

THE STATE OF NEW HAMPSHIRE  
JUDICIAL BRANCH  
NH CIRCUIT COURT

Cheshire County

8<sup>th</sup> Circuit-District Division-Keene

City of Keene  
#449-2013-CR-206

v.

Ian Bernard (aka Freeman)

ORDER

This is a proceeding brought against the defendant by the City of Keene (the "City"), for alleged violations of the City's ordinances relating to smoke and carbon monoxide detectors at the defendant's premises at 75 Leverett Street.

A hearing on pending motions was held on 5/29/13, such motions having been brought by the defendant and objected to by the City.

The first motion asks to dismiss the summons on the basis of the defendant's right of revolution under Article 10 of the New Hampshire Constitution, and specifically for the City's alleged use of its fire regulations as a vendetta to cause the defendant to leave the City because of his exercise of his right to "peaceful revolution" against the City and other governmental units.

There was no evidence introduced that would substantiate this motion, and so it is dismissed.

The second motion seeks to suppress the administrative warrant issued by the Court, on the ground that the City's records reflected that the premises in question were a single-family residence and thus not required to meet the fire regulations cited in the summons.

The Court notes that the administrative warrant had two purposes; namely, to permit the City's housing inspector to determine whether the defendant's premises were being used a lodging house and thus no longer as a

single-family residence; and if so, to permit the City's fire prevention officer to determine whether there were violations of the City's fire regulations that would apply to lodging houses.

Based on the information accumulated by the housing inspector, as summarized in his affidavit dated 6/13/12, there was clearly probable cause to believe that the premises were no longer being used as a single-family residence and thus that the defendant was in violation of the city's zoning ordinance for operating a lodging house without the required approval.

The difficulty with the warrant is that until that administrative inspection was completed and the current use of the premises was verified, there was no probable cause for an administrative inspection to determine whether the premises, as then being used, were in compliance with applicable fire regulations.

Consequently, the portion of the administrative warrant that dealt with the fire prevention officer's inspection is vacated, and any information gathered by that officer is suppressed as evidence at the defendant's trial.

If the City wishes to proceed with the summons in light of this ruling, it shall notify the Court and a trial date will be set.

SO ORDERED.

Date: June 4, 2013

  
L. Phillips Rubyon III  
Presiding Justice