2013 IL App (4th) 110807-U

NO. 4-11-0807

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED
February 11, 2013
Carla Bender
4th District Appellate
Court, IL

THE COUNTY OF CHAMPAIGN,	)	Appeal from
Plaintiff-Appellee,	)	Circuit Court of
v.	)	Champaign County
BERNARD RAMOS and EDUARDO RAMOS,	)	No. 10OV148
Defendants-Appellants.	)	
	)	Honorable
	)	John R. Kennedy,
	)	Judge Presiding.

JUSTICE KNECHT delivered the judgment of the court.
Justices Appleton and Turner concurred in the judgment.

ORDER

¶ 1 *Held:* (1) The trial court's judgment of convictions and fines did not violate the one-act, one-crime rule.

(2) The ordinance violations were proved by a clear preponderance of the evidence.

(3) The trial court properly issued the injunction.

¶ 2 Defendants were charged with multiple counts of violating various sections of a Champaign County ordinance due to their improper disposal of domestic sewage and wastewater into the environment. Following a bench trial, defendants were convicted of all counts. The trial court fined defendants (1) $37,900 for discharging sewage or wastewater into the environment over a period of at least 379 days (count I); (2) $16,000 for making the subject property available for human occupancy while unlawfully discharging sewage or wastewater over a period of 169

days (count II); (3) $100 for failing to obtain a construction permit as required by the ordinance prior to repairing a broken tile and installing piping (count III); and (4) $100 for making repairs to a sewage system without possessing a valid license as a private sewage disposal system installation contractor (count IV). Additionally, the court issued an injunction (count V) ordering defendants to cease and desist from (1) allowing any person to occupy the subject property and (2) discharging domestic sewage or wastewater into the environment.

¶ 3 Defendants appeal, arguing (1) the trial court's judgment of convictions and fines violate the one-act, one-crime rule, (2) plaintiff failed to prove all elements of the offenses by a "clear" preponderance of the evidence, and (3) the court erred in issuing the permanent injunction. We affirm.

¶ 4 I. BACKGROUND

¶ 5 A. Pretrial Proceedings

¶ 6 In February 2010, plaintiff, the County of Champaign, filed a single-count complaint against defendants, Bernard Ramos and Eduardo Ramos, alleging they were the record owners of the property located at 1512 County Road 2700 N, Rantoul, Illinois (Cherry Orchard Apartments) and were in continual violation of Champaign County ordinance No. 573 (ordinance) (Champaign County Ordinance No. 573 (approved Sept. 30, 1998), http://www.champaigncountyclerk.com/county_board/ordinances/o00001_01000/o00573.pdf (last visited Feb. 1, 2013)) since September 17, 2007, because of improper disposal of private sewage. On April 6, 2010, defendants, through their counsel, filed a motion to dismiss, contending they were not the record owners of the property. At an April 9, 2010, hearing on the matter, plaintiff confessed the motion filed and was granted leave to file an amended complaint.

¶ 7 On April 16, 2010, plaintiff filed its first amended complaint alleging defendants were the owners of Cherry Orchard Apartments for the purpose of the ordinance. This amended complaint consisted of five separate counts. Count I, entitled "Unlawful Discharge of Sewage" alleged defendants violated section 6.1.1 of the ordinance by discharging domestic sewage and wastewater on a daily basis into the environment by a private sewer system since September 17, 2007. Count II, entitled "Unlawful Rental of Noncompliant Property" alleged defendants violated section 6.1.6 of the ordinance by making the premises available for human occupancy as rental units when the units improperly discharged domestic sewage and wastewater into the environment. Count III, entitled "Failure to Obtain Construction Permit" alleged defendants, as owners, violated section 6.3(A) of the ordinance by failing to obtain a construction permit from the health department prior to making repairs on the private sewer disposal system. Count IV, entitled "Unlawful Repair and Alteration of Sewage System" alleged defendants violated section 6.2.1 of the ordinance by making repairs to the private sewer system without being licensed as a private sewage disposal system installation contractor. Count V, entitled "Injunction" sought injunctive relief against defendants pursuant to section 11.3 of the ordinance.

¶ 8 On April 26, 2010, defendants filed a motion to dismiss the first amended complaint contending in pertinent part (1) they were not the owners of the Cherry Orchard Apartments, (2) count II was insufficient as a matter of law for failing to state a date for the alleged violation, and (3) count V was insufficient for failure to plead irreparable injury. Following a hearing on the same date, the trial court allowed defendants' motion with respect to counts II and V, dismissing without prejudice, but denied the motion in all other respects. The court granted plaintiff leave to file an amended complaint.

¶ 9 In May 2010, plaintiff filed its second amended complaint which corrected the pleading deficiencies in the first amended complaint. In July 2010, defendants filed their written response denying the pertinent factual allegations of the complaint. In October 2010, defendants' attorney filed a motion to withdraw as counsel. Following a November 2010 hearing, the trial court allowed defendants' attorney to withdraw. From this point, defendants proceeded *pro se*.

¶ 10 On February 11, 2011, plaintiff filed a motion to amend its complaint and a motion to filed its amended complaint *instanter*. The third amended complaint was substantially the same as the prior complaint. On February 28, 2011, the parties appeared for trial and the trial court granted plaintiff's oral motion for a continuance due to one of its witnesses being unavailable. In open court, plaintiff delivered the third amended complaint to defendants. The trial was rescheduled for April 6, 2011.

¶ 11 In March 2011, defendants filed a written motion for a continuance because plaintiff had not furnished discovery as previously ordered by the trial court. On April 6, 2011, the parties appeared for trial. Prior to commencing trial, the court denied defendants' motion because discovery is not available in ordinance violation cases.

¶ 12 B. Trial Proceedings

¶ 13 1. *Plaintiff's Case*

¶ 14 Jeff Blackford, a program coordinator with the Champaign-Urbana public health district, testified as to his expertise with sewage disposal systems. Blackford became familiar with Cherry Orchard Apartments following a September 2007 complaint his office had received regarding raw sewage discharging on the property. Blackford testified he knew defendants to be the managers of the property because they had discussed issues regarding Cherry Orchard

Apartments with his office on numerous occasions and had never informed him he should be speaking to someone else regarding sewage compliance at the property. After his office sent an initial inspector to the property to verify the complaint, Blackford and the initial inspector returned to the property and met with defendant Eduardo Ramos. They inspected the septic tanks for two of the buildings. Following the inspection and discussion with Eduardo, Blackford testified Eduardo understood the results of the inspection and had been given an estimate from at least one licensed sewage contractor on costs to repair the sewage systems located on the property.

¶ 15 Blackford further testified defendants had brought a receipt from Gulliford Septic Service (plaintiff's exhibit C) into his office in March 2010. A Gulliford employee had commented on the receipt "they had repaired broken tile and installed 40 feet of PVC and a clean-out." When Blackford asked defendants who did the repairs, defendants responded, "they had." Blackford explained to defendants they did not have a license to do such repairs nor did they obtain a permit from his office to repair any of the septic systems on the property. Blackford's office followed up with a letter to defendants explaining the same.

¶ 16 According to Blackford, his office was unable to convince defendants the sewage system needed to be repaired. Blackford's office received approval from the county board of health for funding to run a line location at Cherry Orchard Apartments to determine the extent of the issues. The line location was conducted on October 22, 2010. This investigation revealed raw sewage coming from buildings two, three, four, and five, as well as mechanical units not functioning in units seven and eight, causing raw sewage to flow from those buildings. Following the investigation, Blackford discussed defendant Bernard Ramos's options with him

regarding repairing the nonfunctioning mechanical units and came up with a deadline for doing so.

¶ 17 Blackford also testified the complex has been occupied by residents throughout the time he has been aware of the sewer problems. He knew this because he had received many other complaints over the past several years dealing with other issues and every time he went to the property, numerous cars and people were present. Blackford stated as recently as the previous day, the property was being occupied as he took a picture of cars in front of building number two and saw a "for rent" sign in front of the complex. In Blackford's professional opinion, the property still did not have a legally functioning sewage disposal system.

¶ 18 On cross-examination, in response to questioning by defendant Eduardo, Blackford explained although raw sewage may no longer be coming to the surface due to defendants' illegal repairs, the septic tanks were still discharging raw sewage into the farm tiles. On redirect, Blackford explained defendants' illegal repair of 40 feet of pipe did not repair the entire sewage system and untreated sewage was still seeping from the six buildings that are the subject of the complaint.

¶ 19 Terry Williams, a service technician for Schoonover Sewer, testified he had been familiar with Cherry Orchard Apartments for many years and was the technician who conducted the October 22, 2010, line inspection. At the time of the inspection, Williams did not observe water on the surface and he testified the lines and tiles were running freely. He could not tell where the tile went after 400 feet.

¶ 20 Robert Lahey, farm owner of an adjoining farm, testified he helped install the mainline in 2002 at which time "Witty" owned Cherry Orchard Apartments (with the exception

of unit five) and "Evelyn" was the manager. He first noticed raw sewage on top of the ground approximately three years ago.

¶ 21 Steve Johnson, a licensed sewer contractor and President of J & S Waste Water Systems, testified he was familiar with Cherry Orchard Apartments and had inspected the property in November 2010. Johnson testified the sewer system serving buildings seven and eight was "absolutely nonfunctional and is in violation of every health code that I'm aware of." The other sewer systems were also in need of repairs.

¶ 22 Suzanne Lino, a migrant student advocate for the regional office of education, gave foundation testimony regarding plaintiff's exhibit K, records of student who have lived at Cherry Orchard Apartments.

¶ 23 Plaintiff rested its case and the trial was continued to April 11, 2011.

¶ 24 2. *Defendants' Case*

¶ 25 Defendants testified on their own behalf. Bernard testified Evelyn Ramos was the owner of Cherry Orchard Apartments. Further, Bernard stated he was no longer a manager for the property. Both testified the issue with the sewage seeping up to the surface of the ground had been resolved.

¶ 26 3. *The Trial Court's Judgment*

¶ 27 Following closing arguments, the trial court took the matter under advisement in order to review the evidence and consider the ordinance. On April 18, 2011, the court issued its oral and written ruling. The court found in favor of plaintiff and against defendants on all counts. The court fined defendants, jointly and severally, as follows: $37,900 ($100 per day for a total of 379 days from March 18, 2010, through March 31, 2011) on count I; $16,000 ($100 per day for a

total of 169 days from October 22, 2010, through March 31, 2011) on count II; $100 on count III; and $100 on count IV. Further, the court granted plaintiff's prayer for injunctive relief on count V, ordering defendants to immediately cease and desist (1) allowing any person to occupy Cherry Orchard Apartments and (2) discharging domestic sewage or wastewater into the environment.

¶ 28 4. *Posttrial Proceedings*

¶ 29 On May 17, 2011, defendants filed a posttrial motion arguing the trial court "misapprehended or overlooked" a number of matters, including the following: (1) plaintiff's third amended complaint and evidence offered failed to properly describe the premises where the ordinance was allegedly violated; (2) the evidence at trial failed to establish defendants were the owners of the premises; and (3) plaintiff failed to establish defendants violated the ordinance for each day alleged. Following an August 2011 hearing, the court denied the motion.

¶ 30 This appeal followed.

¶ 31 II. ANALYSIS

¶ 32 On appeal, defendants argue (1) the trial court's judgment of convictions and fines violate the one-act, one-crime rule, (2) plaintiff failed to prove all elements of the offenses by a "clear" preponderance of the evidence, and (3) the court erred in issuing the permanent injunction.

¶ 33 A. One-Act, One-Crime Rule

¶ 34 Defendants first contend the trial court's judgment of multiple convictions and fines violates the one-act, one-crime rule. We disagree.

¶ 35 Whether multiple convictions violate the one-act, one-crime rule is a question of law, which we review *de novo*. *People v. Johnson*, 237 Ill. 2d 81, 97, 927 N.E.2d 1179, 1189

(2010).

¶ 36 The one-act, one-crime rule prohibits multiple convictions and sentences for offenses based on precisely the same act. *People v. Price*, 2011 IL App (4th) 100311, ¶ 25, 958 N.E.2d 341; *People v. King*, 66 Ill. 2d 551, 566, 363 N.E.2d 838, 844 (1977); see also *Village of Sugar Grove v. Rich*, 347 Ill. App. 3d 689, 697-98, 808 N.E.2d 525, 533 (2004) (applying the one-act, one-crime rule to city ordinance violations). An "act" is defined as "any overt or outward manifestation which will support a different offense." *King*, 66 Ill. 2d at 566, 363 N.E.2d at 844-45. Multiple convictions are improper where only one physical act was undertaken. *People v. Rodriguez*, 169 Ill. 2d 183, 186, 661 N.E.2d 305, 306 (1996). However, multiple convictions are permitted where a defendant has committed several acts, despite the interrelationship of those acts. *King*, 66 Ill. 2d at 566, 363 N.E.2d at 844.

¶ 37 In this case, defendants assert they were erroneously found guilty of multiple violations and fined on each for a total of 379 offenses on count I and 160 offenses on count II, when all offenses were based on the same physical act of discharging domestic sewage and wastewater into the environment on September 18, 2007 (the complaint was received regarding the sewage on September 17, 2007, and the inspection confirming such was done on September 18, 2007).

¶ 38 Count I of the complaint alleged defendants violated section 6.1.1 of the ordinance. Section 6.1.1 provides, "No PERSON shall discharge DOMESTIC SEWAGE or WASTEWATER to the environment except by means of a PUBLIC SEWER SYSTEM or by a PRIVATE SEWAGE DISPOSAL SYSTEM permitted, constructed, operated and maintained in accord with the requirements of the ordinance." Champaign County Ordinance No. 573

(approved Sept. 30, 1998), http://www.champaigncountyclerk.com/county_board/ordinances/o00001_01000/o00573.pdf (last visited Feb. 1, 2013).

¶ 39 Count II of the complaint alleged defendants violated section 6.1.6 of the ordinance. Section 6.1.6 provides, "No PERSON shall construct, occupy, use or make available to another for occupancy or use by any means, a premises for the purpose of human occupancy served by a PRIVATE SEWAGE DISPOSAL SYSTEM, except in compliance with the terms of this ordinance." Champaign County Ordinance No. 573 (approved Sept. 30, 1998), http://www.champaigncountyclerk.com/county_board/ordinances/o00001_01000/o00573.pdf (last visited Feb. 1, 2013).

¶ 40 To support the contention their convictions violate the one-act, one-crime doctrine because they were based on the same physical act, defendants cite *Rich*, 347 Ill. App. 3d 689, 808 N.E.2d 525. In *Rich*, the defendant, in relevant part, was charged with and convicted of four counts of violating a noise control ordinance for playing loud music on June 15, 2002, at 8:39 p.m., 9 p.m., 10:10 p.m., and 10:16 p.m. *Id*. at 698, 808 N.E.2d at 533. The ordinance at issue provided, "[e]ach day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such ***." (Internal quotation marks omitted.) *Id*. at 691, 808 N.E.2d at 528. The Second District Appellate Court vacated three of the defendant's four convictions, finding, "[b]y the terms of the Village's ordinance, the defendant's convictions were based on the same physical act. The Village's noise ordinance provides that 'each day such a violation is committed or permitted to continue constitutes a separate offense.' " *Id*. at 698, 808 N.E.2d at 533. Thus, the defendant's act of playing loud music over an intermittent period on

June 15 was only one offense because his actions occurred on the same day. *Id*.

¶ 41 Contrary to defendants' assertion, *Rich* supports defendants' multiple fines. Here, the ordinance is worded similarly to the ordinance at issue in *Rich* as section 11.1.12 provides, "Each day a condition constituting a violation exists or is allowed to exist after notice of the violation has been served on the PERSON responsible shall be deemed a separate offense." Champaign County Ordinance No. 573 (approved Sept. 30, 1998) http://www.champaigncountyclerk.com/county_board/ordinances/o00001_01000/o00573.pdf (last visited Feb. 1, 2013). Thus, every day defendants failed to correct the sewage problem after having received notice of such constituted a separate offense.

¶ 42 Defendants received notice of the violations at least as early as March 4, 2010, because they personally appeared in court, received copies of the complaint, and were arraigned on that date. In its order, the trial court noted defendants had notice of the alleged ordinance violations specified in counts I, II, III, and IV as of March 18, 2010, because defendants then-attorney entered his appearance on that date. Because the testimony presented at trial established defendants (1) failed to correct the sewage problems and (2) continued to allow tenants to occupy the apartment after having received notice of the issues, and because the ordinance explicitly provides for a separate offense for each day the problem is allowed to continue, defendants' multiple fines do not violate the one-act, one-crime rule.

¶ 43 B. Sufficiency of the Evidence

¶ 44 Defendants next argue plaintiff failed to prove all elements of the alleged offenses by a clear preponderance of the evidence because (1) plaintiff failed to present evidence of the ordinance in effect at the time of the alleged violations and (2) the record is devoid of evidence

showing defendants were the owners of Cherry Orchard Apartments or were making the property available "for the purpose of human occupancy as rental units." We disagree.

¶ 45 A violation of municipal ordinance violation must be proved by a clear preponderance of the evidence. *City of Peoria v. Heim*, 229 Ill. App. 3d 1016, 1017, 594 N.E.2d 778, 780 (1992).

¶ 46 1. *Failure of Plaintiff To Introduce the Ordinance Into Evidence*

¶ 47 Defendants argue, "[t]he blatant failure to properly prove as admissible evidence *** the asserted 'Champaign County Ordinance 573' in effect at the time of the alleged violations subverts the defendants' right to a fair trial and belies the asserted conclusion by the plaintiff that the defendants violated its provisions ***."

¶ 48 Initially, we note defendants did not raise this issue at trial or in their postrial motion. The failure to do so results in forfeiture of the issue on appeal. *People v. Enoch*, 122 Ill. 2d 176, 186, 522 N.E.2d 1124, 1130 (1988). Although defendants do not assert plain error, they do argue their right to a fair trial was violated by plaintiff's failure to introduce evidence of the actual ordinance in effect and plaintiff addresses plain error in its brief.

¶ 49 The plain-error doctrine set forth in Illinois Supreme Court Rule 615(a) (eff. Jan. 1, 1967) provides a narrow exception to the general rule of procedural default. *People v. Walker*, 232 Ill. 2d 113, 124, 902 N.E.2d 691, 697 (2009). The plain-error doctrine permits a reviewing court to consider unpreserved error under the following two scenarios:

> "(1) a clear or obvious error occurred and the evidence is so closely balanced that the error alone threatened to tip the scales of justice against the defendant, regardless of the seriousness of the error, or

(2) a clear or obvious error occurred and that error is so serious that it affected the fairness of the defendant's trial and challenged the integrity of the judicial process, regardless of the closeness of the evidence." *People v. Sargent*, 239 Ill. 2d 166, 189, 940 N.E.2d 1045, 1058 (2010).

We begin our analysis by determining whether any error occurred at all. *Sargent*, 239 Ill. 2d at 189, 940 N.E.2d at 1059. If error did occur, this court then considers whether either of the two prongs of the plain-error doctrine has been satisfied. *Sargent*, 239 Ill. 2d at 189-90, 940 N.E.2d at 1059. Under both prongs, the defendant bears the burden of persuasion. *Sargent*, 239 Ill. 2d at 190, 940 N.E.2d at 1059.

¶ 50 Section 8-1001 of the Code of Civil Procedure (Procedure Code) requires courts of original jurisdiction to take judicial notice of all general ordinances of a municipal corporation and all county ordinances within the state. 735 ILCS 5/8-1001 (West 2010). A trial or reviewing court may take judicial notice of an ordinance despite said ordinance not having been introduced into evidence. *City of Countryside v. Oak Park National Bank*, 78 Ill. App. 2d 313, 315 n.1, 223 N.E.2d 293, 294 n.1 (1966); see also *King v. Exchange National Bank of Chicago*, 64 Ill. App. 3d 335, 344, 381 N.E.2d 356, 362 (1978) ("Even though the plaintiffs failed to introduce these ordinances into evidence and failed to ask that judicial notice be taken of them during presentation of evidence, since the defendants were apprised of plaintiff's reliance on [the specific ordinances] in the complaints and amended complaints, the defendants had prior knowledge of and adequate opportunity to determine the accuracy and validity of those ordinances ***.").

¶ 51 This case is similar to *King* because although plaintiff failed to introduce the

actual ordinance into evidence or ask the trial court to take judicial notice of the ordinance, plaintiff's original complaint, and all amended complaints thereafter, referenced Champaign County ordinance No. 573 and cited the specific section of the ordinance at issue in each count. Thus, as in *King*, defendants had knowledge of the ordinance under which they were charged and sufficient opportunity to object to plaintiff's failure to introduce the ordinance or ask the trial court to take judicial notice. Further, we note at the close of evidence, the court specifically stated it was taking the matter under advisement "to review all of the evidence and *consider the ordinance*."

¶ 52 We recognize defendants quote the following excerpt in *Heim,* 229 Ill. App. 3d at 1017, 594 N.E.2d at 780, as the controlling authority: "A conviction for an ordinance violation requires proof that the accused actually violated the ordinance in effect at the time of the alleged violations. [Citation]. In order to establish an ordinance violation, the ordinance must have been in effect at the time of the violation. [Citations.]" Defendants construe these statements out of context, asserting *Heim* stands for the proposition that a complaining party must offer into evidence the actual ordinance and proof of the date of its enactment. However, in *Heim*, the ordinance at issue was not enacted until 1979 and the alleged violation occurred sometime in the 1950s. Thus, the *Heim* court's holding was that a person cannot be found to violate an ordinance not in effect at the time of the alleged violation. In this case, the ordinance went into effect in 1998 and the violations did not occur until 2007 and later.

¶ 53 Because section 8-1001 of the Procedure Code requires courts to take judicial notice of ordinances, the trial court did not err in considering the ordinance in this case even though the actual ordinance was not introduced as evidence. As no error occurred, we need not

conduct a plain-error analysis.

¶ 54 2. *Proof of Ownership and Rental of Property*

¶ 55 Defendants also argue plaintiff failed to present any evidence they (1) were the owners of Cherry Orchard Apartments as pleaded in count I or (2) made the property available for human occupancy. We disagree.

¶ 56 a. Proof of Ownership Not Required

¶ 57 Defendants contention plaintiff failed to prove they were owners of Cherry Orchard Apartments is without merit for two reasons. First, count I charged defendants with violating section 6.1.1 of the ordinance which provides no *person* shall improperly discharge domestic sewage or wastewater in the environment. Section 3.3.26 of the ordinance defines a "PERSON," in part, as "any individual." Champaign County Ordinance No. 573 (approved Sept. 30, 1998), http://www.champaigncountyclerk.com/county_board/ordinances/o00001_01000/o00573.pdf (last visited Feb. 1, 2013). Section 6.1.1 does not include a requirement that a *person* be an *owner*.

¶ 58 Second, section 3.3.22 of the ordinance defines an "owner" as, "[t]he PERSON or PERSONS who lawfully possess or control any establishment, facility, or equipment regulated by this Ordinance. The owner may also, *but does not necessarily*, hold title to the regulated establishment, facility or equipment or to the real estate upon which it is located." (Emphasis added.) Champaign County Ordinance No. 573 (approved Sept. 30, 1998), http://www.champaigncountyclerk.com/county_board/ordinances/o00001_01000/o00573.pdf (last visited Feb. 1, 2013). Testimony at trial established defendants were "owners" for purpose

of the ordinance because as managers they controlled Cherry Orchard Apartments. Jeff Blackford testified he spoke with defendants regarding the sewage problems several times and he was never directed to speak with anyone else regarding the property. Robert Lakey testified he spoke with defendants regarding the sewage issues in 2007 and believed defendants to be the owners of the property. Steve Johnson informed defendant Bernard during a November 2010 sewage inspection all septic systems needed repaired. According to Johnson, Bernard inquired about repairing the units himself after he received an estimate of the costs to repair by Johnson. Further, Johnson testified two years prior, defendants contacted him to discuss options for the septic system repair. Additionally, electric bills addressed to Bernard for Cherry Orchard Apartments covering January 2011 to June 2011 were admitted into evidence, as well as a migrant labor camp license renewal application signed by Bernard. Last, defendants maintained throughout the proceedings *they* took remedial measures to correct the sewage problems, complied with all requirements asked of them regarding the sewage problems, and closed off the affected buildings. This evidence was sufficient to support a finding defendants were owners of Cherry Orchard Apartments as defined in the ordinance by a preponderance of the evidence.

¶ 59 b. Property Rental

¶ 60 Defendants also argue plaintiff failed to present evidence they made the property available for the purpose of human occupancy as rental units. The record belies this contention.

¶ 61 Blackford testified he had been called to Cherry Orchard Apartments on numerous complaints over the past several years and every time he went to the property, numerous cars and people were present. As late as the day before his testimony, Blackford stated he took a picture of cars in front of one of the units and saw a "for rent" sign in front of the complex. These

observations are evidence the property was being occupied. Further, plaintiff's exhibit K contains records of students who lived at Cherry Orchard Apartments after September 18, 2007.

¶ 62 C. Injunction

¶ 63 Last, defendants contend the trial court erred in issuing the injunction. We disagree.

¶ 64 Defendants first assert count V of the complaint cites the injunction provisions from the Private Sewage Disposal Licensing Act (Act) (225 ILCS 225/1 *et. seq.* (West 2010)) when they were only charged with violating an ordinance, which they further argue was never proffered or properly admitted into evidence. Initially, we acknowledge count V of the complaint does cite section 19 of the Act. However, directly below this reference to the Act, the complaint also cites to section 11.3 of the ordinance, which provides, "[t]he State's Attorney of Champaign County may bring action for an injunction to restrain any violation of this Ordinance or to enjoin, the operations of any such establishment causing such violation." Champaign County Ordinance No. 573 (approved Sept. 30, 1998), http://www.champaigncountyclerk.com/county_board/ordinances/o00001_01000/o00573.pdf (last visited Feb. 1, 2013). Thus, the State's Attorney has authority to bring an action for an injunction under the ordinance. Further, as mentioned above, courts are required to take judicial notice of municipal and county ordinances within the state. See 735 ILCS 5/8-1001 (West 2010). We have already determined plaintiff's failure to introduce a copy of the ordinance into evidence was not detrimental to its case.

¶ 65 Next, defendants argue the record contains no evidence the ordinance was ever approved by the Illinois Department of Public Health as required by section 10(a) of the Act.

Because defendants failed to raise this issue at trial or include it in their posttrial motion, they forfeited it.

¶ 66 Defendants next assert the injunction issued by the trial court is beyond the scope of the relief sought by plaintiff in its prayer for injunction. Specifically, defendants point out plaintiff prayed for an injunction directing them to cease and desist from allowing any person to occupy Cherry Orchard Apartments "until the defendants have fully corrected any and all violations of the Champaign County Health Ordinance." However, in the order granting the injunction, the court ordered defendants to cease and desist, but failed to add the conditional clause above. Because defendants failed to raise this issue in a posttrial motion, they have forfeited the issue.

¶ 67 Even if this court were to find the issue not forfeited—and we do not—defendants' argument is without merit. As plaintiff points out, the decision to grant or deny injunctive relief rests within the discretion of the trial court. *In re Marriage of Joerger*, 221 Ill. App. 3d 400, 405, 581 N.E.2d 1219, 1223 (1991). "[A]n injunction should not be interpreted as broader in scope than the relief sought in the pleadings. [Citation.] Further, an injunction should not be interpreted as being 'more extensive than is reasonably required to protect the interests of the party in whose favor it is granted, and should not be so broad as to prevent defendant from exercising his rights.' [Citations.] Rather, the court should interpret the injunction 'with reference to the nature of the proceeding and the purpose of the injunction as shown by the pleadings and relief prayed for. [Citations.]" *National Equipment Rental, Ltd. v. Polyphasic Health Systems, Inc.*, 141 Ill. App. 3d 343, 350, 490 N.E.2d 42, 47 (1986). Applying these principles to the instant case, the trial court's injunction should be interpreted to include the conditional clause as

shown by the pleadings and relief prayed for. Thus, the injunction barring defendants from allowing any person to occupy the units will be lifted once defendants are in full compliance with the ordinance.

¶ 68 Last, defendants argue the permanent injunction issued by the trial court is against the manifest weight of the evidence, contrary to principles of equity, and constitutes an abuse of discretion. Specifically, defendants asserts the allegations in count V that (1) equitable principles are not applicable, (2) no adequate remedy at law is available, and (3) irreparable harm would result if defendants are allowed to continue renting the property, "are conclusions and not allegations of fact necessary to support the issuance of the injunction." We disagree.

¶ 69 At trial, evidence was presented to show the sewage systems at Cherry Orchard Apartments had not been functioning properly since 2007 and were discharging untreated sewage and wastewater into the environment in violation of the ordinance up to and during the trial. The discharge of untreated sewage and wastewater into the environment is a health and safety hazard, and if allowed to continue, would clearly endanger the health, safety, and welfare of the tenants, surrounding property owners, as well as other county residents who could come into contact with the raw sewage. Thus, the only remedy available in this case to prevent harm was to enjoin defendants from allowing persons to occupy the premises until defendants resolved the sewage issues. As such, the trial court properly granted the injunction.

¶ 70 III. CONCLUSION

¶ 71 For the reasons stated, we affirm.

¶ 72 Affirmed.