

UNITED STATES DISTRICT COURT  
FOR THE  
DISTRICT OF MASSACHUSETTS  
EASTERN DIVISION

Alan R. Quaglieri

C.A. NO.

v.

Paul Steeves, individually and in his  
capacity as Plumbing Inspector for the  
Town of Norfolk, Massachusetts,  
Jerry Smolinsky individually  
and as the Assistant Plumbing Inspector for  
the Town of Norfolk, Massachusetts,  
Robert Bullock, individually  
and as the Building Commissioner for  
the Town of Norfolk, Massachusetts,  
and the Town of Norfolk,  
Norfolk County, Massachusetts

**VERIFIED COMPLAINT**

Plaintiff, Alan R. Quaglieri ("Quaglieri") states as follows for his complaint against the Defendants Paul Steeves, individually and in his capacity as Plumbing Inspector for the Town of Norfolk, Massachusetts ("Steeves"), Jerry Smolinsky individually and as the Assistant Plumbing Inspector for the Town of Norfolk, Massachusetts ("Smolinsky"), Robert Bullock, individually and as the Building Commissioner for the Town of Norfolk, Massachusetts ("Bullock") and the Town of Norfolk, Norfolk County, Massachusetts ("Town") as follows:

**NATURE OF THE ACTION**

1. This action arises out of the acts and conduct of the Defendants, individually and in concert, which actions and conduct has, through threats, intimidation and coercion violated Quaglieri's federal and state civil rights, interfered with Quaglieri's advantageous contractual relations, interfered with his advantageous economic relations and amounted to actionable conspiracy which has and continues to cause Quaglieri damage and a continuing deprivation of his rights guaranteed by federal and state law.

## **PARTIES**

2. Quaglieri is an individual who resides in Walpole, Norfolk County, Massachusetts and is a licensed builder and a residential and commercial real estate developer in Massachusetts.

3. Steeves is an individual who resides in Foxborough, Norfolk County, Massachusetts and is, on information and belief, the duly appointed Plumbing Inspector for the Town. Steeves is a named Defendant herein in his individual capacity and in his capacity as Plumbing Inspector for the Town

4. Smolinsky is an individual who resides in Walpole, Norfolk County, Massachusetts and is, on information and belief, the duly appointed Assistant Plumbing Inspector for the Town. Smolinsky is a named Defendant herein in his individual capacity and in his capacity as Assistant Plumbing Inspector for the Town

5. Bullock is an individual who resides in Wrentham, Norfolk County, Massachusetts and is, on information and belief, the duly appointed Building Commissioner for the Town. Bullock is a named Defendant herein in his individual capacity and in his capacity as Building Commissioner for the Town

6. Town is a municipal body politic in the County of Norfolk, Massachusetts.

## **JURISDICTION AND VENUE**

7. This Honorable Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. section 1331 which provides that this Honorable Court shall have original jurisdiction of all civil actions arising under the Constitution and laws of the United States. Quaglieri has alleged herein that the conduct of the Defendants has violated his civil rights as afforded by the Constitution and protected by the provisions of 42 U.S.C. section 1983.

8. This Honorable Court has jurisdiction over the Defendants, as among other things, said Defendants reside in the Commonwealth of Massachusetts.

9. Venue is proper in this Honorable Court because Defendants reside in this judicial district and the acts complained of herein are alleged to have occurred in this judicial district.

## **STATEMENT OF FACTS**

10. Quaglieri is a licensed builder and developer of residential and commercial properties in the Commonwealth of Massachusetts. In this regard, he purchased property known as and numbered 17 Pine Street, Norfolk, Massachusetts with the intent of obtaining approval for

the construction of a 10,000 square foot retail plaza to be known as Rocco Plaza. (The "Premises").

11. In 2008 Quaglieri obtained all requisite approvals from the Town for construction of the Premises and began construction of the base building which was completed and certified for occupancy by the Town in 2010.

12. In late 2010, Quaglieri entered into two certain lease agreements with prospective tenants of units in the Premises. One lease agreement was with Jack Laing who intended to build out and open a Chinese food take out restaurant ("Laing"). The other lease agreement was with 5 Stern, LLC d/b/a Pizza Tyme ("Pizza Tyme"). Both lease agreements provided that Quaglieri as lessor would provide the shell space for the units in question, rough plumbing, rough electrical and an on-site septic system and that the tenants would perform their own build out of their units in compliance with all applicable building codes and regulations and obtain all requisite approvals of their construction efforts.

13. On or about September 23, 2010, Pizza Tyme engaged Steeves' brother-in-law, Christopher Cunniff ("Cunniff") and Steeves himself to perform plumbing and build out services in the Pizza Tyme unit. Specifically, Cunniff and Steeves were to perform, among other things, all plumbing work associated with the construction of the Pizza Tyme restaurant in compliance with applicable building codes and regulations, including but not limited to tie in to the base building's rough plumbing which had already been completed by Quaglieri's plumber and approved by the Town's previous plumbing inspector, James Murray.

14. On information and belief, by reference to Cunniff's builder's license, a copy of which is on file in the Town's files, which the building commissioner was required to review and approve, Cunniff was listed as the Pizza Tyme's builder of record despite the fact that his Massachusetts state builder's license was restricted to construction of single family and two family residences. Therefore, on further information and belief, the commercial construction at Pizza Tyme occurred under Cunniff's license which did not authorize him to engage in commercial construction. These facts were unknown to Quaglieri at the time.

15. Cunniff and Steeves, on information and believe, personally completed the plumbing work at Pizza Tyme in the fall of 2010. Their efforts included the installation of plumbing waste lines in the Pizza Tyme unit which were tied into a grease trap and septic system installed by Quaglieri and previously approved by the Town and also the replacement of a gas line 1" in diameter previously installed by Quaglieri's plumber and approved by the Town and replaced with a 2" in diameter gas line. On further information and belief, the waste lines and gas lines installed by Steeves and Cunniff were either never tested and approved by the Town, since Steeves himself was the plumbing inspector, or were signed off on by Smolinsky as the assistant plumbing inspector without a proper inspection and tests.

16. On or about November 11, 2010, Quaglieri and his plumber performed an inspection of the Pizza Tyme unit and discovered the above facts and that the waste lines installed by Steeves and Cunniff were pitched incorrectly and did not have proper clean out traps installed at

turns in the system all as clearly required and mandated by the state plumbing code. Quaglieri immediately informed his tenant Pizza Tyme of the code violations and instructed the tenant to inform its contractors to correct the situation. Within days the tenant replied back that the plumbing inspector Steeves had advised the tenant that the waste lines were "fine" and "met code" and to not worry since the building card had been signed off.

17. On or about November 22, 2010, Quaglieri contacted Bullock who was Steeves' and Smolinsky's superior in his capacity as Building Commissioner and asked that he intervene. At an in person meeting, Bullock stated to Quaglieri that cleanouts would be required only if the code said "shall." Quaglieri then showed Bullock the applicable provisions of the plumbing code which stated "shall have cleanouts at every bend greater than 45 degrees" at which Bullock shrugged his shoulders and said nothing. Bullock approved Pizza Tyme's unit for occupancy the next day, on November 23, 2010, without any effort to have the noted plumbing code violations corrected.

18. On December 7, 2010, one of Quaglieri's workers while at the building smelled an odor of gas in a sealed basement room and reported same to the Town's fire department and the gas utility. Quaglieri learned later that day that the gas utility turned off the gas supply to the building for fear of explosion and that the 2" gas line installed by Steeves and/or Cunniff was leaking. These emergency measures were necessary because ten people were working in the building that day. Without Quaglieri's knowledge or permission, Steeves, Cunniff, Bullock and Smolinsky were summoned to the Premises, and on information and belief Steeves and Cunniff allegedly fixed the gas leak and it is reported that Steeves approved the repair and convinced the gas utility to restore service to the building. Quaglieri has since learned that many days later a back dated permit for these repairs and approvals were issued for the repair by Smolinsky.

19. At 1:25 p.m. on December 7, 2010, Quaglieri, armed with only some of the facts surrounding the gas leak, authored an e-mail to Bullock advising him in writing of his severe and genuine concerns with regard to Steeves', Cunniff's and Smolinsky's professional competence, apparent conflict of interests and involvement with the Premises. He again identified their apparent lack of adherence to the state building code, failure to have their work properly tested and approved by independent inspectors and now near catastrophic affects of a gas leak. In fact, it was known that Smolinsky is a defendant as the plumber of record in a gas explosion wrongful death action at a project in the Town which had occurred some months earlier. Lastly, Quaglieri demanded that Bullock ensure that none of the offending parties be allowed in the Premises and that Quaglieri be notified in advance of any intent to restore gas service to the Premises so he could arrange for an independent inspector to be present all for purposes of ensuring the safety of Quaglieri's property and its occupants. Despite his admonishments, Steeves, Cunniff, Bullock and Smolinsky all entered the premises that day, allegedly fixed the gas leak, allegedly approved it as town inspectors and arranged for gas service to be restored.

20. The next day, on December 8, 2010, Bullock telephoned Quaglieri and advised Quaglieri that he instructed Steeves and Smolinsky to meet with Quaglieri to try and resolve Quaglieri's concerns. The meeting occurred on December 10, 2010 at 4:00 p.m. at the Premises

and Quaglieri was accompanied by his builder, William Consalvo, who was present throughout. In that meeting Quaglieri reiterated his concerns about improper waste pipe installation, improper testing of gas pipes, illegal entry into the Premises and the liability exposure on him resulting from their involvement with the Premises. Smolinsky replied to those concerns that he felt Quaglieri was exaggerating the gas leak. In response to his concerns, Steeves, who is an imposing man standing well over six feet, raised his right hand and index finger, physically approached Quaglieri and stated "You had better back off or bad things are going to happen to you." The physical intimidation and threats by Steeves, the Town's plumbing inspector, were clear. Quaglieri immediately left the meeting.

21. From his cell phone, Quaglieri immediately phoned Bullock and advised him of what had just happened. Bullock replied that this was not what he had asked Steeves or Smolinsky to do and that he was disappointed in their actions. Quaglieri asked Bullock to intervene and protect Quaglieri. Bullock invited Quaglieri to a meeting to hopefully resolve these issues.

22. On or about December 14, 2010, a meeting occurred between Quaglieri and Bullock at the Town offices at which Quaglieri was accompanied by his property manager Robert Vey ("Vey"). Quaglieri again reiterated his many concerns as alleged herein and asked Bullock for protection from Steeves' threats and intimidation and possible retribution for calling into question his, his brother-in-law Cunniff's and Smolinsky's apparent clear disregard for code issues, conflict of interest rules and lack of professional conduct. Bullock was also asked to ensure that Steeves and Smolinsky be prevented from any further entry into the Premises or inspections in their official capacity at the Premises. Bullock refused to impose any form of discipline or restrictions and advised Quaglieri that Quaglieri should let things die down.

23. On or about December 21, 2010 Quaglieri received a certified letter from Steeves authored by him in his capacity as Town Plumbing Inspector. In that letter Steeves identified a grease pipe, previously installed by Quaglieri's licensed plumber and approved by the Town's Board of Health and previous plumbing inspector Murray as being out of compliance with the state plumbing code. The letter demanded a repair which would cost Quaglieri in excess of \$10,000 and would delay the opening of other units in the Premises by other tenants. Upon information and belief, the letter was sent with the further intent to harass, threaten and intimidate Quaglieri for expressing his concerns as alleged herein and was done in a fashion so as to violate Quaglieri's civil rights. Furthermore, the grease trap in question is presumably outside the jurisdiction of the Plumbing Inspector as it relates to an on-site septic system which is under the jurisdiction of the Board of Health. Additionally, the pipe leading from the building to the grease trap was previously permitted and inspected by the now retired former plumbing inspector James Murray. Lastly, the grease pipe in question is a pipe which Steeves, and or his brother-in-law Cunniff worked on, installed and/or connected to as part of their build out of Pizza Tyme, and as such, they in fact are the offending parties if the code does in fact require remedial work. Quaglieri initially demonstrated compliance by producing the previous inspection and certificate of occupancy. However, Steeves did not accept same and Quaglieri has been put to great expense to challenge Steeves' written demands by an appeal to the State Plumbing Board which appeal is pending as of the date hereof.

24. Given the escalation of Steeves' conduct, Quaglieri sought to have the Town's selectmen intervene. Selectman James Lehan agreed at Quaglieri's request to coordinate a meeting on or about January 18, 2011 at which Steeves, Smolinsky, Bullock, Lehan and the Town's administrator were present. Quaglieri was again accompanied by Vey. In that meeting Quaglieri reiterated his version of the events leading up to the meeting including the previous threats by Steeves and the letter of December 21, 2010 which was in clear retribution for Quaglieri's open assertions. In that meeting, the Town Administrator Jack Hathaway insinuated that Quaglieri had involvement in the cause of the gas leak and then Steeves immediately attempted to take control of the meeting and stated "Mr. Quaglieri, if you keep protesting this way you won't like what will happen when I take you to the state plumbing board." Despite the open and continue public threats, the selectmen have taken no action in response to Quaglieri's requests for help.

25. On January 21, 2011 Quaglieri replied in writing to Steeves' written demands of December 21, 2010 and questioned the propriety and correctness of Steeves' alleged rulings and demands. On January 23, 2011 Quaglieri filed a written complaint regarding Steeves and Smolinsky and Bullock with the state Ethics Commission and as of the date hereof, an investigation is ongoing.

26. In response to receiving notices of the state ethics complaint, Steeves has sent another correspondence to Quaglieri dated January 27, 2011 demanding that Quaglieri obtain a permit and perform the demanded remedial work on the pre-existing grease pipe within 24 hours or that Quaglieri will be reported to the state plumbing board.

27. Since the logging of formal complaints to the selectmen, Bullock has informed Quaglieri, though he refuses to put it in writing, that he refuses to issue a certificate of occupancy for the Chinese restaurant at the Premises pending the state hearings which has and continues to cause Quaglieri's other tenants from obtaining certificates of occupancy for their units which places Quaglieri in possible breach with his tenants and causes him economic harm. On information and belief, bullock position and decisions to refuse to issue a certificate of occupancy are premised on a conversation Bullock has had with the plumbing board; however, such ex parte communication with the plumbing board in advance of Quaglieri's hearing has impacted that board's impartiality and said contact may have impaired quaglieri's due process rights to a fair hearing.

28. As further evidence of the continuing conduct of the defendants as alleged herein, Bullock and Smolinsky during a recent inspection of the Chinese restaurant informed Quaglieri's plumber to remove existing plumbing pipes that had been previously inspected by Bullock and the previous plumbing inspector Murray and approved and have order sleeves to be installed on previously approved pipes. Such new demands and requirements are further evidence of threats, intimidation and coercion as alleged herein.

29. Quaglieri is the owner and/or developer of two additional commercial properties in the Town of Norfolk which are in various stages of permitting at this time. As such, Quaglieri has an investment in the Town of millions of dollars and as such, there is the potential threat of

great damage which could be suffered by retaliatory conduct by the Defendants and other inspectors and permitting officials in the Town.

30. Quaglieri has as an owner of property in the Town the right to exercise and enjoy certain rights, privileges and immunities to own and develop property free from threats, intimidation and coercion by public officials in the Town which rights are secured by the Constitution and laws of the United States and the Commonwealth of Massachusetts. Any interference with those rights or attempted interference with those rights by threats, intimidation or coercion is a violation of 42 U.S.C. section 1983 and M.G.L chapter 12 section 11I.

31. Quaglieri, as the owner of the Premises, has the benefit of certain advantageous contractual relations with prospective tenants and occupants of the Premises.

32. Quaglieri, as the owner of the owner of the Premises, has the benefit of certain advantageous economic relations with prospective tenants and occupants of the Premises.

33. Quaglieri, as the owner of the Premises, has the right to own, develop and enjoy the Premises free from any civil conspiracy to thwart his peaceful and economically advantageous ownership of the Premises.

**COUNT I**  
**(42 U.S.C. SECTION 1983)**

34. The conduct of the Defendants as alleged herein, both individually and in concert, has deprived Quaglieri as an owner of property in the Town the right to exercise and enjoy certain rights, privileges and immunities to own and develop property free from threats, intimidation and coercion by public officials in the Town which rights are secured by the Constitution and laws of the United States and the Commonwealth of Massachusetts and which interference with those rights or attempted interference with those rights by threats, intimidation or coercion has violated 42 U.S.C. section 1983 actually and proximately causing Quaglieri damage.

**COUNT II**  
**(Mass. Civil Rights G.L. c. 12, section 11I)**

35. The conduct of the Defendants as alleged herein, both individually and in concert, has deprived Quaglieri as an owner of property in the Town the right to exercise and enjoy certain rights, privileges and immunities to own and develop property free from threats, intimidation and coercion by public officials in the Town which rights are secured by the Constitution and laws of the United States and the Commonwealth of Massachusetts and which interference with those rights or attempted interference with those rights by threats, intimidation or coercion has violated Massachusetts G.L. c. 12, section 11I actually and proximately causing Quaglieri damage.

**COUNT III**  
**(Interference with contractual and economic relations)**

36. The conduct of the Defendants as alleged herein, both individually and in concert, has deprived Quaglieri as an owner of property in the Town the right to exercise and enjoy certain rights, privileges and immunities to own and develop property free from threats, intimidation and coercion by public officials in the Town and which interference with those rights or attempted interference with those rights by threats, intimidation or coercion has interfered with Quaglieri's advantageous contractual and economic relations actually and proximately causing Quaglieri damage.

**COUNT IV**  
**(Conspiracy)**

37. The conduct of the Defendants as alleged herein, both individually and in concert, has amounted to a conspiracy with unlawful purpose and/or through unlawful means to deprive Quaglieri as an owner of property in the Town the right to exercise and enjoy certain rights, privileges and immunities to own and develop property free from threats, intimidation and coercion by public officials in the Town which rights are secured by the Constitution and laws of the United States and the Commonwealth of Massachusetts and which interference with those rights or attempted interference with those rights by threats, intimidation or coercion has actually and proximately caused Quaglieri damage.

WHEREFORE, the plaintiff demands judgment in his favor against the defendants Paul Steeves, individually and in his capacity as Plumbing Inspector for the Town of Norfolk, Massachusetts, Jerry Smolinsky individually and as the Assistant Plumbing Inspector for the Town of Norfolk, Massachusetts, Robert Bullock, individually and as the Building Commissioner for the Town of Norfolk, Massachusetts and the Town of Norfolk, Norfolk County, Massachusetts as follows:

1. For temporary restraining orders, preliminary injunctions and permanent injunctions enjoining the Defendants, individually or in concert, from depriving Quaglieri of any rights, privileges or immunities secured by the Constitution and laws of the United States and the Commonwealth of Massachusetts;
2. For compensatory money damages for the acts complained of herein;
3. For an award of attorney's fees and costs of this litigation as provided for in the statutes alleged herein; and
4. For such other relief that this Honorable court shall deem meet and just.



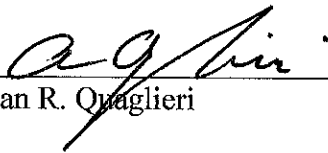
**DEMAND FOR JURY TRIAL**

Quaglieri hereby demands a trial by jury on all applicable issues raised herein.

**VERIFICATION**

I, Alan R. Quaglieri, state under oath that I am the named plaintiff in the above captioned matter, I am over 18 years of age and I have read each and every factual allegation contained herein, and state to the best of my information and belief, each of the allegations are a complete, true and accurate depiction of the facts which support my complaint

Signed under the pains and penalties of perjury this 4<sup>th</sup> day of March 4, 2011

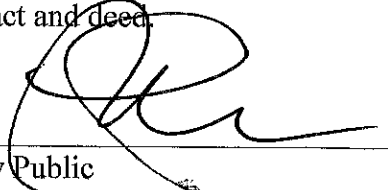
  
\_\_\_\_\_  
Alan R. Quaglieri

**COMMONWEALTH OF MASSACHUSETTS**

NORFOLK, SS.

March 4, 2011

Then personally appeared the above-named **Alan R. Quaglieri**, personally known to me and acknowledged the foregoing instrument to be his free act and deed.

  
\_\_\_\_\_  
Notary Public  
My Commission Expires:

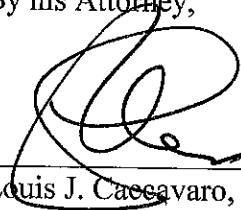


**LOUIS J. CACCAVARO, JR.**  
**NOTARY PUBLIC**  
**COMMONWEALTH OF MASSACHUSETTS**  
**MY COMMISSION EXPIRES 3/15/13**

March 4, 2011

**Alan R. Quaglieri,**

By his Attorney,



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