

IN THE CIRCUIT COURT OF THE CITY OF ST. LOUIS  
STATE OF MISSOURI

REGIONAL CONVENTION AND SPORTS )	)	
COMPLEX AUTHORITY, )	)	
	)	
Plaintiff, )	)	Cause No. 1522-CC00782
	)	
vs. )	)	Division No. 2
	)	
CITY OF ST. LOUIS, MISSOURI, )	)	
	)	
Defendant. )	)	

**DEFENDANT CITY OF ST. LOUIS, MISSOURI'S AMENDED ANSWER AND COUNTERCLAIM**

COMES NOW the City of St. Louis, Missouri (the "City"), and, in response to the petition filed herein, states the following as its answer and defenses.

**ANSWER**

1. The City admits the allegations in paragraph 1.
2. The City admits that it is a constitutional charter city created and existing under the Constitution and statutes of the State of Missouri and the Charter of the City of St. Louis. As a constitutional charter city, the City of St. Louis possesses all powers which are not limited or denied by the constitution, by statute, or by the City charter itself.
3. The City lacks information to admit or to deny the allegations in Paragraph 3, and therefore denies them.
4. Paragraph 4 states legal conclusions to which no response is required. As to those averments in Paragraph 4 which may be deemed factual allegations, the City admits that Sections 67.650 to 67.658 of the Revised Statutes of Missouri exist, but states that they speak for themselves, including the number, manner, and method of appointment of members of the board of commissioners; as to any other averments in Paragraph 4

deemed factual allegations, the City lacks information to admit or to deny the remaining allegations in Paragraph 4, and therefore denies them.

5. Paragraph 5 states legal conclusions to which no response is required. As to those averments in Paragraph 5 which may be deemed factual allegations, the City admits it was a party to a project financing, construction, and operation agreement involving the Dome, but as to any other averments in Paragraph 5 deemed factual allegations, the City lacks information to admit or to deny the remaining allegations in Paragraph 5, and therefore denies them.

6. As to the averments of paragraph 6, the City admits it pays for upkeep and maintenance of the Dome, but lacks information to admit or to deny the remaining allegations in Paragraph 6, and therefore denies them.

7. The City lacks information to admit or to deny the allegations in Paragraph 7, and therefore denies them.

8. The City lacks information to admit or to deny the allegations in Paragraph 8, and therefore denies them.

9. The City lacks information to admit or to deny the allegations in Paragraph 9, and therefore denies them.

10. The City lacks information to admit or to deny the allegations in Paragraph 10, and therefore denies them.

11. The City lacks information to admit or to deny the allegations in Paragraph 11, and therefore denies them.

12. The City lacks information to admit or to deny the allegations in Paragraph 12 and all subparagraphs thereof, and therefore denies them.

13. The City admits that the ordinance codified as Chapter 3.91 of the Revised Code of the City of Saint Louis was adopted by a voter proposition in 2002. The City further admits that Exhibit A is a true and genuine copy of Chapter 3.91 of the Revised Code.

The City denies the remaining allegations in Paragraph 13.

14. The City lacks information to admit or to deny the allegations in Paragraph 14, and therefore denies them.

15. The City lacks information to admit or to deny the allegations in Paragraph 15, and therefore denies them.

16. The City admits the allegations in Paragraph 16. The City denies that the RSA states a justiciable case or controversy.

17. The City admits the allegations in Paragraph 17.

18. Paragraph 18 states a legal conclusion to which no response is required.

19. Paragraph 19 makes a statement of the nature of the lawsuit, to which no response is required. If a response is required, the City denies the allegations of Paragraph 19.

20. Paragraph 20 states a legal conclusion to which no response is required.

21. Paragraph 21 states a legal conclusion to which no response is required.

### **COUNT I**

22. For its response to Paragraph 22, the City re-states its responses to paragraphs 1 through 21.

23. Paragraph 23 states legal conclusions to which no response is required. The City lacks information to admit or to deny the remaining allegations in Paragraph 23, and therefore denies them.

WHEREFORE, having fully answered Count I, defendant City of St. Louis, respectfully requests that the Court dismiss with prejudice Count I of plaintiff's Petition, enter judgment in favor of defendant and against plaintiff, award defendant its costs and attorney fees, and for other and further relief as is appropriate and just.

### **COUNT II**

24. For its response to Paragraph 24, the City re-states its responses to paragraphs 1 through 23.

25. Paragraph 25 states legal conclusions to which no response is required. As to those averments in Paragraph 25 which may be deemed factual allegations, the City admits that Section 67.657.3, RSMo., exists but states that the provision speaks for itself. As to any other averments in Paragraph 25 deemed factual allegations, the City lacks information to admit or to deny the remaining allegations in Paragraph 25, and therefore denies them.

WHEREFORE, having fully answered Count II, defendant City of St. Louis, respectfully requests that the Court dismiss with prejudice Count II of plaintiff's Petition, enter judgment in favor of defendant and against plaintiff, award defendant its costs and attorney fees, and for other and further relief as is appropriate and just.

### **COUNT III**

26. For its response to Paragraph 26, the City re-states its responses to paragraphs 1 through 25.

27. Paragraph 27 and its subparagraphs state legal conclusions to which no response is required. To the extent a response is required, the City denies the allegations in Paragraph 27 and its subparagraphs.

WHEREFORE, having fully answered Count III, defendant City of St. Louis, respectfully requests that the Court dismiss with prejudice Count III of plaintiff's Petition, enter judgment in favor of defendant and against plaintiff, award defendant its costs and attorney fees, and for other and further relief as is appropriate and just.

**Affirmative and Additional Defenses**

1. Plaintiff's petition fails to state a claim upon which relief can be granted.
2. Plaintiff lacks standing.
3. Plaintiff's claims are barred because there is no justiciable controversy concerning the Ordinance in that:
  - a. the RSA does not have a legally protectable interest at stake regarding the Ordinance's validity;
  - b. there is no substantial controversy between the parties because the state law creating the RSA and the Ordinance are not irreconcilable;
  - c. the RSA's legal theories are not ripe for adjudication;
  - d. the RSA will not suffer imminent harm in the absence of a court order declaring the Ordinance invalid; and
  - e. the Ordinance has not yet been implemented as it relates to any supposed financing plan proposed by the RSA.
4. Plaintiff's claims are barred by the doctrine of laches.
5. The Ordinance is a valid and enforceable ordinance of the City of St. Louis in that:
  - a. The Missouri Constitution grants the City broad authority to tailor a form of government that its citizens believe will best serve their interests and to enact

ordinances without specific enabling legislation. Mo. Const. Art. VI, §§ 19-22 & 32(a).

- b. The City's Charter provides the City's voters with a process to legislate through an initiative procedure, whereby voters propose and adopt ordinances at the polls. Charter, Art. V, Sec. 1.
  - c. In 2002, through the Charter's initiative procedures, citizens proposed an ordinance providing for voter approval of certain financial assistance offered by the City to professional sports facilities.
  - d. On November 2, 2002, voters approved what became known as Ordinance 66509. The Ordinance provides that "[n]o financial assistance may be provided by or on behalf of the City to the development of a professional sports facility without the approval of a majority of the qualified voters of the City voting thereon." Code, at § 3.91.030. A copy of the Ordinance is attached as Exhibit A.
  - e. Missouri courts assume the validity of an ordinance passed by a home rule city unless the ordinance is expressly inconsistent or in irreconcilable conflict with general law of the state.
  - f. The City had the authority to adopt the Ordinance, the Ordinance was adopted pursuant to valid procedures established under the Charter, and the Ordinance is not expressly inconsistent with state law and does not irreconcilably conflict with the general law of the state.
6. Defendant hereby gives notice that it intends to rely on such other defenses as may become available or ascertained during the course of discovery in this case, and hereby reserves the right to amend this answer to assert any such defenses.

WHEREFORE, having fully answered, defendant City of St. Louis, respectfully requests that the Court dismiss with prejudice all counts of plaintiff's petition, enter judgment in favor of defendant and against plaintiff, and for other and further relief as the Court deems appropriate and just.

**COUNTERCLAIM**

**COUNT I – Ordinance 66509 is valid and enforceable**

1. Defendant/Counterclaim Plaintiff City of St. Louis (“City”) is a constitutional charter city created pursuant to Mo. Const., Art. VI, § 31 and existing by virtue of the Constitution and statutes of the State of Missouri and the Charter of the City of St. Louis (“Charter”).

2. Plaintiff/Counterclaim Defendant Regional Convention and Sports Complex Authority (“RSA”) is a body politic and corporate and a public instrumentality organized under the laws of the State of Missouri.

3. Venue for this counterclaim is proper in the City of St. Louis, Missouri.

4. As a constitutional charter city, the City of St. Louis possesses all powers which are not limited or denied by the constitution, by statute, or by the City charter itself.

5. The constitutional authority to adopt and amend a charter, found in Mo. Const. Art. VI, §§ 19–22 and Art. VI, § 32(a), grants the City of St. Louis broad authority to tailor a form of government that its citizens believe will best serve their interests.

6. The Missouri Constitution also grants the City of St. Louis the authority to enact ordinances without specific enabling legislation. Mo. Const. Art. VI, §19(a).

7. The St. Louis City Charter grants its citizens the power to legislate through an initiative procedure, whereby citizens propose and adopt ordinances at the polls. Charter, Art. V, Sec. 1.

8. In 2002, through the Charter's initiative procedures, citizens proposed an ordinance providing for voter approval of certain financial assistance offered by the City to professional sports facilities.

9. On November 2, 2002, voters approved what became known as Ordinance 66509 ("the Ordinance").

10. The Ordinance was later codified at St. Louis City Revised Code Chapter 3.91 "Professional Sports Facility," which states in part that "No financial assistance may be provided by or on behalf of the City to the development of a professional sports facility without the approval of a majority of the qualified voters of the City voting thereon." St. Louis City Revised Code, Ch. 3.91.030.

11. The City had the authority to adopt the Ordinance.

12. The Ordinance was adopted pursuant to valid procedures established under the Charter.

13. The Ordinance is a valid and enforceable ordinance.

14. The Ordinance is not expressly inconsistent with the general law of the state.

15. The Ordinance is not in irreconcilable conflict with the general law of the state.

16. The Court has subject matter jurisdiction over the parties and the claims asserted in Count I of the counterclaim.

17. This Court has the authority to declare the rights, status, or other legal issues concerning the parties and the Ordinance. § 527.010 *et seq.*, RSMo.



18. The City has standing to bring the claims asserted in Count I of this counterclaim in that it has legally protectable interests at stake consisting of a pecuniary or personal interests directly at issue and subject to immediate or prospective consequential relief.

19. The City lacks an adequate remedy at law.

20. The City has not provided direct or indirect financial assistance to the RSA for the development of a new professional sports facility by way of tax reduction, exemption, credit, or guarantee against or deferral of increase; dedication of tax or other revenues; tax increment financing; issuance, authorization, or guarantee of bonds; purchase or procurement of land or site preparation; loans or loan guarantees; sale or donation or loan of any City resource or service; or the deferral, payment, assumption or guarantee of obligations.

WHEREFORE defendant-counterclaim plaintiff City of St. Louis, respectfully requests that the Court enter an order:

- a. declaring that Ordinance 66509, codified at St. Louis City Revised Code Chapter 3.91, is a valid and enforceable law of the City of St. Louis; and
- b. awarding such further relief as the Court deems necessary and just.

**COUNT II – The RSA does not have statutory authority to develop and construct the proposed stadium**

21. Under § 67.653.1(1), RSMo., the RSA is empowered “to plan, construct, operate and maintain, . . . sports stadiums.” But § 67.653.1(1) further provides that “any stadium, complex or facility newly constructed by the authority . . . shall be located adjacent to an existing convention facility.”

22. Convention activities occur at the America’s Center Convention Complex, which consists of Cervantes Convention Center, the Edward Jones Dome, the St. Louis Executive Conference Center, and the Ferrara Theatre (“America’s Center”).

23. The New Stadium proposed by the RSA is located on the other side of a road from the America's Center and Edward Jones Dome.

24. The "New Stadium," as described in Plaintiff's Petition, is not adjacent to the existing convention facilities of America's Center and Edward Jones Dome.

25. A justiciable controversy exists regarding the RSA's authority given that the proposed New Stadium is not adjacent to an existing convention facility. In the event that the Court concludes that the plaintiff's claims concerning the validity of the Ordinance constitute a present justiciable controversy such that the plaintiffs' claims are ripe for judicial resolution, this Counterclaim's allegations concerning that Ordinance are likewise justiciable.

26. The Court has subject matter jurisdiction over the parties and the claims asserted in Count II of this counterclaim.

27. The City has standing to bring the claims asserted in Count II of this counterclaim in that it has legally protectable interests at stake consisting of a pecuniary or personal interests directly at issue and subject to immediate or prospective consequential relief.

28. The City lacks an adequate remedy at law.

WHEREFORE defendant-counterclaim plaintiff City of St. Louis, respectfully requests that the Court enter an order:

- a. declaring that that the RSA lacks authority under § 67.653.1(1), RSMo., in that the proposed sports facility described in the Petition is not "located adjacent to an existing convention facility"; and
- b. awarding such further relief as the Court deems necessary and just.

Respectfully submitted,

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ATTORNEYS FOR DEFENDANT CITY OF  
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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on this 12th day of June, 2015, a true and correct copy of the foregoing document was served via electronic mail upon the following:

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