



STATE OF ALABAMA  
DEPARTMENT OF INSURANCE

MONTGOMERY 4, ALABAMA

BUREAU OF INSURANCE  
STATE FIRE MARSHAL

EDMON L. RINEHART  
SUPERINTENDENT OF INSURANCE

July 1, 1959

Mr. W. E. Hawie  
Fairhope Casino  
Fairhope, Alabama

Re: Condemnation proceedings  
Fairhope Casino

Dear Sir:

This order is in compliance with Title 55, Code of Alabama 1940, Section 39, etc.

Upon complaint by citizens of this State relative to the hazards of the above named business, Mr. H. A. Stuart, Deputy Fire Marshal together with Mr. R. A. Payne, Special Agent, National Board of Fire Underwriters and members of the Fairhope Police and Fire Department have inspected this building as provided by law under Title 55, Code of Alabama 1940, Section 39. The testimony presented to this Office indicates that the above business is conducted in such a manner as to constitute a fire hazard, which endangers life and property. The sills and foundation are in such a condition, due to termites and rotten condition, as to make the building dangerous by wind damages. It was also found that the wooden fire escapes, installed several years ago, at our insistence, are in dilapidated and rotten condition so as to be dangerous and unfit for use. It was noted that several instances the door had been nailed from the inside, making exits impossible. Housekeeping in this building was found to be in a deplorable condition, adding greatly to the fire hazards. This Office is hereby advising and directing you, upon receipt of this letter, not to use this building for dancing, parties, etc. In the present condition it is not even safe to use the lower floor until certain hazards have been corrected and re-inspected by Mr. Stuart of Bay Minette, Alabama.

By and under authority vested in me as Fire Marshal of the State of Alabama, Title 55, Code of Alabama 1940 and as amended you are hereby ordered and directed to carry out this order immediately so that further legal action shall not be necessary. Made this, the 1st day of July 1959.

Yours very truly,

cc: - Fairhope Police & Fire  
Departments  
Fairhope, Ala.  
cc: - Mr. H. Stuart, Deputy  
State Fire Marshal  
P. O. Box 105  
Bay Minette, Ala.

STATE DEPARTMENT OF INSURANCE

*J. V. Kitchens*  
J. V. Kitchens  
State Fire Marshal

JVK/hl

# GULF COAST REMODELING & CONSTRUCTION CO.

604 Houston Street • Greenwood 1-1529

Financing  
Conventional Loans

MOBILE, ALABAMA  
July 21, 1959

Refinancing  
Mortgage Loans

Mr. <sup>W. F.</sup> George Howie  
Fairhope Casino  
Fairhope, Alabama

Dear Mr. Howie:

I Have inspected the foundation, sills, and floor joists under the building known as FAIRHOPE CASINO, and find same in very good condition, there being only one joist that should be replaced.

The footings and peirs are very well spaced and ~~are~~ constructed entirely of concrete. This of course eleminates any possibility of rot there. All sills and joists, with above mentioned exception, have no rot or termite damage that I could detect.

Kindest Personal Regards,

*Jay Stokely*  
Jay Stokely

JS:seh

I, William O. Walker, a Notary Public in and for the State of Alabama at large, hereby certify that Jay Stokely, whose name is signed to the foregoing conveyance, and who is known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, he executed that same voluntarily on the day the same bears date.

Given under my hand and seal, this 21 day of July, 1959.

William O. Walker  
Notary Public

State of Alabama AT LARGE

~~County of Mobile.~~

*My Commission Expires 4 May 1963*

W. E. HAWIE,  
Appellant,

-VS.

J. V. KITCHENS, STATE  
FIRE MARSHALL OF THE  
STATE OF ALABAMA,

Appellee.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA.  
IN EQUITY.

NO. 4638

MOTION TO SET CAUSE FOR HEARING

Comes Appellant, W. E. Hawie, and respectfully moves the  
Court to set this cause down for hearing.

VAN ANTWERP & RECTOR

*Van Antwerp & Rector*  
Solicitors for Appellant

8/6/59 The foregoing Motion st down For hearing on Friday August 21 at 9:30 A. M.

Hubert M. Hall,  
Judge

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COME TO SEE THE CASE FOR THE

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STATE OF VIRGINIA  
THE ATTORNEY GENERAL  
JAMES W. KITCHEN

NO. 100

IN EIGHTH

W. E. HAYES

W. E. HAYES

IN THE CIRCUIT COURT OF

FILED

815-59

ALICE J. BUCK, CLERK  
RECEIVED

W. E. HAWIE,

Appellant,

VS.

J. V. KITCHENS, STATE FIRE  
MARSHALL OF THE STATE OF  
ALABAMA,

Appellee.

IN THE

CIRCUIT COURT OF BALDWIN

COUNTY, ALABAMA.

NO. 4638

This cause coming on to be heard was submitted upon the order of the State Fire Marshall of the State of Alabama, condemning the property known as the Fairhope Casino, in Fairhope, Baldwin County, Alabama, and the motion of the Appellant, W. E. Hawie, to set the cause down for hearing, and the testimony of the witnesses taken ore tenus.

The Court, after hearing and considering all of the testimony of the witnesses is of the opinion that the building as now exists is not suitable to be used for occupation by the public, and that the order of the said Fire Marshall should remain in full force and effect.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED that the order heretofore entered by the State Fire Marshall remain in full force and effect until the Appellant, W. E. Hawie, makes the necessary improvements to put said property in safe condition.

IT IS FURTNER ORDERED, ADJUDGED AND DECREED that the Appellant, W. E. Hawie, pay the costs of this proceeding, for which execution may issue.

Dated this 31st day of August, 1959.

FILED

SEP 2 1959

ALICE I. DUCK, CLERK  
REGISTER

*Hubert M. Lee*

Judge, 28th Judicial Circuit  
of Alabama.

caused appellant great embarrassment and a heavy loss of income from his establishment in said building, said establishment being operated for the use of and catering to the general public for the purpose of its entertainment and refreshment; and appellant avers that the July Fourth holiday period is the period each year during which appellant's establishment enjoys its heaviest patronage.

5. That appellant is ready, willing and able to remedy any dangerous condition in and about said building if the same be pointed out and specified and appellant is desirous and willing to cooperate with the office of the appellee and to comply with any and all legal and reasonable orders issued to appellant by such office; but appellant avers that the order here appealed from is not proper or legal or reasonable and has resulted in great damage and loss to appellant.

THE PREMISES CONSIDERED, appellant prays that this Honorable Court will take cognizance of this appeal and will grant a hearing of this cause and that, upon due hearing hereof, this Honorable Court will revoke the said order of appellee, or that this Honorable Court will modify the same, and will grant such other, further and different relief to appellant as the Court shall deem mete and proper.

*Van Antwerp & Rector*  
ATTORNEYS FOR APPELLANT  
170 BICE Bldg



EDMON L. RINEHART  
SUPERINTENDENT OF INSURANCE

STATE OF ALABAMA  
DEPARTMENT OF INSURANCE

MONTGOMERY 4, ALABAMA

BUREAU OF INSURANCE  
STATE FIRE MARSHAL

July 1, 1959

Mr. W. E. Hawie  
Fairhope Casino  
Fairhope, Alabama

Re: Condemnation proceedings  
Fairhope Casino

Dear Sir:

This order is in compliance with Title 55, Code of Alabama 1940, Section 39, etc.

Upon complaint by citizens of this State relative to the hazards of the above named business, Mr. H. A. Stuart, Deputy Fire Marshal together with Mr. R. A. Payne, Special Agent, National Board of Fire Underwriters and members of the Fairhope Police and Fire Department have inspected this building as provided by law under Title 55, Code of Alabama 1940, Section 39. The testimony presented to this Office indicates that the above business is conducted in such a manner as to constitute a fire hazard, which endangers life and property. The sills and foundation are in such a condition, due to termites and rotten condition, as to make the building dangerous by wind damages. It was also found that the wooden fire escapes, installed several years ago, at our insistence, are in dilapidated and rotten condition so as to be dangerous and unfit for use. It was noted that several instances the door had been nailed from the inside, making exits impossible. Housekeeping in this building was found to be in a deplorable condition, adding greatly to the fire hazards. This Office is hereby advising and directing you, upon receipt of this letter, not to use this building for dancing, parties, etc. In the present condition it is not even safe to use the lower floor until certain hazards have been corrected and re-inspected by Mr. Stuart of Bay Minette, Alabama.

By and under authority vested in me as Fire Marshal of the State of Alabama, Title 55, Code of Alabama 1940 and as amended you are hereby ordered and directed to carry out this order immediately so that further legal action shall not be necessary. Made this, the 1st day of July 1959.

Yours very truly,

cc: - Fairhope Police & Fire  
Departments  
Fairhope, Ala.  
cc: - Mr. H. Stuart, Deputy  
State Fire Marshal  
P. O. Box 105  
Bay Minette, Ala.

STATE DEPARTMENT OF INSURANCE

*J. V. Kitchens*  
J. V. Kitchens  
State Fire Marshal

Appellant's Exhibit A.

218

JVK/hl

4638

FILED  
JUL 27 1959  
ALICE J. DUCK, CLERK  
REGISTER



SUMMONS AND COMPLAINT

Moore Ptg. Co.

The State of Alabama,

Baldwin County.

Circuit Court, Baldwin County

No. 4638

TERM, 19

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You Are Hereby Commanded to Summon J. V. Kitchens, State Fire Marshall of the  
State of Alabama

to appear and plead, answer or demur, within thirty days from the service hereof, to the complaint filed in  
the Circuit Court of Baldwin County, State of Alabama, at Bay Minette, against J. V. Kitchens,  
State Fire Marshall of the State of Alabama, Defendant

by W. E. Hawie, Plaintiff

Witness my hand this 7th day of July 19 59

Ek 7-14-59 Being [Signature], Clerk

No. 4638

Page \_\_\_\_\_

The State of Alabama

Baldwin County

CIRCUIT COURT

W. E. HAWIE

Plaintiffs

vs.

J. V. KITCHENS, STATE FIRE MARSHALL

OF THE STATE OF ALABAMA

Defendants

Summons and Complaint

Filed 7-7- 19 59

Alice J. Luck Clerk

Plaintiff's Attorney

Defendant's Attorney

1104

RECEIVED IN OFFICE

Defendant lives at

JUL 14 1959

M. S. BUTLER, Sheriff

Received In Office

July 7 1959

Ray W. Walker Sheriff

I have executed this summons

this 7-14 19 59

by leaving a copy with

J. V. Kitchens

The Sheriff claims 2  
miles at 10c per mile for a total

of \$ 20

M. S. Butler, Sheriff  
Montgomery County, Ala.

M. S. Butler Sheriff

Ramsey Deputy Sheriff

RESOLUTION

WHEREAS, the State Fire Marshall has made inspection of the Casino in the City of Fairhope and having found that it is dangerous to the public for the same to be kept open for the use of the public;

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAIRHOPE, that all license, permits and authority to keep the said Casino open to the public be and the same are hereby revoked and annulled and that the said Casino be and is hereby condemned as a public nuisance and ordered to be closed instantly.

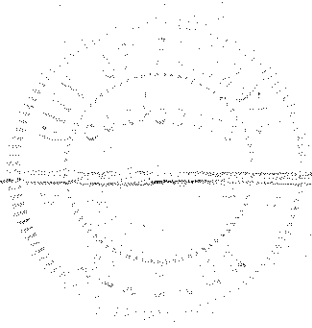
IT IS FURTHER RESOLVED that the mayor be and he is authorized and directed to cause the Casino to be closed forthwith, and to use all legal and proper forces and instruments to close the same, to be closed forthwith and to prevent the same from being open to the public, unless and until the same is put in proper state of repair suitable for and approved for reopening by the State Fire Marshall.

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I, Marie Moore, Clerk of the City of Fairhope, Alabama, hereby certify that the above Resolution is a true and correct copy of a Resolution adopted by the Fairhope City Council at a special meeting at the City Hall in the City of Fairhope on the 2nd day of July, 1959.

Witness my hand and seal this the 2nd day of July, 1959.

Marie Moore



W. E. HAWIE,

Appellant,

-vs.

J. V. KITCHENS, STATE  
FIRE MARSHALL OF THE  
STATE OF ALABAMA,

Appellee.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA.

IN EQUITY.

NO. 4638

MOTION TO SET CAUSE FOR HEARING

Comes Appellant, W. E. Hawie, and respectfully moves the  
Court to set this cause down for hearing.

*Filed*  
*Aug. 5, 1959*

VAN ANTWERP & RECTOR

*Van Antwerp & Rector*  
Solicitors for Appellant

*8/4/59 The foregoing motion set down  
for hearing on Tuesday August  
21st at 9:30 AM.  
1 Index in other  
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(Attorneys Notice)  
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ALICE J. DUCK, CLERK  
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W. E. HAWIE,	§	IN THE CIRCUIT COURT OF
Appellant,	§	BALDWIN COUNTY, ALABAMA.
-vs-	§	
J. V. KITCHENS, STATE	§	
FIRE MARSHALL OF THE	§	
STATE OF ALABAMA,	§	
Appellee.	§	

Comes appellant, W. E. Hawie and appeals from an order of appellee, J. V. Kitchens, State Fire Marshall of the State of Alabama, copy of which said order, which is dated July 1, 1959, and which was received by appellant on July 3, 1959, is attached hereto as appellant's Exhibit "A" and made a part hereof by reference the same as if set forth in extenso herein, and shows unto the court as follows:

1. That said order is not in compliance with Section 39 of Title 55 of Code of Alabama of 1940, in that the same constitutes not an order to remove from the building combustible or explosive matter, or inflammable conditions, dangerous to the safety of such building, nor an order to remedy any specified conditions pointed out as being such as to render such building especially liable to fire and which is so situated to endanger life or property, but is a peremptory and arbitrary order to close the premises to the uses for which it is adapted and maintained.

2. That the second floor area of the said building is vacant and unused and is barred to use by all persons and that the outside doors mentioned in said order as being nailed shut are doors located only on said second floor level and are so fastened or secured as to preclude possible entry by intruders from without.

3. That appellant was not consulted nor advised by said appellee or any of his authorized officers or agents in advance of the issuance of said order and was not notified or otherwise made aware that any conditions existed which were or might be deemed by said appellee to be within the scope of the said statute above referred to.

4. That said order is arbitrary and capricious and was carried out in such a manner and at such a time as to cause the closing of appellant's place of business on the eve of the Fourth of July holiday weekend and that such action