	248-948-8799	586-288-5200	248-674-4901	248-875-9844

*Annual Percentage Yield (APY) accurate as of 12/01/02 and is subject to change without notice. Interest compounded monthly. Stated APY for balances of \$2500 or more. Minimum to open account is \$100. **Direct Deposit must remain on account to have fees waived. Account will begin to accrue fees if Direct Deposit is removed from account. Sterling Bank & Trust, 158, Southfield, MI.

For the Perfect Holiday Dinner—Trust HoneyBaked®

Now we've made it more convenient for you to enjoy The Authentic HoneyBaked Ham®, spiral-sliced and coated with our famous sweet, crunchy glaze. Visit us at our HoneyBaked Ham® and HoneyBaked Express® locations listed below.

Special Meals Made Simple!

STORE LOCATIONS	EXPRESS LOCATIONS		
Ann Arbor 3110 Washtenaw Avenue (248) 627-8566	Livonia 15400 Chalmers Dr. #10 (734) 461-9945	Auburn Hills Maya 2400 Auburn Hills (248) 854-1200	Highland Snook's Butchery Shoppe 4600 Highland Ave. #10 (248) 854-1200
Birmingham 41140 Southfield Road (248) 648-6191	Roseville 24000 14th Ave. #10 (248) 771-2900	Bloomfield Hills Vic's Market (248) 648-6191	Rochester Hills Papa John's (248) 648-6191
Canton Township 1602 Canton Center Road at Ford Road (734) 981-1000	Sterling Heights 418 E. Maple (586) 266-1500	Brighton Lambert's Market (248) 648-6191	Warren Produce Palace (248) 648-6191
Dearborn Heights 27100 Ford Rd. #10 (313) 427-4106	Taylor 14141 Chalmers Dr. #10 (734) 461-9945	West Bloomfield Maya (248) 648-6191	Waterford Tommy's Foods (248) 648-6191
Detroit 151 E. Grand (313) 461-9945	Troy 151 E. Grand (313) 461-9945	Flint Maya (248) 648-6191	
Harper Woods Enclave Center (248) 648-6191			

honeybaked.com