



**NAILAH K. BYRD**  
**CUYAHOGA COUNTY CLERK OF COURTS**  
1200 Ontario Street  
Cleveland, Ohio 44113

**Court of Common Pleas**

**New Case Electronically Filed: COMPLAINT**  
**July 2, 2021 08:56**

By: CHRISTINA C. TIZZANO 0090138

Confirmation Nbr. 2291525

BROOKS JONES, ET AL.

CV 21 949476

vs.

**Judge:** SHANNON M. GALLAGHER

MARY LYNNE NEWSOME, ET AL.

**Pages Filed:** 16

IN THE COURT OF COMMON PLEAS  
CUYAHOGA COUNTY, OHIO

BROOKS JONES  
2299 Grandview Avenue  
Cleveland Heights, Ohio 44106

and

MIKA JONES  
2299 Grandview Avenue  
Cleveland Heights, Ohio 44106

Plaintiffs,

vs.

MARY LYNNE NEWSOME  
2289 Grandview Avenue  
Cleveland Heights, Ohio 44106

and

PAUL SCHAMBS  
2289 Grandview Avenue  
Cleveland Heights, Ohio 44106

Defendants.

) CASE NO.

)

) JUDGE

)

)

) **COMPLAINT FOR PRIVATE**

) **NUISANCE, INTENTIONAL TORT,**

) **INJUNCTION AND MONETARY**

) **RELIEF**

)

) **(Jury Demand Endorsed Hereon)**

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**INTRODUCTION**

1. Plaintiffs Brooks and Milica ("Mika") Jones are husband and wife, who reside at 2299 Grandview Avenue in Cleveland Heights, Cuyahoga County, Ohio ("Jones Property"), which real property was acquired by Grandview Place LLC in 2006, and is also known as Cuyahoga County Permanent Parcel number 685-27-056. *See Exhibit A.*
2. Grandview Place LLC is an Ohio limited liability company duly licensed by the state of Ohio, and Plaintiff Mika Jones is its sole member. *See Exhibit B.*

3. At all times pertinent to this action, Plaintiffs Brooks and Mika Jones have resided and continue to reside at the Jones Property, which is comprised of four (4) units, and the Joneses occupy the top floor (“Jones Residence”).
4. Defendant Mary Lynne Newsome is the owner of the real property located at 2289 Grandview Avenue, Cleveland Heights, Cuyahoga County, Ohio (“Newsome Property”).  
*See Exhibit C.*
5. Defendant Newsome resides at the Newsome Property, also known as Cuyahoga County Permanent Parcel number 685-27-054, with Defendant Paul Schambs.
6. The Jones Property and the Newsome Property are each 1/8-acre rectangular lots (approximately 40 feet frontage on Grandview Avenue, and 138 feet deep), and the surrounding neighborhood is characterized as densely populated suburban/urban.
7. The Newsome Property is two parcels north of the Jones Property, and the properties are separated by a single parcel (2295 Grandview Avenue), which is also approximately 40 feet wide fronting on Grandview Avenue.
8. The dwelling at 2295 Grandview Avenue has central air conditioning, it is primarily used for student/transient housing, and it is often vacant for several months at a time, in between yearly tenants. 2295 Grandview Avenue does not physically stand in the path of the smoke and fumes emitted by the commercial sized woodfired pizza oven on Defendant’s property, which oven is the subject of this action.
9. The Joneses’ main living area (kitchen, living room, family room and back porch), where they spend most of their time, is situated on the northern property line of the Jones Property, directly facing the Oven (defined below), in line with the Oven’s chimney and in the path

of the smoke and fumes emanated therefrom. The Joneses live with windows and porch doors open seven months out of the year and do not have central air conditioning.

10. In 2017, Defendant Schambs constructed a commercial sized woodfired pizza oven (“Oven”) on the Newsome Property. *See Exhibit D.*
11. The Oven is not regulated by the Cleveland Heights zoning ordinance because it is not considered a “structure”.
12. Defendant Newsome permitted Defendant Schambs to construct the Oven on the Newsome Property. Defendant Newsome has permitted Schambs to continue to operate the Oven on the Newsome Property and has neither requested nor required Defendant Schambs to remove or cease use of the Oven.
13. On or about May 23, 2017, Defendant Schambs first used the Oven and filled the Jones Residence with smoke and fumes. This incident was the first of many such incidents, beginning in May of 2017, continuing through the present, and expected to continue unless enjoined and/or abated.
14. On or about May 23, 2017, Plaintiff Brooks Jones informed Defendant Schambs that his use of the Oven filled the Jones Residence with smoke and fumes.
15. During and after subsequent uses of the Oven, the Joneses informed Defendants that use and operation of the Oven fills the Jones Residence with smoke and fumes and causes the Joneses significant physical discomfort and emotional distress.
16. When the Oven is used, it typically burns between three and ten hours. Heating the oven to cooking temperature (between 600° and 900° Fahrenheit) is a process that appears to

take several hours, since the Joneses have observed that cooking doesn't begin until three to five hours after the initial lighting.

17. When the oven is being brought up to cooking temperature, there are periods of intense smoke and fumes that are visibly white, opaque, and billowing. The thick smoke dissipates on certain occasions, and the smoke and fumes emanating from the Oven's chimney are less visible.
18. Regardless of the presence or absence of visible smoke, the Oven releases noxious fumes and odors at all times it is being used and operated.
19. Throughout the three to ten hours of typical use and operation of the Oven on a given day, the billowing white smoke is a recurring condition, as wood is added to the Oven and/or as the fire inside the Oven is stoked.
20. The periods of intense, thick smoke can last twenty minutes or more. During and between periods of thick, billowing smoke, the smoke and fumes infiltrate and remain present inside the Jones Residence.
21. The smoke and fumes that infiltrate and linger in the Jones Residence are offensive to the senses and would offend a person of ordinary sensibility.
22. On many occasions, Defendants' use and operation of the Oven has caused intolerable smoke and fumes at the Jones Residence, such that the Joneses left the Jones Residence and the Jones Property, including on the following occasions, without limitation: several consecutive days in April of 2019, Saturday, May 5, 2019, Monday, May 27, 2019, Friday, June 21, 2019, Saturday, August 3, 2019, Friday, August 23, 2019, Thursday, August 29, 2019, Saturday, January 18, 2020, Sunday, March 15, 2020, Wednesday, March 25, 2020,

Saturday, April 4, 2020, Friday, May 1, 2020, Saturday, May 22, 2021, Sunday, June 14, 2020.

23. On Saturday, June 13, 2020, and again on Sunday, July 5, 2020, when the Joneses had guests visiting for special occasions, Defendants' use and maintenance of the Oven caused intolerable smoke and fumes at the Jones Residence, such that the Joneses left the Jones Residence and sat and finished their meals in their driveway with their guests, to minimize the impact of the smoke and fumes.
24. On many occasions, Defendants' use and operation of the Oven has caused intolerable smoke and fumes at the Jones Residence, and has caused significant physical discomfort, mental anguish, and loss of use and enjoyment of the Jones Residence and the Jones Property, including the following occasions, without limitation:, Thursday, November 28, 2019, Sunday, January 19, 2020, Friday, May 1, 2020, Saturday, May 9, 2020, Sunday, May 31, 2020, Saturday, June 20, 2020, Sunday, June 21, 2020, Monday, June 29, 2020, Sunday, July 12, 2020, Monday, July 13, 2020, Friday, July 24, 2020, Wednesday, August 19, 2020, Saturday, August 29, 2020, Saturday, October 10, 2020, Sunday, October 11, 2020, Thursday, March 7, 2021, Tuesday, March 12, 2021, and Wednesday, March 13, 2021.
25. The Joneses' significant physical discomfort caused by Defendants' use, maintenance and operation of the Oven includes coughing, sore throat, phlegm, headaches, burning eyes, dizziness, lightheadedness, fogginess, heart palpitations and sore lungs; the effects of the smoke and fumes last for a few days. Smoke odors linger on the Joneses' clothing and hair and on their pets' fur.

26. The smoke and fumes from the Oven disrupt the Joneses' use and enjoyment of the Jones Residence for cooking and eating, sitting and reading, sitting on their back porch and in their living room, exercise, and many other aspects of the Joneses' daily life.
27. The smoke and fumes from the Oven disrupt and prevent the Joneses' social and family gatherings including holiday events at the Jones Property and the Jones Residence.

First Cause of Action

Private Nuisance (Negligence)

28. Defendants' owe the Joneses a duty to use and conduct their activities on the Newsome Property in a reasonable manner.
29. Defendants breached their duty of reasonable care owed to the Joneses in their use, operation and maintenance of the oven as alleged herein.
30. From and after May 2017 through the present, Defendants' use, operation, and maintenance of the Oven has injured and continues to injure the Joneses by causing significant physical discomfort, mental anguish, and loss of use and enjoyment of the Jones Residence and the Jones Property.
31. The Joneses anticipate that Defendants' future use, operation and maintenance of the Oven will continue to cause them significant physical discomfort, mental anguish, and loss of use and enjoyment of their home and property, unless it is enjoined/abated.
32. Defendants' activities as alleged herein have caused the Joneses, annoyance, embarrassment and inconvenience.
33. Defendants' activities as alleged herein have impaired the value of the use of the Jones Property and the Jones Residence.

34. Defendants' activities as alleged herein have impaired the value of the Jones Property and the Jones Residence, including resale and rental values.
35. Defendants knew or should have known that their use, operation and maintenance of the Oven as alleged herein was likely to cause injury.
36. Defendants' use, operation and maintenance of the Oven was negligent.
37. Plaintiffs have suffered damages and are entitled to compensation arising from Defendants' conduct.

### Second Cause of Action

#### Intentional Tort

38. Plaintiffs restate as if fully rewritten Paragraphs 1 through 37 above.
39. Defendants' use, operation and maintenance of the Oven was intentional.
40. Defendants knew or should have known that their use, operation and maintenance of the Oven as alleged herein was likely to cause injury.
41. Defendants' use and operation of the Oven was malicious, after notice that the smoke and fumes emanating therefrom caused the Joneses significant physical discomfort and mental anguish.
42. As alleged herein, from and after May 2017, Defendants' continued to use and operate the Oven in a spirit of hatred, ill will or revenge.
43. As alleged herein, from and after May 2017, Defendants' continued to use and operate the Oven with a conscious disregard for the rights and safety of the Joneses.
44. Based on the size and location of the Oven and its chimney, the cooking temperature used, the frequency and duration of use of the Oven, and the method of cooking, including the



fueling, stoking and relighting process and the fuel material (wood), Defendants' use of the Oven has a great probability of causing substantial harm.

45. Defendants made a police report with the Cleveland Heights Police Department on July 4, 2019, which states, "for the past three years....Brooks and Mika Jones" have "been constantly contacting them about" the Oven because "the oven lets off too much smoke and smells bad." Further complaining, Defendants' stated that the Joneses "have resorted to calling 911 whenever the pizza oven is being used." *See* Exhibit D.
46. The report contained false statements and was intended to harass and intimidate the Joneses.
47. Defendants sent written correspondence dated July 1, 2019 to Cleveland Heights City Council that contained false statements, including that the Joneses were harassing Defendants. *See* Exhibit E.
48. This correspondence contained false statements and was intended to harass and intimidate the Joneses.
49. When Plaintiffs requested that the Defendants utilize a chimney extension, Defendants refused because the chimney extension would affect the quality of the pizza.
50. When Plaintiffs requested that the Defendants participate in mediation to determine whether an amicable solution could be reached to alleviate effect of the smoke and fumes on the Joneses, Defendants refused.
51. When Plaintiffs sent correspondence and attempted to contact the Defendants to engage in prelitigation discussions to amicably resolve this dispute, Defendants failed to respond to the correspondence and failed to return a single call.

52. Defendants' conduct as alleged herein demonstrates malice and entitles Plaintiffs to an award of compensatory and punitive damages.

Third Cause of Action

Injunctive Relief

53. Plaintiffs restate as if fully rewritten Paragraphs 1 through 52 above.
54. As alleged herein, Plaintiffs have been affected by the nuisance to a substantial and material degree.
55. The injury Plaintiffs have suffered, continue to suffer, and will suffer if the activities are not abated is irreparable as to which there is no plain, adequate and complete remedy at law.
56. Defendants' activities present a clear right to injunctive relief in Plaintiffs, and Plaintiffs are entitled to the equitable relief of a preliminary and permanent injunction.

**WHEREFORE**, Plaintiffs Brooks Jones and Mika Jones pray for relief and judgment as follows:

- (A) Damages from Defendant Paul Schambs and Defendant Mary Lynne Newsome in excess of \$25,000;
- (B) Preliminary and permanent injunctive relief abating the nuisance activities;
- (C) Punitive damages against Defendant Paul Schambs and Defendant Mary Lynne Newsome in an amount to be determined at trial;
- (D) That Plaintiffs recover their reasonable attorneys' fees from Defendant Paul Schambs and Defendant Mary Lynne Newsome;
- (E) That Defendants be charged with the costs of the action; and

(F) Such other and further relief as is just and warranted.

Respectfully submitted,

**CHILCOTE & WRIGHT LLP**

/s/Christina C. Tizzano

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*Attorneys for Plaintiffs Brooks Jones and Mika Jones*

**JURY DEMAND**

Plaintiffs Brooks Jones and Mika Jones hereby demand a trial by a jury.

**CHILCOTE & WRIGHT LLP**

/s/Christina C. Tizzano  
Lee A. Chilcote (0009641)  
Christina C. Tizzano (0090138)

*Attorneys for Plaintiffs Brooks Jones and Mika Jones*

**INSTRUCTIONS FOR SERVICE**

Please serve the Defendants via certified mail delivery to:

MARY LYNN NEWSOME  
2289 Grandview Avenue  
Cleveland Heights, Ohio 44106

and

PAUL SCHAMBS  
2289 Grandview Avenue  
Cleveland Heights, Ohio 44106

**CHILCOTE & WRIGHT LLP**

/s/ Christina C. Tizzano  
Lee A. Chilcote, Esq. (0009641)  
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*Attorneys for Plaintiffs Brooks Jones and Mika Jones*



# Cuyahoga County, Ohio - Property Summary Report

Parcel: 685-27-056



**Owner** GRANDVIEW PLACE LLC  
**Address** 2299 GRANDVIEW AVE  
 CLEVELAND HEIGHTS, OH. 44106  
**Land Use** (4090) C - 4- 6 UNIT APARTMENTS  
**Legal Description** 413 CED HTS 0047 ALL  
**Neighborhood Code** 30178

**SKETCH**

Building 1

Commercial building sketches are not available at this time.  
 Please contact us at [EMcGoldrick@cuyahogacounty.org](mailto:EMcGoldrick@cuyahogacounty.org)  
 or call (216) 443-4663 for a copy of the building sketch.

**MAP VIEW**

Map Image

**BUILDING INFORMATION**

Building ID	1	Construction Class	CLASS C	Basement Type	FULL
Total Story Height	2	Usable Area	3,690	Condition	AVERAGE
Date Built	1918	Date Remodeled		Exterior Walls	BRICK
Framing	FIRE RESISTANT	Roof Type	FLAT	Roof Covering	COMPOSITION
Office Area		Mezzanine Area		Mezzanine Finish	
Wall Height	8	Heat Type	HOT-WATR/STM	Air Conditioning	NONE
Office Finish		Retail Area		Retail Finish	

**LAND**

Code	Frontage	Depth	Acreage	Sq Ft
PRM	40		0.13	5,520

**VALUATION**

2020 Values	Taxable Market Value	Exempt Market Value	Abated Market Value	Assessed Taxable Value
Land Value	\$19,300	\$0	\$0	\$6,760
Building Value	\$148,300	\$0	\$0	\$51,910
Total Value	\$167,600	\$0	\$0	\$58,670
Land Use	4090			APARTMENTS 1-6 UNITS

**PERMITS**

Tax Year	Reason	Tax Change	Exempt Change	Percent Complete	Reinspect	Notes
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**IMPROVEMENTS**

Type	Description	Size	Height Depth
290	APT/GARAGE	540 SQUARE FEET	
200	PAVING	700 SQUARE FEET	

**SALES**

Date	Buyer	Seller	Price
12/5/2017	GRANDVIEW PLACE LLC	JONES, MILICA	\$0
5/23/2006	JONES, MILICA	Simpson Jacqueline	\$224,900
1/15/1986	Simpson Jacqueline	Greene Richard B	\$106,000
10/10/1979	Greene Richard B	Turetsky Howard F & Lida	\$88,600
6/1/1979	Turetsky Howard F & Lida	Benkovic Vacla	\$83,000
7/29/1977	Benkovic Vacla	Davis William	\$60,500
4/28/1977	Davis William	Papp Laddie R	\$430,000
1/1/1975	Papp Laddie R		\$0

**Taxes**

2020 Taxes	Charges	Payments	Balance Due
Tax Balance Summary	\$14,331.26	\$6,413.73	\$7,917.53

Fri May 28 2021

**Entity#:** 4082869  
**Filing Type:** DOMESTIC LIMITED LIABILITY COMPANY  
**Original Filing Date:** 10/12/2017  
**Location:** ---  
**Business Name:** GRANDVIEW PLACE LLC  
  
**Status:** Active  
**Exp. Date:** -

## Agent/Registrant Information

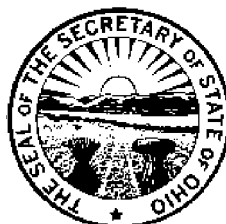
BROOKS JONES, JR.  
2299 GRANDVIEW  
CLEVELAND HEIGHTS OH 44106  
10/12/2017  
Active

## Filings

Filing Type	Date of Filing	Document ID
ARTICLES OF ORGNZTN/DOM. PROFIT LIM.LIAB. CO.	10/12/2017	201728601698

UNITED STATES OF AMERICA  
STATE OF OHIO  
OFFICE OF SECRETARY OF STATE

*I, Frank LaRose, Secretary of State of the State of Ohio, do hereby certify that this is a list of all records approved on this business entity and in the custody of the Secretary of State.*



*Witness my hand and the seal of the Secretary of State at Columbus, Ohio this 28th of May, A.D. 2021*

*Ohio Secretary of State*

A handwritten signature in black ink, appearing to read "Frank LaRose".

Electronically Filed 07/02/2021 08:56 / / CV 21 949476 / Confirmation Nbr. 2291525 / CLAJB

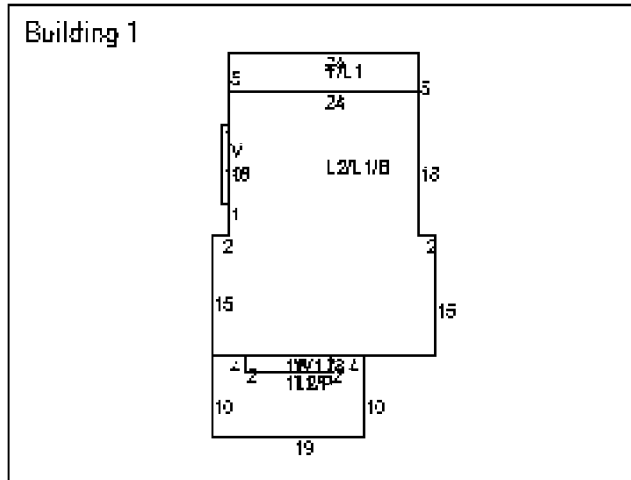


# Cuyahoga County, Ohio - Property Summary Report

Parcel: 685-27-054



**Owner** NEWSOME, MARY LYNNE  
**Address** 2289 GRANDVIEW AVE  
 CLEVELAND HEIGHTS, OH. 44106  
**Land Use** (5100) R - 1-FAMILY PLATTED LOT  
**Legal Description** 413 CED HTS 0045 ALL  
**Neighborhood Code** 12215

**SKETCH****MAP VIEW**

Map Image

**BUILDING INFORMATION**

Building Record Number	1	Occupancy	1-FAMILY	Story Height	2
Style	COLONIAL	Year Built	1905	Exterior Walls	FRAME
Condition	AVERAGE	Construction Quality	B / GOOD	Roof Type	GABLE
Roof Material	ASPH-SHINGLE	Heat Type	FORCED-AIR	Air Conditioning	NONE
Attic Type	UNFINISHED	Basement Type	BASEMENT	Basement Square Feet	852
Basement Finished	No	Rooms	7	Bedrooms	3
Bathrooms (Full/Half)	2/1	Garage Type	DETACHED	Garage Capacity	1
Year Garage Built	1961	Garage Size		Living Area Basement	
Living Area 1	1,004	Living Area 2	936	Living Area Upper	
Living Area Total	1,940	Floor Location		Party Wall	

**LAND**

Code	Frontage	Depth	Acreage	Sq Ft
PRM	40	138	0.13	5,520

**VALUATION**

2020 Values	Taxable Market Value	Exempt Market Value	Abated Market Value	Assessed Taxable Value
Land Value	\$37,600	\$0	\$0	\$13,160
Building Value	\$129,300	\$0	\$0	\$45,260
Total Value	\$166,900	\$0	\$0	\$58,420
Land Use	5100			SINGLE FAMILY DWELLING

**PERMITS**

Tax Year	Reason	Tax Change	Exempt Change	Percent Complete	Reinspect	Notes
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**IMPROVEMENTS**

Type	Description	Size	Height Depth
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**SALES**

Date	Buyer	Seller	Price
12/27/2013	NEWSOME, MARY LYNNE	Burt Karen I	\$148,000
4/1/1981	Burt Karen I	Kennedy Alice R	\$48,000
8/7/1980	Kennedy Alice R	Kennedy William D & Alice R	\$0
1/1/1975	Kennedy William D & Alice R		\$0

**Taxes**

2020 Taxes	Charges	Payments	Balance Due
Tax Balance Summary	\$5,794.56	\$2,897.28	\$2,897.28



EXHIBIT D



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