

IN THE CIRCUIT COURT OF THE COUNTY OF ST. CHARLES
STATE OF MISSOURI

JIM PEPPER,)
)
Plaintiff/Contestant,)

PAMELA J. FOGARTY,)
)
Plaintiff/Contestant,)

CITY OF O'FALLON, MISSOURI,) Cause No.
a municipal corporation,)
)
Plaintiff,) Division No.

CITY OF LAKE SAINT LOUIS,)
MISSOURI, a municipal corporation,)
)
Plaintiff,)

CITY OF ST. PETERS, MISSOURI,)
a municipal corporation,)
)
Plaintiff,)

v.)

ST. CHARLES COUNTY, MISSOURI,)
a county government and political)
subdivision of the State of Missouri,)

Serve: Hon. Steve Ehlmann)
St. Charles County Executive)
201 North Second Street)
St. Charles, Missouri 63301)

Defendant,)

and)

RICH CHRISMER, in his capacity as)
Director of Elections, St. Charles)
County Election Authority,)

)

Serve: Rich Chrismer)
 Director of Elections)
 St. Charles County Election)
 Authority)
 397 Turner Blvd.)
 St. Peters, MO 63376)
)
 Contestee.)

**VERIFIED PETITION FOR DECLARATORY JUDGMENT
AND INJUNCTIVE RELIEF AND ELECTION CHALLENGE**

Plaintiffs/Contestants, JIM PEPPER and PAMELA J. FOGARTY, and Plaintiffs, the City of O’Fallon, Missouri, the City of Lake Saint Louis, Missouri, and the City of St. Peters, Missouri, for their Verified Petition for Declaratory Judgment and Injunctive Relief against St. Charles County, Missouri, and for an Election Challenge against Rich Chrismer, Director of Elections, St. Charles County Election Authority, state as follows:

BACKGROUND FACTS

1. On May 12, 2014, the County Council of St. Charles County adopted Ordinance No. 14-044, proposing an amendment to the St. Charles County Charter to prohibit the use of certain traffic control systems throughout the County, including on city streets within the cities of the County.

2. The Charter amendment violates the Missouri Constitution and the Charter itself because, as further detailed below, no authority exists for the County to arrogate to itself the regulation of traffic on City streets, and the Missouri Constitution and General Assembly of the State specifically reserve that power to the Cities.

3. The Charter amendment invades the legislative jurisdiction of Cities in contravention of State policy, and conflicts with the authority specifically delegated to cities by the State to address their specific needs including traffic and enforcement of traffic regulations.

Parties

4. Plaintiff/Contestant JIM PEPPER (hereinafter “Pepper”) is, and at all times relevant herein was, a registered voter and a resident of the State of Missouri, St. Charles County, Missouri, and the City of O’Fallon, Missouri, and an individual that has paid and will continue to pay taxes to the State of Missouri, St. Charles County, Missouri, and the City of O’Fallon, Missouri.

5. Plaintiff/Contestant PAMELA J. FOGARTY (hereinafter “Fogarty”) is, and at all times relevant herein was, a registered voter and a resident of the State of Missouri, St. Charles County, Missouri, and the City of Dardenne Prairie, Missouri, and an individual that has paid and will continue to pay taxes to the State of Missouri, St. Charles County, Missouri, and the City of Dardenne Prairie, Missouri.

6. Plaintiff City of O’Fallon, Missouri (hereinafter the “City of O’Fallon”), is, and at all times relevant herein was, a Constitutional Charter City located within St. Charles County and the State of Missouri.

7. Plaintiff City of Lake Saint Louis, Missouri (hereinafter the “City of Lake Saint Louis”), is, and at all times relevant herein was, a political subdivision, and a city of the fourth class located in St. Charles County, Missouri.

8. Plaintiff City of St. Peters, Missouri (hereinafter the “City of St. Peters”), is, and at all times relevant herein was, a political subdivision, and a city of the fourth class located in St. Charles County, Missouri.

9. Defendant St. Charles County, Missouri (hereinafter “St. Charles County” or “Defendant”), is, and at all times relevant herein was, a political subdivision of the State of

Missouri, duly organized, established, and existing pursuant to the Charter and by virtue of the laws of the State of Missouri.

10. Contestee, Rich Chrismer (hereinafter the “Election Authority”), is, and at all times relevant herein was, the Director of Elections of the St. Charles County Election Authority and is named in his official capacity as the Director of Elections. The Election Authority was the election authority responsible for conducting the general election held in St. Charles County, Missouri, on November 4, 2014, pursuant to Chapter 115, RSMo. (2000).

The Charter Amendment

11. Pursuant to Article IX, §§ 9.100 and 9.102, of the St. Charles County Charter (“Charter”), St. Charles County may amend its Charter by adopting an ordinance submitting the proposed amendment to the voters at a regular or special election.

12. A true and correct copy of the Charter is attached hereto as **Exhibit 1** and incorporated herein by this reference.

13. Pursuant to the Charter, a proposed amendment to the Charter becomes law upon the majority vote of those voting on the proposition.

14. On May 12, 2014, the County Council of St. Charles County (the “County Council”) adopted Ordinance No. 14-044, a true and correct copy of which is attached hereto as **Exhibit 2** and incorporated herein by this reference (“Ordinance No. 14-044”).

15. Pursuant to Ordinance No. 14-044, the County Council submitted to the voters at the election on November 4, 2014, the following proposition:

PROPOSITION RED LIGHT CAMERA

Shall the St. Charles County Charter be amended to add a Section 10.130 reading:

“10.130. Automated Traffic Enforcement Systems. Notwithstanding any other provision of this St. Charles County Charter, red light cameras or similar photograph devices or automated traffic enforcement systems may not be used in enforcing traffic regulations adopted by St. Charles County or by any municipality within St. Charles County that prohibit drivers from entering intersections when controlled by red traffic lights, and no such municipality may exercise the legislative power to use such cameras or devices or systems”?

(hereinafter the “Proposition”). See Exhibit 2.

16. On November 18, 2014, the Election Authority certified the results of the election held on November 4, 2014, such certified election results showing that the registered voters of St. Charles County voted and approved the Proposition by a vote of 69,469 (72.6%) for and 26,221 (27.4%) against. A certified copy of the general election results from the November 4, 2014 election is attached hereto as **Exhibit 3** and incorporated herein by this reference.

17. The passage of the Proposition by the registered voters qualified to vote thereon results in the amendment of the Charter by the addition of a new Section 10.130, which provides as follows:

10.130. Automated Traffic Enforcement Systems. Notwithstanding any other provision of this St. Charles County Charter, red light cameras or similar photograph devices or automated traffic enforcement systems may not be used in enforcing traffic regulations adopted by St. Charles County or by any municipality within St. Charles County that prohibit drivers from entering intersections when controlled by red traffic lights, and no such municipality may exercise the legislative power to use such cameras or devices or systems.

(the “Charter Amendment”). See Exhibit 2.

The Standing Of The Parties

18. Pepper has standing because he is a resident, taxpayer, and registered voter of the City of O’Fallon and St. Charles County and has a legally protectable interest at stake, in that, the Charter Amendment results in a direct expenditure of funds generated through taxation and results in a loss of revenue in that the Charter Amendment contemplates an increased

expenditure of funds generated through taxation and/or a pecuniary loss to the County for policing, execution and enforcement of the Charter Amendment.

19. Fogarty has standing because she is a resident, taxpayer, and registered voter of the City of Dardenne Prairie and St. Charles County and has a legally protectable interest at stake, in that, the Charter Amendment results in a direct expenditure of funds generated through taxation and results in a loss of revenue in that the Charter Amendment contemplates an increased expenditure of funds generated through taxation and/or a pecuniary loss to the County for policing, execution and enforcement of the Charter Amendment.

20. The Charter of the City of O’Fallon, consistent with Missouri law, provides that it “shall have all powers which the General Assembly of the State of Missouri has authority to confer upon any City” (Charter of the City of O’Fallon, § 2.1), and, pursuant to § 82.190, RSMo. (2000), the General Assembly conferred upon a charter city “*exclusive control over its public highways, streets, avenues, alleys and public places*, and shall have exclusive power, by ordinance, to vacate or abandon any public highway, street, avenue, alley or public place, or part thereof, any law of this state to the contrary notwithstanding.” § 82.190, RSMo. (2000) (emphasis supplied).

21. The City of O’Fallon has an actual, justiciable interest in policing its streets, including signalized intersections, in the exclusive exercise of its governmental functions including the regulation of traffic within its corporate boundaries which is vested exclusively in the City of O’Fallon, including means and manner of enforcement of traffic regulations. Such powers are directly and adversely affected by the Charter Amendment which directly interferes with the exclusive authority of the City of O’Fallon over its governmental functions under the jurisdiction and control of the City of O’Fallon.

22. Section 88.670.3, RSMo. (2000), provides, in pertinent part, that “Cities of the fourth class *shall have and exercise exclusive control over all streets, alleys, avenues and public highways within the limits of such city.*” § 88.670.3, RSMo. (2000) (emphasis added).

23. The City of Lake Saint Louis has an actual, justiciable interest in policing its streets, including signalized intersections, in the exclusive exercise of its governmental functions including the regulation of traffic within its corporate boundaries which is vested exclusively in the City of Lake Saint Louis as a fourth class city, including means and manner of enforcement of traffic regulations. Such powers are directly and adversely affected by the Charter Amendment which directly interferes with the exclusive authority of the City of Lake Saint Louis over its governmental functions under the jurisdiction and control of the City of Lake Saint Louis.

24. The City of St. Peters has an actual, justiciable interest in policing its streets, including signalized intersections, in the exclusive exercise of its governmental functions including the regulation of traffic within its corporate boundaries which is vested exclusively in the City of St. Peters as a fourth class city, including means and manner of enforcement of traffic regulations. Such powers are directly and adversely affected by the Charter Amendment which directly interferes with the exclusive authority of the City of St. Peters over its governmental functions under the jurisdiction and control of the City of St. Peters.

25. The Ordinances of the City of St. Peters currently regulate traffic on streets within the boundaries of the City of St. Peters through, in part, its “Camera Ordinance,” § 335.095 of the City Code, which provides, in relevant part:

A person commits an offense under this Section when such person fails to comply with the City Traffic Code and the violation is detected through the automated red light enforcement system, as herein provided. A conviction for a violation of the

City Traffic Code detected through the automated red light enforcement system shall be deemed an infraction, and, upon a conviction thereof, shall be punishable by a fine no greater than two hundred (\$200.00) dollars.

A true and correct copy of the Camera Ordinance is attached hereto as **Exhibit 4** and incorporated herein by this reference.

26. In addition to the Camera Ordinance, the Ordinances of the City of St. Peters include other, related provisions, relating to the use of “automated red light enforcement systems.”

27. The City of St. Peters will lose revenue resulting from the operation of the Charter Amendment in that it will incur additional costs in policing its streets and in traffic control and in actions necessary to comply with the Charter Amendment.

28. The Camera Ordinance and the systems in place related to the enforcement of the Camera Ordinance have significantly reduced traffic violations, incidents and congestion on the City’s streets.

COUNT I
DECLARATORY JUDGMENT

Plaintiffs, for Count I, Declaratory Judgment, state:

29. Plaintiffs incorporate paragraphs 1 through 28 as though fully set forth herein.

30. This is a Declaratory Judgment action brought pursuant to Rule 87, Mo.R.Civ.P., for a declaration of rights, status and legal relations of Plaintiffs under the Charter Amendment, the Missouri Constitution and Missouri Statutes, and to terminate a controversy and/or remove an uncertainty concerning the validity of the Charter Amendment.

Article VI, § 18(a) of the Missouri Constitution

31. Article VI, § 18(a) of the Missouri Constitution provides that “any county having more than 85,000 inhabitants ... may frame and adopt and amend a charter *for its own government* ... and upon such adoption shall be a body corporate and politic.” MO. CONST. art. VI, § 18(a) (emphasis added).

32. The provisions of a charter are expressly limited under § 18(a) of the Missouri Constitution the County’s “*own*” government.

33. The Charter Amendment is void, invalid and/or unconstitutional because it exceeds the authorization for constitutional charter counties in that the Missouri Constitution limits the authority of constitutional charter counties to their own government under Article VI, § 18(a), MO. CONST., and the Charter Amendment purports to govern municipalities, streets and traffic within municipalities.

Article VI, § 18(b) of the Missouri Constitution
Article VI, § 15 of the Missouri Constitution

34. Article VI, § 15 of the Missouri Constitution provides that the General Assembly shall

provide by general laws for the organization and classification of cities and towns ... and the powers of each class shall be defined by general laws so that all such municipal corporations of the same class shall possess the same powers and be subject to the same restrictions.

MO. CONST. art. VI, § 15 (emphasis added).

35. Article VI, § 18(b) of the Missouri Constitution provides that the Charter of a Charter county shall provide for “the exercise of all powers and duties of counties and county officers prescribed by the constitution and laws of the state.” MO. CONST. art. VI, § 18(b).

36. A Charter under Article VI, § 18(b), however, may not invade the province of general legislation involving the public policy of the state as a whole. *Missouri Bankers Association, Inc. v. St. Louis County*, ___ S.W.3d ___, 2014 WL 5857984, *4 (Mo., November 14, 2014).

37. The Charter Amendment is void, invalid and/or unconstitutional because it conflicts with Article VI, § 15 of the Missouri Constitution, in that, Article VI, § 15 vests in the State of Missouri (“State”) the exclusive authority to define the powers of municipalities within the State, and the Charter Amendment purports to define powers of municipalities within St. Charles County.

38. The State, by general legislation involving its public policy, delegates directly to municipalities, the regulation of traffic and streets within municipalities.

39. The State grants the specific and exclusive authority to cities of the fourth class, including the City of Lake Saint Louis and the City of St. Peters, the “***exclusive control over all streets, alleys, avenues and public highways within the limits of such city.***” § 88.670.3, RSMo. (2000) (emphasis added).

40. The State grants the specific and exclusive authority to cities of the fourth class, including the City of Lake Saint Louis and the City of St. Peters, to “(1) make additional rules of the road and traffic regulations to meet their needs and traffic conditions; ... [and] (3) require vehicles to stop before crossing certain designated streets and boulevards;” § 304.120, RSMo. (2000).

41. The State grants the specific and exclusive authority to constitutional charter cities, including the City of O’Fallon, the “***exclusive control over its public highways, streets, avenues, alleys and public places***, and shall have exclusive power, by ordinance, to vacate or

abandon any public highway, street, avenue, alley or public place, or part thereof, any law of this state to the contrary notwithstanding.” § 82.190, RSMo. (2000) (emphasis supplied).

42. The Charter Amendment is void, invalid and/or unconstitutional because it purports to exercise power and authority over rules of the road and the regulation of traffic on streets within the cities located within the County, including specifically interfering with the exclusive authority of the City of O’Fallon, the City of Lake Saint Louis and the City of St. Peters over the regulation of traffic on their respective streets, and no authority exists for the County to exercise such power and authority and such powers and authority rests in the State and has been delegated to municipalities for streets within their boundaries.

Article VI, § 18(c) of the Missouri Constitution

43. Article VI, Section 18(c) of the Missouri Constitution provides that a county charter may

*provide for the vesting and exercise of legislative power **pertaining to any and all services and functions** of any municipality or political subdivision, except school districts, throughout the entire county within as well as outside incorporated municipalities; **any such charter provision shall set forth the limits within which the municipalities may exercise the same power collaterally and coextensively. When such a proposition is submitted to the voters of the county the ballot shall contain a clear definition of the power, function or service to be performed and the method by which it will be financed.***

MO. CONST. art. VI, § 18(c) (emphasis added).

44. The Charter Amendment is void, invalid and/or unconstitutional because it does not comply with Article VI, § 18(c), MO. CONST., in that it fails to set forth the limits within which the municipalities may exercise the same powers collaterally and coextensively as required under Article VI, § 18(c).

45. The Charter Amendment is void, invalid and/or unconstitutional because it does not comply with Article VI, § 18(c), MO. CONST., in that it fails to contain a clear definition of the power, function or service to be performed as required under Article VI, § 18(c).

46. The Charter Amendment is void, invalid and/or unconstitutional because it does not comply with Article VI, § 18(c), MO. CONST., in that it fails to contain the method by which it will be financed as required under Article VI, § 18(c).

47. The Charter Amendment is void and/or unconstitutional because Article VI, § 18(c), MO. CONST., does not authorize a charter County to usurp a municipality's authority delegated by the State to control the streets within the boundaries of a municipality.

48. The regulation of traffic is a governmental function delegated to municipalities by the State.

49. A municipality's use of red light cameras is a governmental function pursuant to State law.

50. Traffic on and over streets within the corporate boundaries of a municipality is within the jurisdiction and/or control of the City of O'Fallon, the City of Lake Saint Louis, and the City of St. Peters.

51. The Charter Amendment is void, invalid and/or unconstitutional because it exceeds the authority of Article VI, § 18(c), MO. CONST., because Article VI, § 18(c) does not authorize the vesting and exercise of legislative power pertaining to governmental functions pursuant to State law.

52. The Charter Amendment is void, invalid and/or unconstitutional because it fails to comply with Article VI, § 18(c), MO. CONST., in that it does not provide for the vesting and

exercise of legislative power but instead purports to be self-effectuating and Article VI, § 18(c) does not authorize self-effectuating powers and/or provisions of a charter.

53. The Charter Amendment is void, invalid and/or unconstitutional because it invades the province of the State's power to legislate in areas of general legislation involving the public policy of the State, specifically, the public policy of the State that municipal traffic and street regulation be vested exclusively in municipalities in which those streets run.

54. As used in Article IV, § 18(c),

The word 'service' is defined as 'an act done for the benefit of another... 'function' is all of the activity appropriate to the nature of political subdivisions or municipalities which combine to produce services, those specific acts performed by political subdivisions or municipalities for the benefit of the general public.

Chesterfield Fire Protection Dist. of St. Louis County v. St. Louis County, 645 S.W.2d 367, 371 (Mo. banc 1983).

55. The Charter Amendment does not provide for the vesting and exercise of legislative power pertaining to any "service" or "function" within the meaning of Article VI, § 18(c), MO. CONST., and therefore is void, invalid and/or unconstitutional.

56. The Charter Amendment is not "an act done for the benefit of another" within the meaning of Article VI, § 18(c), MO. CONST., and therefore is void, invalid and/or unconstitutional.

57. The Charter Amendment is prohibitory.

58. Article VI, § 18 (c), MO. CONST., does not authorize the County, through the Charter Amendment, to **prohibit** a "service" or a "function," and therefore, the Charter Amendment is void, invalid and/or unconstitutional.

Article VI, § 19(a) of the Missouri Constitution

59. Article VI, Section 19(a) of the Missouri Constitution provides in pertinent part:

Any city which adopts or has adopted a charter for its own government, *shall have all powers which the general assembly of the state of Missouri has authority to confer upon any city*, provided such powers are consistent with the constitution of this state and are not limited or denied either by the charter so adopted or by statute. *Such a city shall, in addition to its home rule powers, have all powers conferred by law.*

Mo. CONST. art. VI, § 19(a) (emphasis added).

60. Traffic on and over streets within the corporate boundaries of a constitutional charter city is within the jurisdiction and/or control of that constitutional charter city pursuant to § 82.190, RSMo. (2000), which provides a constitutional charter city shall have “*exclusive control over its public highways, streets, avenues, alleys and public places*, and shall have exclusive power, by ordinance, to vacate or abandon any public highway, street, avenue, alley or public place, or part thereof, any law of this state to the contrary notwithstanding.” § 82.190, RSMo. (2000) (emphasis supplied).

61. The Charter Amendment is void and/or unconstitutional because Article VI, § 19(a), MO. CONST., does not authorize a charter county to usurp a charter city’s authority delegated by the State to control the streets within the boundaries of a charter city.

62. The Charter Amendment is void, invalid and/or unconstitutional because it conflicts with Article VI, §19(a), MO. CONST., in that, the only limitations of a constitutional charter city are whatever limitations imposed upon its power by the Constitution, by statute, or by the charter itself.

Article VI, § 22 of the Missouri Constitution

63. Article VI, § 22, MO. CONST., provides, in pertinent part: “No law shall be enacted creating or fixing the powers, duties or compensation of any municipal office or employment, for any city framing or adopting its own charter.” MO. CONST. art. IV, § 22.

64. The Charter Amendment is void and/or unconstitutional because it purports to fix the powers of the offices of the City of O’Fallon, a constitutional charter city, in contravention of Article VI, § 22.

Article II, § 1 of the Missouri Constitution

65. The constitutional separation of powers requirement found in Article II, § 1 of the Missouri Constitution provides:

The powers of government shall be divided into three distinct departments—the legislative, executive and judicial—each of which shall be confided to a separate magistracy, and no person, or collection of persons, charged with the exercise of powers properly belonging to one of these departments, shall exercise any power properly belonging to either of the others, except in instances in this constitution expressly directed or permitted.

MO. CONST., art. II, § 1.

66. The quintessential power of the judiciary is the power to make final determinations of questions of law.

67. This power is a non-delegable power resting exclusively with the judiciary.

68. The Charter Amendment provides that “red light cameras or similar photograph devices or automated traffic enforcement systems *may not be used in enforcing traffic regulations*.” **Exhibit 2** (Charter Amendment).

69. The Charter Amendment is void, invalid and/or unconstitutional because it purports to invalidate a category of evidence otherwise admissible in cases of prosecution for

traffic violations, and therefore violates the separation of powers under Article II, § 1, MO. CONST., invading the province of the judiciary to determine whether the use of automated traffic enforcement systems may be used in enforcing traffic regulations.

The Charter of St. Charles County

70. Section 1.601 of the Charter provides that “[n]othing herein contained shall be construed so as to give the County of St. Charles *any rights or powers over or pertaining to ... Cities, Towns, or Villages that are not granted by law to First Class County Charters.*” Section 1.601, County Charter (emphasis added).

71. The Charter Amendment is void, invalid and/or unconstitutional because it violates Section 1.601 of the Charter which prohibits any provision granting rights, powers or duties to the County over or pertaining to cities, towns or villages not otherwise granted to first class charter counties.

72. Section 2.500 of the Charter provides that the “County Council shall have the power, pursuant to and in conformity with applicable law, and without limiting the generality of the powers vested in the County by this Charter,” to

2.514. within the incorporated areas of the County ... regulate those ... activities, or things with the consent of the Governing Body of the affected City, Town or Village. Nothing in this Charter shall preempt the power of any local government to ... regulate in accordance with the Constitution and the applicable law;

§§ 2.500, 2.514, Charter.

73. The Charter Amendment is void, invalid and/or unconstitutional in that it exceeds the authority of the County and its Charter in conflict with Section 2.514 of the Charter in that it purports to regulate an activity, specifically, traffic, regulated by municipalities within the County without the consent of the governing body of the affected municipalities.

74. The Charter Amendment is void, invalid and/or unconstitutional in that it is in direct conflict with Section 2.514 of the Charter because it preempts the “power of any local government to ... regulate in accordance with the Constitution and the applicable law” traffic, policing and streets of municipalities.

75. Section 2.500 of the Charter provides that the “County Council shall have the power, pursuant to and in conformity with applicable law, and without limiting the generality of the powers vested in the County by this Charter,” to

2.529. [e]xercise legislative power pertaining to public health and welfare, Police and traffic ... in the part of the County outside incorporated Cities, Towns and Villages

§§ 2.500, 2.514, Charter.

76. The Charter Amendment is void, invalid and/or unconstitutional in that it is in direct conflict with Section 2.529 of the Charter which only authorizes the County to “[e]xercise legislative power pertaining to public health and welfare, Police and traffic ... in the part of the County outside incorporated Cities, Towns and Villages” because the Charter Amendment purports to authorize the County to exercise legislative power pertaining to police and traffic in the part of the County inside the boundaries of incorporated municipalities.

77. Section 10.501 of the Charter provides

In order to eliminate duplication of services and to provide for an equitable distribution of costs to all County residents, all departments, officers, boards and commissions provided for in this Charter, or later created, shall cooperate and coordinate their respective activities with the cities, towns, and villages and special purpose districts of the County. ***Any new service or activity provided for or available to all unincorporated County residents, shall be provided to or made available for all municipal residents provided such new service or activity is requested by resolution of the city, town, or village.***

§ 10.501, Charter (emphasis added).

78. The Charter Amendment is void, invalid and/or unconstitutional in that it is in direct conflict with Section 10.501 of the Charter which requires a request by resolution of a city within the County for provision of any new service or activity and no city, town or village within the County has requested provision of the service or activity provided for in the Charter Amendment.

79. The City of O’Fallon, City of Lake Saint Louis and City of St. Peters have not requested by resolution the service or activity created by the Charter Amendment.

80. Plaintiffs have no adequate remedy at law.

WHEREFORE, Plaintiffs, Jim Pepper, Pamela J. Fogarty, City of O’Fallon, Missouri, City of Lake Saint Louis, Missouri, and City of St. Peters, Missouri, respectfully request this Court to enter its judgment declaring that Article X, Section 10.130 of the County Charter is unconstitutional and void, to award Plaintiffs their costs incurred herein, including reasonable attorney’s fees, and to grant such other and further relief as is just and proper.

COUNT II
VIOLATION OF ARTICLE I, §13
OF THE MISSOURI CONSTITUTION

Plaintiff, City of St. Peters, for Count II, states:

81. Plaintiffs incorporate paragraphs 1 through 80 as though fully set forth herein.

82. Article I, § 13 of the Missouri Constitution provides in relevant part: “[N]o ... law *impairing the obligation of contracts* ... can be enacted.”

MO. CONST. art. I, § 13 (emphasis added).

83. In order to operate the Camera Ordinance systems, the City of St. Peters entered into and executed a valid and enforceable agreement with the third-party (the “Contract”).

84. The Contract has been in full force and effect since July 5, 2006.

85. The Charter Amendment is void, invalid and/or unconstitutional because it violates Article I, § 13, MO. CONST., in that it operates as a substantial impairment on the City of St. Peters' contractual relationship with the third-party under the Contract.

86. The Charter Amendment is void, invalid and/or unconstitutional because it is in violation of Article I, § 13, MO. CONST., in that the City of St. Peters' reasonable expectations under the Contract have been disrupted as a result of the Charter Amendment.

87. The Charter Amendment is void, invalid and/or unconstitutional because it is in violation of Article I, § 13, MO. CONST., in that the Charter Amendment is not appropriate for, and necessary to, the accomplishment of a legitimate public purpose.

WHEREFORE, Plaintiff, City of St. Peters, Missouri, respectfully request this Court to enter its judgment declaring that Article X, Section 10.130 of the County Charter is unconstitutional and void, to award Plaintiff its costs incurred herein, including reasonable attorney's fees, and to grant such other and further relief as is just and proper.

COUNT III
INJUNCTIVE RELIEF

Plaintiffs, for Count III, Injunctive Relief against Defendant, state:

88. Plaintiffs re-allege and incorporate paragraphs 1 through 87 as though fully set forth herein.

89. The Charter Amendment causes immediate and irreparable injury to Plaintiffs rendering municipal ordinances void, interrupting enforcement of municipal ordinances and increasing expenditures to the County.

90. The Charter Amendment causes immediate and irreparable injury to the City of St. Peters in that it operates as a substantial impairment on a contract of the City of St. Peters,

effectively rendering the Contract a nullity, and causing expenditure of additional funds to supplant policing and traffic regulation through other enforcement tools and causing lost revenue to the City of St. Peters to recover costs of enforcement of traffic regulations.

91. Plaintiffs have no adequate remedy at law for the injuries that Plaintiffs will suffer as a result of the Charter Amendment such that monetary compensation would not adequately compensate Plaintiffs' damages and that calculation of such damages suffered by Plaintiffs would be difficult to ascertain.

92. No adequate remedy at law exists to reverse the unconstitutional and void Charter Amendment.

93. Plaintiffs request this Court enter its temporary restraining order and preliminary injunction to prevent immediate and irreparable injury to Plaintiffs and to hold in abeyance all enforcement of the Charter Amendment until such time as this Court may rule upon the challenges herein to the constitutionality of the Charter Amendment.

WHEREFORE, Plaintiffs, Jim Pepper, Pamela J. Fogarty, City of O'Fallon, Missouri, City of Lake Saint Louis, Missouri, and City of St. Peters, Missouri, request this Court, upon notice and hearing, to enter its temporary restraining order and preliminary injunction precluding enforcement and effectiveness of the Charter Amendment throughout the County of St. Charles preserving the *status quo ante*, and, upon trial, to enter its judgment granting permanent injunctive relief against Defendant, St. Charles County, to prevent and prohibit Defendant, and its agents, employees, servants and all other persons acting in concert with or for Defendant from implementing and enforcing Article X, Section 10.130 of the County Charter, to award Plaintiffs their costs and expenses incurred herein, including reasonable attorney's fees, and to grant such other and further relief as is proper.

COUNT IV
ELECTION CONTEST

Plaintiffs, Jim Pepper and Pam Fogarty, for Count IV, Election Contest, state:

94. Plaintiffs re-allege and incorporate paragraphs 1 through 80 and 89 through 93 as though fully set forth herein.

95. This Court has jurisdiction to consider this Petition pursuant to § 115.577 RSMo. (2000).

96. Venue is proper in this Court pursuant to § 115.575 RSMo. (2000).

97. The Proposition is titled “PROPOSITION RED LIGHT CAMERA”. **Exhibit 2.**

98. The title of the Proposition is impermissibly biased, slanted, tainted, misleading, and confusing to the average voter.

99. The title of the Proposition is not a fair, impartial, accurate, and neutral summary.

100. The Proposition failed to set forth the limits within which the municipalities may exercise the same power collaterally and coextensively as is required under Article VI, § 18(c) of the Missouri Constitution.

101. Rather, the language of the Proposition completely prohibits any and all “red light cameras or similar photograph devices or automated traffic enforcement systems ... [from] be[ing] used by any municipality within St. Charles County that prohibit drivers from entering intersections when controlled by red traffic lights, and no such municipality ay exercise the legislative power to use such cameras or devices or systems.” **Exhibit 2.**

102. The Proposition failed to contain a clear definition of the power, function or service to be performed by the County and the method by which such prohibition would be financed as required by Article VI, § 18(c) of the Missouri Constitution.

103. The Proposition amends, by implication, Sections 2.500, 2.514, 2.529 and 10.501 of the Charter.

104. The Proposition fails to identify those other provisions of the Charter amended by implication.

105. The Proposition is vague, indefinite, inaccurate, uncertain and misleading.

WHEREFORE, Plaintiffs, Jim Pepper, Pamela J. Fogarty, request this Court to enter its judgment declaring null and void the election held on November 4, 2014, seeking to amend the County Charter to add Article X, Section 10.130, awarding Plaintiffs their costs incurred herein, including reasonable attorney's fees, and granting such other and further relief as is just and proper.

Respectfully submitted,

HAZELWOOD & WEBER LLC

By/s/ Matthew J. Fairless

V. Scott Williams, #36177

Matthew J. Fairless, #39052

John A. Young, #55109

200 N. Third Street

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Pamela J. Fogarty

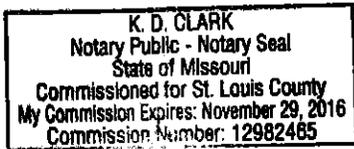
STATE OF MISSOURI)
) SS.
COUNTY OF ST. CHARLES)

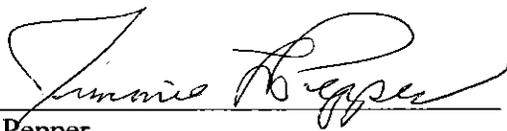
On this 16th day of December, 2014, before me, a notary public in and for the State of Missouri, personally appeared PAMELA J. FOGARTY, known to me to be the person who executed the foregoing Verified Petition for Declaratory Judgment and Injunctive Relief and stated that the facts stated in the foregoing Count I and II of the Verified Petition for Declaratory Judgment and Injunctive Relief are true based on her best information, knowledge and belief.

K.D. Clark

Notary Public

My Commission Expires:

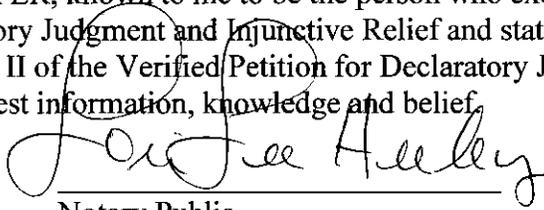




Jim Pepper

STATE OF MISSOURI)
) SS.
COUNTY OF ST. CHARLES)

On this 16 day of December, 2014, before me, a notary public in and for the State of Missouri, personally appeared JIM PEPPER, known to me to be the person who executed the foregoing Verified Petition for Declaratory Judgment and Injunctive Relief and stated that the facts stated in the foregoing Count I and II of the Verified Petition for Declaratory Judgment and Injunctive Relief are true based on his best information, knowledge and belief.



Notary Public

My Commission Expires:



LORI LEE HEELEY
My Commission Expires
July 22, 2018
St. Charles County
Commission #14886584