# CAPTION: CARLSON V. CITY OF CINCINNATI

**02-16-24**

APPEAL NO: C-230115

TRIAL NO: A-1703713

KEY WORDS: PROCEDURE/RULES – CIV.R. 60(B) – RIPENESS – SUMMARY JUDGMENT – REAL PROPERTY – MUNICIPAL –RECONSIDERATION

SUMMARY:

The trial court did not abuse its discretion in granting defendant’s Civ.R. 60(B) motion and reinstating the 2019 judgment against plaintiff without an express finding of excusable neglect because a trial court is not required to issue findings of fact and conclusions of law on a Civ.R. 60(B) motion where a party does not request them under Civ.R. 52.

The parties agree that the reinstated judgment should be corrected to credit a voluntary payment by plaintiff and remove nuisance-abatement costs barred by the applicable statute of limitations: These issues with the reinstated judgment are ripe for appellate review because there is a live judgment against plaintiff secured by liens against plaintiff’s real property.

The trial court erred in granting summary judgment for defendant on its counterclaim for unpaid Vacated Building Maintenance License (“VBML”) fees for one of plaintiff’s seven properties: Once defendant established that plaintiff owned the properties subject to the VBML program, the dates the properties were acquired, and that plaintiff had failed to apply for the VBMLs, the trial court was capable of determining the fees owed by applying the VBML fee-structure contained in the municipal code; however, defendant did not establish the date that plaintiff failed to apply for the VBML for one of his properties and thus the trial court could not calculate the fees owed on that property.

The trial court did not abuse its discretion in denying plaintiff’s motion for reconsideration when it considered the arguments of the parties and concluded that two of plaintiff’s properties constituted separate buildings subject to separate VBMLs.

JUDGMENT: AFFIRMED IN PART, REVERSED IN PART, AND CAUSE REMANDED

JUDGES: OPINION by WINKLER, J.; CROUSE, P.J., and BERGERON, J., CONCUR.