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This opinion shall not "constitute precedent or be binding upon any court." Although it is posted on the internet, this opinion is binding only on the parties in the case and its use in other cases is limited. R. 1:36-3.

**SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-2412-21**

CITY OF ELIZABETH,

Plaintiff-Respondent,

v.

FAIRLYNN CHISOLM,

Defendant-Appellant.

Submitted March 7, 2023 – Decided April 14, 2023

Before Judges Geiger and Susswein.

On appeal from the Superior Court of New Jersey, Law
Division, Union County, Docket No. G-20-094620.

Fairlynn Chisolm, appellant pro se.

William R. Holzapfel, City Attorney, attorney for
respondent (Samantha J. Castrelos, Special Counsel, on
the brief).

PER CURIAM

Defendant Fairlynn Chisolm appeals from a Law Division order entered
on March 15, 2022 that required her to allow a municipal inspector access to her

home to find the source of water leaking into an adjoining property. Such access was authorized by Section 15.12.720 of the Code of the City of Elizabeth. After carefully reviewing the record in light of the arguments of the parties, we affirm.

I.

The record reflects that defendant's neighbor complained to municipal officials about water leaking through the concrete block wall that separates her row-home basement from defendant's basement. An inspector examined the neighbor's basement and determined the leak was emanating from defendant's adjoining property. Defendant refused to allow the inspector to access her home. A municipal court judge granted the city's motion to conduct an inspection. Defendant appealed to the Superior Court. Judge John M. Deitch affirmed the municipal court decision, finding the prosecutor had established beyond a reasonable doubt that she violated the ordinance that required her to make her home available for inspection. Judge Deitch entered an order allowing a city inspector to gain entry to defendant's property to conduct the inspection.

Defendant raises the following contentions for our consideration:

POINT I

THE TRIAL COURT NEVER ASK[ED] THE PLAINTIFF FOR THE COMPLAINT OR THE SIGN[ED] MOTION.

POINT II

THE CITY OF ELIZABETH WANTED TO GAIN ACCESS TO [DEFENDANT'S] HOME WITHOUT PROBABLE CAUSE. THE CITY CLAIMED THIS WAS A HAZARDOUS CONDITION, BUT NO ONE DID ANYTHING FOR TWO YEARS.

POINT III

THIS MATTER SHOULD BE DISMISSED FOR [THE TRIAL PROSECUTOR]'S REPRESENTATION OF CONFLICT OF INTEREST. THIS CASE CAPTION SHOULDN'T HAVE EVER BEEN CHANGED. IT'S THE SAME CASE G-20-094620. HE CHANGE[D] THE CASE BECAUSE HE REFUSES TO WAIT FOR THE OTHER TRANSCRIPTS AND THE CORRECTION OF THE TRANSCRIPTS OF THE CORRECTED NAMES ON WHO SAID WHAT. THE TRANSCRIPT FROM THE MUNICIPAL [SIC] HAS [THE TRIAL PROSECUTOR]'S AND [DEFENDANT'S] STATEMENT CONFUSED. THE REFUND OF THE LICENSED PLUMBER. [SIC]

II.

The trial court rejected defendant's argument that she was never given the summons and motion. The court accredited the testimony of the city's witness who stated she served the summons and motion on defendant. We defer to the trial court's credibility assessment. State v. S.N., 231 N.J. 498, 514 (2018).

The trial court likewise rejected defendant's contention that the city had no lawful basis to obtain a court order allowing the city to enter her home.

Section 15.12.720 of Elizabeth's city code permits home inspections "in order to safeguard the health, safety, morals and welfare of the public." Defendant does not challenge the lawfulness of that ordinance. We agree with the trial court's determination that it was reasonable to authorize an inspection of defendant's basement to protect the health, safety, and welfare of the residents of the connected row homes. The inspector had determined by examining the neighbor's basement that defendant's cellar was the source of the leak.

Defendant next contends the prosecutor should be disqualified because she represented defendant in a prior matter, thereby violating Rule 1:15-3(b). The trial court conducted an appropriate inquiry and accredited the testimony of the prosecutor that defendant is not her client, she does not know her, and this was the first time they met. Once again, we defer to the trial court's finding based on a credibility assessment. S.N., 231 N.J. at 514.

To the extent we have not specifically addressed them, any remaining arguments raised by defendant lack sufficient merit to warrant discussion. R. 2:11-3(e)(2).

Affirmed.

I hereby certify that the foregoing
is a true copy of the original on
file in my office.


CLERK OF THE APPELLATE DIVISION