

IN THE CIRCUIT COURT OF ST. LOUIS COUNTY, MISSOURI  
TWENTY-FIRST JUDICIAL CIRCUIT

CITY OF FRONTENAC, MISSOURI,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Cause No. _____
	)	
ST. LOUIS COUNTY LIBRARY	)	
DISTRICT,	)	Division No. _____
	)	
<u>Hold for Service</u>	)	
	)	
Defendant.	)	

**PETITION FOR DECLARATORY JUDGMENT, AND**  
**PRELIMINARY AND PERMANENT INJUNCTION**

COMES NOW Plaintiff, City of Frontenac, Missouri (hereinafter referred to as “Frontenac”), and for its Petition states:

**Introduction**

Citizens of cities, such as Frontenac, are authorized under Chapter 89 RSMo to adopt long range plans for the growth and development of their community through the Comprehensive Plan process. In this case, a limited purpose public entity, the St. Louis County Library District (“District”) (governed by a non-elected Board of five members, four of whose terms of office have expired) has chosen to ignore the legitimate planning authority and responsibility of the Frontenac community and proceed with constructing an entirely inappropriate facility, that not only poses substantial safety concerns for the public, but also undermines the City’s lawfully adopted Comprehensive Plan.

Frontenac brings the present case in order to curb the *ultra vires* and inappropriate conduct of the District, which seemingly believes it can act with unfettered power and without any limitation or oversight.

### **Parties**

1. Frontenac is a fourth class city located in St. Louis County, and is a political subdivision of the State of Missouri under the provisions of Chapter 79 RSMo.

2. District is a library district coterminous with St. Louis County, and is a political subdivision of the State of Missouri under the provisions of Chapter 182 RSMo.

### **Jurisdiction and Venue**

3. This Court has jurisdiction to hear this matter under Section 527.020 RSMo, which provides that “[a]ny person<sup>1</sup> interested under a deed, will, written contract or other writings constituting a contract, or whose rights, status or other legal relations are affected by a statute, municipal ordinance, contract or franchise, may have determined any question of construction or validity arising under the instrument, statute, ordinance, contract, or franchise and obtain a declaration of rights, status or other legal relations thereunder.”

4. Venue is proper in St. Louis County as both parties are political subdivisions located within the 21<sup>st</sup> Judicial Circuit and all the facts and circumstances underlying the claims set forth herein occurred within St. Louis County.

### **Allegations Common to All Counts**

5. In recent years, the District has embarked on a capital improvement program it has called “Your Library Renewed.”

6. The District adopted a master plan in 2012 addressing the possible capital improvements.

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<sup>1</sup> Pursuant to Section 527.130 RSMo, Frontenac is a “person” within the meaning of Section 527.020 RSMo.

7. Under the Your Library Renewed program, the District has renovated existing branches or constructed entirely new branches.

8. In pursuing the Your Library Renewed program, the District has recognized the authority of other cities and St. Louis County by going through the land use approval procedure and authority of those local governments and adhering to those jurisdictions required standards and restrictions.

9. As part of the Your Library Renewed program, the District planned to construct a standalone genealogy building in Chesterfield on property that had been donated to the District. After accepting the donation, the District allowed it to lapse by not fulfilling the terms of the gift.

10. Presently, and for many years, 5,500 square feet of the District's existing headquarters located at 1640 S. Lindbergh Blvd, in the City of Ladue, houses the District's "History and Genealogy" center.

11. The District's existing headquarters are located in a commercial area, on a 7.76 acre site, with 395 parking spots. The headquarters consists of 42,660 square feet of library space, 40,740 square feet of self-support book stack and 37,600 square feet for operations, for a total square footage of 121,000 square feet. The District's master plan indicates that the 395 total parking spaces are a "major concern," in that they are inadequate.

12. In the latter part of 2018, the District began secretly trying to acquire property in the City of Frontenac, requiring the sellers of property to sign nondisclosure agreements.

13. Ultimately, the District bought a total of 5.92 acres for \$6.1 million. The property acquired is referred to herein as the "Subject Property."

14. The Subject Property is boarded by South Spoede Road to the West, Clayton Road to the South, Highway 40 to the North, and a residential (villa style homes) subdivision to the East which is currently being developed.

15. The Subject Property is zoned R-3 – Villa-Residence by Frontenac, which is a residential zoning district.

16. The City of Frontenac’s Comprehensive Plan provides for residential use for the Subject Property.

17. In approving the acquisition of the Subject Property, the District’s Board did not obtain an appraisal for the Subject Property, despite an appraisal being required by the District’s written policies.

18. The purchase of the Subject Property was at approximately twice the price per acre paid for the neighboring property which is currently being developed as villa style residential homes.

19. On December 18, 2018, the District issued a press release announcing the acquisition of the Subject Property. The press release, a copy of which is attached hereto as Exhibit 1, and incorporated herein by reference, announces that the Subject Property will hold two buildings: (1) a 15,000 square foot History & Genealogy Center; and (2) an 80,000 square foot Administrative Building, which would “support all materials processing, bookmobiles, programming development, information technology, marketing, and administration for [the District’s] 20-branch system. It will house a work force of approximately 180 individuals.”

20. The District asserts that it is not subject to Frontenac’s zoning regulations and, therefore, need not seek any form of zoning approval.

21. Contrary to its assertions in the present case, the District sought the requisite zoning approvals, including special use permits, from other municipalities, including St. Louis County, when renovating and constructing other library facilities. In fact, the District's 2012 master plan expressly states building on the headquarters site "would require getting local community approval."

22. The District has chosen not to recognize the legitimate local authority of Frontenac, as it did with other communities, nor has the District chosen to afford the same cooperation and accommodation to Frontenac that it afforded those other communities.

23. Instead, the District has submitted plans to Frontenac to construct an 81,574 square foot "Admin and Genealogy Building" on the Subject Property (the "Plan"). The Plan includes 240 parking spaces, plus 14 spaces for vans/trucks and six 16-foot by 56-foot spaces for bookmobiles.

24. The Plan will cause the clear cutting and removal of virtually all, if not all, of the trees on the Subject Property. The Plan will dramatically increase the non-porous surface area for the Subject Property, exacerbating existing stormwater problems in the area.

25. On May 28, 2019, the Plan was submitted to the Frontenac Planning and Zoning Commission ("P&Z") for review under Section 89.380 RSMo.

26. Section 89.380 RSMo allows a city, with a comprehensive plan, to review the "location, extent and character" of any proposed public facility, and then to either vote to approve or disapprove a proposal.

27. On May 28, 2019, the P&Z was presented with two differing traffic studies making differing recommendations as to how best to mitigate traffic impacts. The P&Z

continued its review of the Plan to June 25, 2019, to allow Frontenac to obtain a review of the two traffic studies.

28. At the meeting of May 28, 2019, a significant number of residents spoke in opposition to the Plan, citing significant concerns about the location, extent and character of the Plan. Significant public safety concerns were also raised.

29. At the meeting on June 25, 2019, the P&Z again considered the Plan and heard many more concerns expressed by Frontenac residents.

30. After considering the information presented by the District, and hearing the concerns raised by the community, the P&Z voted unanimously to disapprove the Plan. In reaching this decision, the P&Z found:

- a) The Plan is inconsistent with the residential character of the area;
- b) The scale and extent of the proposed building is too large and too close to the intersection of two roads;
- c) The life safety impact that would result from the traffic associated with the proposed use;
- d) The design of the building is inconsistent with the look and character of the area;
- e) The proposed use is inconsistent with, and contrary to, the City of Frontenac's Comprehensive Plan;
- f) The location of an office use in a residential zoning area is inconsistent with the area's character;
- g) The location of the proposed administrative facility in a residential area is inconsistent with the character of the area;

- h) The location and extent of the proposed use would result in significant traffic and access problems to and around the proposed location; and
- i) The proposed location, and extent of the proposed facility, is inconsistent with the comprehensive plan and the character of the residential use of the area, such that the proposal would not be an appropriate use of the property.

31. Representatives from the District, including its Director, were present at the P&Z meeting when the P&Z voted to disapprove the Plan and expressed the reasons for its disapproval.

32. Less than 48 hours after the P&Z voted to disapprove the Plan, on June 27, 2019, at 4pm, the District's Board convened a special meeting to overturn the P&Z's disapproval.

33. The District's Board considered none of the concerns raised by the P&Z, made no statements addressing the concerns and made no findings prior to voting 5-0 to overturn the disapproval of the Plan.

34. The Board President, has publicly stated that Frontenac "declined to approve the project, and so we took advantage of the statutes that the state provides for us," and "I understand the angst of some of the residents of Frontenac, but at the same time we have a fiduciary responsibility to the library district . . . . We bought those properties in good faith and we need to move forward with this." See [https://www.stltoday.com/news/local/metro/new-million-library-building-coming-to-frontenac-despite-some-residents/article\\_871b2c9e-b5c5-5c64-af45-478c69dd2f57.html](https://www.stltoday.com/news/local/metro/new-million-library-building-coming-to-frontenac-despite-some-residents/article_871b2c9e-b5c5-5c64-af45-478c69dd2f57.html)

35. The decision of the District to overturn the decision of the P&Z was motivated more by its prior expenditure of money, and not whether the proposed use is an appropriate use of the Subject Property.

36. Under Section 182.070 RSMo the District is authorized to “purchase or lease grounds, purchase, lease, occupy or erect an appropriate building for the use of the county library and branches thereof . . . .”

37. The Plan is not an appropriate use of the Subject Property for a multitude of reasons:

- a) The acquisition of land without an appraisal and at double market rates for administrative offices is inappropriate;
- b) The construction of an almost 82,000 square foot facility to house a 15,000 square foot genealogical center and 180 employees is inappropriate, and of a scale that is completely unwarranted, and far exceeds the space actually required by the District. For context, the Plan would be more than twice the size of Frontenac’s City Hall;
- c) The use of residentially zoned property for office and storage uses is inappropriate;
- d) The storage of large vehicles and operating a distribution center from residential property is inappropriate;
- e) The clear cutting of existing trees and foliage in a residential area to be replaced with a building with a 45,203 square foot footprint and 116,130 square feet of paved service is an inappropriate use of the Subject Property;



- f) The choice of a property at the corner of Spoede and Clayton, roads which have existing traffic flow problems, and in too close a proximity to the I-64 access ramps off South Spoede Road, demonstrates this is an inappropriate use of the Subject Property by the District;
- g) The parking set forth on the Plan is inappropriate as it is insufficient for a project of its scale and for the proposed use, and the majority of the spots are only 8 ½ feet wide, which is substandard and unlawful; and
- h) The implementation of the Plan is inappropriate and under-parked, in light of the parking issues suffered by the District at its existing headquarters.

38. The District also believes it can erect buildings of a scale that far exceeds its actual need, and that is far too intensely developed considering the location, extent and character of the Plan and the Subject Property and the nature of the surrounding properties. In fact, the District's 2012 master plan indicates that for its administrative function it needs only 40,000 square feet, and the December 18, 2018, press release indicates the District intends to have 15,000 square feet for the genealogy department. The Plan indicates the Subject Property will house the District's administration and the genealogy department yet it would be 81,574 square feet, far in excess of the 55,000 square feet the District has elsewhere indicated it needs for these two purposes.

39. The District's decision to purchase the property without an appraisal, delegate the purchasing power to the District's Director and a contracted third party and to pay double market rates for the Subject Property was arbitrary, capricious, unreasonable and not even fairly

debatable. The Plan, therefore, contains insufficient information to demonstrate whether the use of the Subject Property falls within the District's statutory authority to acquire and erect buildings.

40. The District's decision to overturn the disapproval by the P&Z was motivated by its prior mistake to acquire the inappropriate Subject Property. The District's Board did not consider any information or evidence to address the concerns raised by the residents and the P&Z. The District's decision to overturn the disapproval of the P&Z was arbitrary, capricious, unreasonable and not even fairly debatable.

41. The District has acted contrary to Section 89.380 RSMo, by ignoring the review undertaken by the P&Z, and the legitimate concerns and criticisms raised. Section 89.380 RSMo requires the P&Z to communicate its reasons for disapproval, which it did. The District simply ignored those legitimate concerns and criticisms, and decided to proceed to "take advantage" of what it believes to be unfettered power.

42. The District's decision to treat Frontenac differently than other political subdivisions by refusing to go through the zoning approval process was arbitrary, capricious, unreasonable and not even fairly debatable.

43. Section 182.070 RSMo does not vest the District with limitless power to acquire property and construct facilities, instead the District must do so in a manner that is "appropriate."

44. In exercising statutory powers, political subdivisions are required to act in a reasonable manner. *See e.g. Ballentine v. Nester*, 164 S.W.2d 378 (Mo. banc 1942).

45. The District has exceeded a reasonable exercise of: (1) its authority under Section 182.070 RSMo to acquire and erect appropriate buildings for the reasons discussed herein; and (2) its authority under Section 89.380 RSMo by failing to consider the grounds for the

disapproval prior to overruling the decision of the P&Z. The Board President's comments make clear that the District's plan was to ignore any opposition and "[take] advantage of the statutes that the state provides for us" to force through their unwise project.

**COUNT I**  
**Declaratory Judgment**

46. Plaintiff incorporates by reference the allegations set forth in paragraphs 1 through 45 of this Petition as though fully set forth herein.

47. The District has acted in excess of the powers granted to it by the laws of Missouri, including Sections 182.070 and 89.380 RSMo.

48. The District is only authorized to acquire property and erect "appropriate" buildings for uses consistent with its purpose.

49. The Subject Property and Plan are inappropriate for the reasons stated herein including, but not limited to, those reasons set forth in paragraph 38 and the subparts thereto.

50. The District's Board ignored the concerns expressed by the P&Z and overruled the P&Z's disapproval because the District has painted itself into a corner by overpaying for property that is ill-suited to the proposed use.

51. The District's Board has acted in a manner that is entirely inconsistent with its 2012 master plan.

52. Frontenac has no adequate remedy at law to resolve this dispute, other than by declaratory judgment and injunction because the District refuses to engage in meaningful discussion about the appropriate use of the Subject Property, or otherwise address the plethora of concerns about the Plan. Instead, showing remarkable hubris, the District intends to proceed with its unpopular and impertinent plan for the Subject Property.

53. The District believes it can act with impunity and without regard to the wishes of a portion of constituents, or its overarching duty to act reasonably and with a duty of care to preserve public funds.

54. Declaratory judgment is necessary to establish the limits of the District's authority and to prevent the ongoing abuse of its powers.

**WHEREFORE**, Plaintiff respectfully requests that the Court enter its Order and Judgment declaring: (1) that the District's Board's decision to overrule the Frontenac P&Z and to proceed with the Plan as submitted to the P&Z was arbitrary, capricious, unreasonable and unlawful; and (2) the Plan is outside the scope of the authority delegated to the District under Section 182.070 RSMo. Plaintiff further respectfully requests that the Court award Plaintiff its costs and attorney's fees herein incurred, and grant such other and further relief as is just and proper.

**COUNT II**  
**Injunctive Relief**

55. Plaintiff incorporates by reference the allegations set forth in paragraphs 1 through 54 of this Petition as though fully set forth herein.

56. The District asserts that it can proceed with the Plan and develop the Subject Property.

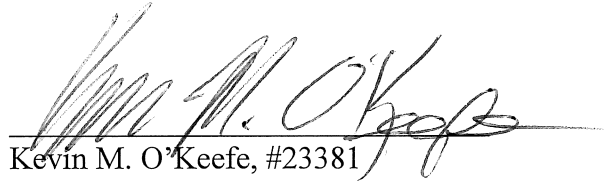
57. Preliminary and permanent injunctive relief is required to maintain the status quo and prevent Frontenac and its residents from being irreparably harmed.

58. Frontenac has no adequate remedy at law other than declaratory relief and injunctive relief. Under these circumstances, an award of costs and attorney fees to the Plaintiff is also appropriate.

**WHEREFORE**, Plaintiff respectfully requests that that this Court: (a) temporarily restrain Defendant from taking any action to proceed with implementing its Plan and developing the Subject Property; (b) upon declaring that the decision of the District's Board to overrule the Frontenac P&Z was arbitrary, capricious, unreasonable and unlawful, permanently restrain Defendant from proceeding with the Plan and developing the Subject Property; (c) award Plaintiff's costs and expenses, including reasonable attorneys' fees; and (d) grant such other and further relief as this Court deems just and proper under the circumstances.

Respectfully submitted,

CURTIS, HEINZ, GARRETT & O'KEEFE, P.C.



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