

January 22, 2015

Via email delivery

John Nelson
Norwood & Norwood, P.A.
628 Highway 412 West
Springdale, Arkansas 72762

RE: Ben Lipscomb

Dear John,

I am writing to you on behalf of the City of Rogers and in follow-up to our conversation on Tuesday afternoon regarding the bricks that are used to pave the streets in downtown Rogers. As we discussed, it has come to my attention that Mr. Lipscomb took a significant number of these bricks from the City and has used the bricks to construct flower beds at his residence on Dearhurst Road in Benton County.

Perhaps in some situations the taking of city surplus bricks for private use by an individual might not be a fight to undertake. This is not one of those cases. The brick streets in downtown Rogers were installed in 1924. The bricks now used for flower beds by Mr. Lipscomb in his yard are in fact used to replace the bricks that become damaged and unusable over time. The bricks are not replaceable and are a vital part of the historical designation for downtown Rogers.

The city has made several demands to Mr. Lipscomb to return the bricks, but so far those demands have been ignored. It is my understanding that Mr. Lipscomb has responded in the past that he is entitled to the bricks because an employee at the Rogers gave him permission to remove them. Regardless of whether this explanation is in fact true, no employee or official of the City of Rogers had the power of authority to give away these bricks. Mr. Lipscomb is the City Attorney for the City of Rogers and should know that Ark. Code. Ann § 14-54-302(a) and (c) set forth that such authority to “sell, convey, lease, rent, or let any real estate or personal property” must come from the Rogers City Council. See *Dotson v. City of Lowell*, 289 S.W. 3d 55 (2008). No such authority or sanction has been granted by the Rogers City Council.

Please be advised that all of the bricks must be returned to the City of Rogers by 3:00 p.m. on Friday January 30, 2015. Please let me know immediately whether Mr. Lipscomb will agree to return the bricks and the City of Rogers will deliver sufficient pallets to his residence on Dearhurst Road so that he can stack and load the bricks and then deliver all of the bricks and pallets to a mutually agreed location at the City of Rogers by the aforementioned deadline.

If Mr. Lipscomb declines to return the bricks, please be advised that I will file a complaint and petition for replevin. It is my understanding that certain citizens may soon seek to file a criminal complaint. I would prefer to resolve this matter without having to go through with the filing of a replevin action and criminal complaints. Since your firm represents Mr. Lipscomb, I trust that you will immediately forward this letter to his attention even though you may not end up representing him in this particular matter.

Please do not hesitate to contact me at any time to discuss this matter. As always, I do appreciate working with you.

Sincerely,



R. Justin Eichmann

