IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI
AT KANSAS CITY

STATE OF MISSOURI ex rel. KANSAS CITY BOARD OF POLICE COMMISSIONERS, et al.,	)	
Plaintiffs-Relators,	)	Case No. 2116-CV11556
v.	)	Division 18
MAYOR QUINTON LUCAS, et al.,	)	
Defendants-Respondents,	)	
and	)	
GWENDOLYN GRANT,	)	
Proposed Intervenor.	)	

GWENDOLYN GRANT'S MOTION TO INTERVENE

COMES NOW, Gwendolyn Grant, ("Ms. Grant" or "Proposed Intervenor") by and though undersigned counsel, and pursuant Rule 52.12 and RSMo § 507.090, moves the Court to allow her to intervene of right in the above-captioned action, or in the alternative, for permissive intervention. Pursuant to Rule 52.12(c), a pleading setting forth Ms. Grant's claims is attached hereto as **Exhibit A.** Ms. Grant submits the submits the following Suggestions in Support of her Motion to Intervene:

SUGGESTIONS IN SUPPORT OF MOTION TO INTERVENE

Ms. Grant is an African-American Kansas City resident and taxpayer. The relief requested by Plaintiffs-Relators (hereinafter "Plaintiffs") would violate Ms. Grant's rights under Article X, Section 23 of the Missouri Constitution (the "Hancock Amendment") and the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution. Defendants-Respondents

(hereinafter the "City" or "Defendants") lack standing to assert claims under the Hancock Amendment or the Equal Protection Clause. Thus Ms. Grant has a significant interest in the subject matter of this action, disposition of the action will impair Ms. Grant's ability to protect that interest, and Ms. Grants interests are not adequately represented by the current Defendants. Ms. Grant respectfully requests leave of the Court to intervene the instant action in order to vindicate her constitutional rights.

I. BACKGROUND

a. History of the Board of Police Commissioners system

Kansas City is currently the only city in the State of Missouri without local control of its own police department. Rather, the Kansas City Police Department is controlled by a Board of five Police Commissioners. RSMo § 84.460. Four of these Commissioners are appointed by the Governor, and one, the Mayor, is elected by residents of Kansas City. RSMo §§ 84.350, 84.360. For this reason, the Kansas City Board of Police Commissioners is considered to be an agency of the State of Missouri, and not of the City of Kansas City. *State ex rel. Spink v. Kemp*, 283 S.W.2d 502, 514 (Mo. 1955).

Although a state agency controls Kansas City's police force, the City itself is obligated to provide for its funding using tax revenue. Kansas City's current system, under which the Police Department is controlled by a state agency rather than by the local government, traces its roots to 1861, the year that the Civil War began.

In 1861, as today, St. Louis had a higher representation of African-Americans, and others sympathetic to African-American freedom and civil rights, than did Missouri as a whole. During the Civil War, Missouri never seceded, but it was mostly sympathetic to the Confederacy. St. Louis, however, was Union-leaning. As a result of this ideological divide on the question of civil

rights for African-Americans, Claiborne Jackson, Missouri's segregationist governor, didn't want St. Louis to control its own police department.

In 1861, Governor Jackson encouraged the state legislature to pass the "Metropolitan Police Bill" that gave the state control of St. Louis's police department. This move was hotly debated in the Missouri General Assembly, where one state representative called the bill "an effort to disenfranchise and oppress the people of St. Louis because they were not sound on the Negro question." One of Jackson's appointees to the first police board confirmed that the Metropolitan Police Bill was "adopted to enable our people to control St. Louis."

Kansas City, like St. Louis, also has had, since the 19th Century, a higher representation of African-Americans, and an electorate more sympathetic to African-American civil rights than the rest of Missouri. In 1874 it too had the state seize control of its newly-instituted police department. From 1874 to 1932, the Kansas City "Board of Police" system was modified on several occasions, but at all times the Governor appointed the majority of the Board, the Board requested funding for the police from the City, and the City had no choice but to provide that funding.

That all changed in 1932. That year, the City refused to provide the funding requested, and the Board sued, seeking a writ of mandamus to compel the appropriation. *See State ex rel. Field v. Smith*, 49 S.W.2d 74, 74 (1932). The City argued that the Board's unlimited discretion in setting the police budget (and forcing the City to pay for it) amounted to an unconstitutional delegation of legislative authority. The Missouri Supreme Court agreed:

> From the analysis which has been made of sections of said article 23, it is manifest that certain of its provisions, taken collectively, purport to confer upon the board of police of Kansas City the power to appropriate from the annual revenues of the city, at its discretion, whatever sums it deems necessary for the maintenance of the police department. The power to determine the amounts to be so appropriated is essentially a power to tax—a legislative power, and, as such, nondelegable. The provisions of the statute purporting to confer the power are therefore void, and, as they are inseparably interwoven with its other provisions, the statute as a whole must fall

with them.

State ex rel. Field v. Smith, 49 S.W.2d at 78. Thus, the original Kansas City Board of Police was declared unconstitutional in 1932, but state control was re-instituted in 1939 at the behest of Lloyd Crow Stark, another segregationist Governor.

The present system was largely put in place in 1943. In an apparent effort to address the unlimited budgetary discretion held to be unconstitutional in *State ex rel. Field v. Smith*, the new Board of Police appropriations statute provided that "in no event shall the governing body of the cities be required to appropriate for the use of the police board in any fiscal year an amount in excess of one-fifth of the general revenue fund of such year." RSMo § 84.730.

b. The present dispute

For the 2021-22 fiscal year, the Board of Police Commissioners requisitioned $223,987,546 for the police department budget, which was appropriated by the City on March 25, 2021. Petition, ¶ 19. On May 20, 2021, the City Council passed Ordinance Nos. 210466 and 210468. Petition, ¶ 27. Ordinance No. 210466 appears to note that the 2021-22 budget, as appropriated, exceeds the 20% cap imposed by RSMo § 84.730, and explicitly states that:

> Section 2. The intent of the Council in reducing the accounts listed in Section 1 of this Ordinance is to reduce the Annual Police Budget to a level commensurate with the statutory maximum imposition required by Section 84.730 of the Revised Statutes of Missouri . . . .

See Petition, Exhibit 3. In addition, Ordinance No. 210466 notes that:

> WHEREAS the taxpayers of Kansas City, by and through their duly elected city officials, are the only residents of a local government of the State of Missouri compelled by the State to allocate a fixed percentage of their City's annual budget to policing in potential violation of the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution;

Id. Ordinance No. 210468, which directs the City Manager to contract with the Board of Police Commissioners to provide community engagement and outreach services, contains identical

language regarding the potential violation of the Equal Protection Clause. *See* Petition, Exhibit 3.

The Board filed the instant lawsuit eight days later, requesting a writ of mandamus compelling the City to return the police department budget to $223,987,546, a judicial declaration that Ordinance Nos. 210466 and 210468 are void, as well as injunctive relief.

II. MS. GRANT SHOULD BE ALLOWED TO INTERVENE IN THE PRESENT CASE

Missouri Supreme Court Rule 52.12 governs intervention in court proceedings. "Intervention generally should 'be allowed with considerable liberality.'" *Johnson v. State*, 366 S.W.3d 11, 20 (Mo. banc 2012) (quoting *In re Liquidation of Prof'l Med. Ins*. Co., 92 S.W.3d 775, (Mo. banc 2003)). "[I]n Missouri, the general rule has always been that [Rule 52.12] should be liberally construed to permit broad intervention." *Underwood v. St. Joseph Bd. Of Zoning Adjustment*, 368 S.W.3d 204, 211 (Mo. App. W.D. 2012) (citation and internal quotation marks omitted). *See also Allred v. Carnahan*, 372 S.W.3d 477, 482 (Mo. App. 2012) (holding that Missouri courts interpret Rule 52.12 so liberally that "even the requirement of a pleading may be excused.").

As relevant here, the Missouri Supreme Court has specifically held that taxpayer intervention is proper where the taxpayer, but not the defendant public entity, has standing to assert Hancock Amendment claims. *Breitenfeld v. Sch. Dist. of Clayton*, 399 S.W.3d 816, 837 (Mo. banc 2013) (explaining that "it was clear that taxpayers and not the school districts had to advance the Hancock challenges."). And federal courts have noted that Equal Protection Clause claims affecting the expenditures of tax dollars give rise to the type of "significantly protectable interest" that can support a motion to intervene. *Arakaki v. Cayetano*, 324 F.3d 1078, 1084 (9th Cir. 2003), as amended (May 13, 2003) ("We agree with the district court that Hoohuli has a significantly protectable interest in the manner in which its tax dollars are used . . . .").

a. Ms. Grant is entitled to intervene of right

Ms. Grant is entitled to intervene in this action as a matter of right pursuant to Rule 52.12(a). "A party seeking intervention as a matter of right under Rule 52.12(a) must file a timely[1] motion and show three elements: 1) an interest relating to the property or transaction which is the subject of the action; 2) that the applicant's ability to protect such interest is impaired or impeded; and 3) that the existing parties are inadequately representing the applicant's interest." *Stafford v. Kite*, 26 S.W.3d 277, 279 (Mo. App. 2000) (citing Rule 52.12(a)). "'If an applicant meets these requirements, thereby satisfying the requisite burden of proof, the right to intervene is absolute.'" *Stafford*, 26 S.W.3d at 279 (quoting *Borgard v. Integrated Nat'l Life. Ins. Co*., 954 S.W.2d 532, 535 (Mo. App. 1997)).

1. Ms. Grant has a two-fold interest in the instant case

A. Hancock Amendment interest

Ms. Grant has at least two different legally protectable interests in the instant case. First, Ms. Grant has an interest created by Article X, Sections 21 and 23 of the Missouri Constitution (the "Hancock Amendment") in her capacity as a taxpayer and a resident of Kansas City. Article X, Sections 21 of the Missouri Constitution provides that:

> The state is hereby prohibited from reducing the state financed proportion of the costs of any existing activity or service required of counties and other political subdivisions. A new activity or service or an increase in the level of any activity or service beyond that required by existing law shall not be required by the general assembly or any state agency of counties or other political subdivisions, unless a state appropriation is made and disbursed to pay the county or other political subdivision for any increased costs.

The Missouri Supreme Court has held that the St. Louis Board of Police Commissioners, which

[1] There is no question that Ms. Grant's Motion to Intervene is timely, coming before any Defendant has filed a responsive pleading.

operated under an extremely similar statutory scheme, was "a state agency for purposes of article X, section 21, of the Missouri Constitution." *State ex rel. Sayad v. Zych*, 642 S.W.2d 907, 910 (Mo. banc 1982). In addition, the Missouri Supreme Court has repeatedly held that Plaintiffs' predecessor entity, the Kansas City Board of Police, is a state agency. *See State ex rel. Field v. Smith,* 49 S.W.2d 74, 76 (1932) (accepting the proposition that the Kansas City Police Board was "a state agency, a department of the state government...."); *American Fire Alarm Co. v. Board of Police Comm'r*, 227 S.W. 114 (1920) (holding that the Kansas City Police board was a state agency) (abrogated on other grounds by *Reifschneider v. City of Des Peres Pub. Safety Comm'n*, 776 S.W.2d 1, 4 (Mo. banc 1989)).

The *State ex rel. Sayad* court went on to hold that "the Police Board, as a state agency, cannot require the City, a political subdivision, to increase its level of activity beyond that required by law when article X, section 21, became effective unless a state appropriation is made to fund the increase." 642 S.W.2d at 910. Article X, Section 21 of the Missouri Constitution became effective on December 4, 1980. *Id.* at 909. On that date, RSMo § 84.730 made clear that the City's appropriations for the Kansas City Board of Police Commissioners were not to exceed one-fifth of the City's general revenue fund.

Here, the relief requested by Plaintiffs would result in an appropriation to Plaintiffs in excess of one-fifth of the City's general revenue fund. No state appropriation has been made to fund the increase over and above the statutory cap that existed on December 4, 1980. Therefore, the relief that Plaintiffs request would result in a violation of Ms. Grant's rights under Article X, Section 21 of the Missouri Constitution.

Although a judgment for Plaintiff's would implicate the City's money, Missouri law makes clear that the constitutional rights that would be violated belong to the taxpayers like Ms. Grant,

and not to the City or any of the other named Defendants. Under the provisions of the Hancock amendment, "any taxpayer" of the state, county or other political subdivision shall have standing to bring suit to enforce the Hancock Amendment. Mo. Const. art. X, sec. 23. However, cities themselves have no standing to sue to enforce Article X, Section 21, and in fact they cannot even raise it as a defense. *King-Willmann v. Webster Groves Sch. Dist*., 361 S.W.3d 414, 416 (Mo. 2012)

Ms. Grant's constitutional rights under the Hancock Amendment would be violated by a judgment for Plaintiffs in this action. This is violation of a legal right is sufficient interest for Ms. Grant to intervene of right under Rule 52.12(a). *See In re Liquidation of Prof'l Med. Ins. Co*., 92 S.W.3d 775, 778-79 (Mo. banc 2003) ("One interested in an action is one who is interested in its outcome because he or she has a legal right that will be directly affected or a legal liability that will be directly enlarged or diminished.").

B. Equal Protection Clause interest

In addition, Ms. Grant has a legally protectable interest in vindicating her rights under the Equal Protection Clause. The composition of 80% of the Board of Police Commissioners is dictated by a statewide gubernatorial election in which African-American Kansas Citians have zero functional influence. African Americans make up only 11.8% of Missouri's population. There has never been an African-American Governor of Missouri, and in fact no African-American has ever won a statewide election in Missouri. Thus, it should come as no surprise that Missouri Governors are insensitive and unresponsive to the needs of African-American Kansas Citians. This insensitivity and unresponsiveness is manifested in the Governor's appointments to the Board of Police Commissioners.

By contrast, African-Americans make up 28.9% of the population of Kansas City,

Missouri, and have substantial influence in certain City Council districts, and even in citywide elections. As a result, African-Americans are routinely elected to the offices of Mayor and City Council, and those institutions are sensitive and responsive to the interests of African-American Kansas Citians.

By making the composition of 80% of the Board of Police Commissioners dependent on the outcome of the gubernatorial election, African-American Kansas Citians are deprived on political influence in violation of the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution. The United States Supreme Court has repeatedly noted that "[a]t-large voting schemes and multimember districts tend to minimize the voting strength of minority groups by permitting the political majority to elect all representatives of the district. A distinct minority, whether it be a racial, ethnic, economic, or political group, may be unable to elect any representatives in an at-large election . . . ." *Rogers v. Lodge*, 458 U.S. 613, 616 (1982).

Moreover, this system of Missouri state control of local police departments, which has the impact of minimizing, diluting, submerging, and canceling out the political influence of African-American Kansas Citians, was originally conceived in 1861 as a result of the State of Missouri's restrictive view of African-American civil rights.

Because the Board of Police Commissioners system was created and/or perpetuated, at least in part, based on an invidious, discriminatory purpose, and has a disparate impact on African-Americans, the Board of Police Commissioners selection process violates the Equal Protection Clause. *See Rogers v. Lodge*, 458 U.S. 613, 622 (1982) (striking down at-large election process for local county commission even though it was created for a race-neutral purpose because it was maintained for the purpose of reducing African-American voting strength).

In addition, and independently, Kansas City is literally the only city in Missouri, and the

only major city in the United States, without local control of its police department. Treating Kansas City differently from all other municipalities in Missouri is so arbitrary and irrational that it violates the Equal Protection Clause on its face. *See City of Cleburne, Tex. v. Cleburne Living Ctr.*, 473 U.S. 432, 446-447 (1985) ("The State may not rely on a classification whose relationship to an asserted goal is so attenuated as to render the distinction arbitrary or irrational.").

Moreover, as the Missouri Supreme Court previously noted, if the Board is unconstrained by any limits on its ability to set a budget and force Kansas City to pay for it, then it has in essence been delegated the power to tax Kansas Citians. *See State ex rel. Field v. Smith*, 49 S.W.2d at 78. The power to tax is a quintessentially legislative function, so delegation of that power to an appointed board, along with the other broad powers given to the Board, would constitute an unconstitutional delegation in violation of the Missouri Constitution and the Equal Protection Clause.

Federal[2] courts have held that a vindication of a voter, taxpayer, and resident's rights Equal Protection Clause constitutes a sufficient interest to support intervention. *See, e.g. Baker v. Reg'l High Sch. Dist. No.* 5, 432 F. Supp. 535, 537 (D. Conn. 1977) (voters, taxpayers, and residents of two towns which formed school district allowed to intervene in lawsuit to vindicate Equal Protection Rights related to selection procedures for board of education). And federal courts have

[2] Missouri courts have repeatedly held that they can consider guidance from federal decisions when deciding issues related to intervention under Rule 52.12. *McCoy v. The Hershewe Law Firm*, *P.C.*, 366 S.W.3d 586, 595 (Mo. App. 2012) ("The federal courts, in applying Federal Rule of Civil Procedure 24, which is essentially identical to Rule 52.12, have considered the exact issue. We may consider any guidance we may gain from the federal decisions in this regard."); *see also State ex rel. Reser v. Martin,* 576 S.W.2d 289, 290–91 (Mo. banc 1978) (relying on the United States Supreme Court's interpretation of Rule 24(a) of the Federal Rules of Civil Procedure in interpreting Missouri Rule 52.12).

In fact, the Committee Note to the 1974 revision of Rule 52.12 states that "Paragraph (a) is the same as Rule 24(a) of the Federal Rules of Civil Procedure except for the reference to Missouri statutes instead of statutes of the United States."

noted that Equal Protection Clause claims affecting the expenditures of tax dollars give rise to the type of "significantly protectable interest" that can support a motion to intervene. *See Arakaki v. Cayetano*, 324 F.3d 1078, 1084 (9th Cir. 2003), as amended (May 13, 2003)("We agree with the district court that Hoohuli has a significantly protectable interest in the manner in which its tax dollars are used . . . .").

Ms. Grant's Equal Protection concerns are particularly acute in this case because the Board of Police Commissioners, which is constituted in a way that deprives African-Americans of influence, is actively seeking to strike down ordinances passed by Ms. Grant's local representatives, who are responsive and sensitive to African-American interests. In addition, these particular ordinances were strongly supported by the African-American community, and were voted by all City Council members who represent African-American majority districts. And if that were not enough, the ordinances both indicate that they were passed in order to protect the City's taxpayers' Equal Protection Clause rights. This is a classic case of taxation without representation.

Proposed Intervenor, as an African-American Kansas City taxpayer, would have her Equal Protection Clause rights directly impacted if Plaintiffs are granted the relief they request. This is an interest sufficient to support intervention of right under Rule 52.12(a).

2. The Proposed Intervenor's ability to protect their interests will be impaired or impeded by disposition of this action

Unless the Proposed Intervenor is allowed to intervene in this action, her ability to protect her interests will be impaired, and there is a significant risk of inconsistent judgments. Plaintiffs are requesting a declaratory judgment invalidating two City Council Ordinances, which by their own terms seek to vindicate the Equal Protection Clause interests of Kansas Citians and return police spending to the statutory 20% cap. A judgment in this case will almost certainly require the Court to decide issues such as whether the Board of Police Commissioners can compel the City to

provide funding in excess of the 20% cap, or whether the unique Kansas City Board of Police Commissioners system violates the Equal Protection Clause.

The Proposed Intervenor's Hancock Amendment and Equal Protection Clause interests set forth above would be directly impacted by such a judgment. Even if Proposed Intervenor could advance her claims in separate litigation, there would be a significant risk of inconsistent judgments. Moreover, requiring the Proposed Intervenor to litigate these issues in a separate, subsequent action, rather than authorizing their intervention in the present action, would result in a significant waste of judicial and governmental time and resources. Both the Court and the Kansas City Board of Police Commissioners would be forced to address identical issues—the legality of the Board of Police Commissioners system and the Board's ability to compel funding in excess of the 20% cap—twice: once in the present action and, if the result were unfavorable to the Proposed Intervenor, a second time in a subsequent action brought by the Proposed Intervenor to challenge the result.[3] By permitting the Proposed Intervenor to intervene in the present action, the Court will avoid the necessity of subsequent litigation of the same issues.

3. Defendants cannot adequately represent the Proposed Intervenor's interests

Finally, it is quite clear that Defendants cannot adequately represent the Proposed Intervenor's interests. The Missouri Supreme Court has held that municipalities lack standing to bring a Hancock Amendment claim, or even to assert a Hancock Amendment violation as a defense. *King-Willmann v. Webster Groves Sch. Dist*., 361 S.W.3d 414, 416 (Mo. banc 2012). All Defendants are either municipal entities or officials sued in their official capacity. None will have

[3] In addition, if Proposed Intervenor filed a separate action in federal court, it appears that Defendants in this action would lack standing to join in that action to assert their claims against Plaintiffs. *City of South Lake Tahoe v. California Tahoe Regional Planning Agency*, 625 F.2d 231 (9th Cir.), cert. denied, 449 U.S. 1039, 101 S.Ct. 619, 66 L.Ed.2d 502 (1980) (holding that political subdivisions lack standing to sue the state of which they are a part in federal court).

standing to assert a Hancock Amendment argument.

By contrast, there is specific constitutional authorization for taxpayers like the Proposed Intervenor to bring a claim for a violation of the Hancock Amendment. *See* Mo. Const. art. X, sec. 23 ("any taxpayer of the state, county, or other political subdivision shall have standing to bring suit in a circuit court of proper venue and additionally, when the state is involved, in the Missouri supreme court, to enforce the provisions of sections 16 through 22, inclusive, of this article and, if the suit is sustained, shall receive from the applicable unit of government his costs, including reasonable attorneys' fees incurred in maintaining such suit.").

Similarly, Defendants appear[4] to lack standing to assert Equal Protection Clause claims against Plaintiff. *See City of Newark v. State of New Jersey*, 262 U.S. 192, (1923) ("The city cannot invoke the protection of the Fourteenth Amendment against the state."); *see also Williams v. Mayor and City Council of Baltimore*, 289 U.S. 36, 40 (1933) (Explaining, in an Equal Protection Clause case, that "[a] municipal corporation, created by a state for the better ordering of government, has no privileges or immunities under the Federal Constitution which it may invoke in opposition to the will of its creator.").

In short, there is case law from the Missouri Supreme Court and the U.S. Supreme Court making clear that the current Defendants cannot make the Hancock Amendment claim or Equal Protection Clause claims that Proposed Intervenor wishes to assert. Therefore, the current Defendants cannot adequately represent the Proposed Intervenor's interests, and intervention of right under Rule 52.12(a) is appropriate.

b. Alternatively, the Proposed Intervenor should be granted permissive

[4] The question of whether, and under what circumstances, a city can sue the state in which it sits is admittedly complex. *See* Brian P. Keenan, *Subdivisions, Standing and the Supremacy Clause: Can a Political Subdivision Sue Its Parent State Under Federal Law*, 103 MICH. L. REV. 1899 (2005) Available at: https://repository.law.umich.edu/mlr/vol103/iss7/4 .

intervention under Rule 52.12(b)

Alternatively, the Proposed Intervenor should be granted permissive intervention pursuant to Rule 52.12(b). Permissive intervention is warranted "when an applicant's claim or defense and the main action have a question of law or fact in common." *See* Rule 52.12(b). Missouri courts allow permissive intervention where "the intervenors can show an interest unique to themselves," or "the intervenor has an economic interest in the outcome of the suit." Johnson, 366 S.W.3d at 21 (Mo. Banc 2012) (internal quotations omitted).

The requirements for permissive intervention are unquestionably met in this case. The Proposed Intervenor's Hancock Amendment claim will contain a great deal of factual and legal overlap with Plaintiffs' claim that they are entitled to funds from the City in excess of the 20% statutory cap. In addition, the City will presumably argue that Plaintiffs are not entitled to demand funds in excess of the 20% cap, which contains direct factual and legal overlap with Proposed Intervenor's Hancock Amendment claim.

With respect to the Equal Protection claims, Plaintiffs are seeking to strike down two municipal ordinances, passed in part for the stated reason of protecting the Equal Protection Clause rights of Kansas Citians, including Proposed Intervenor. Plaintiffs' claims, the City's defenses, and Proposed Intervenor's claims will likely contain factual and legal overlap on the questions of the validity of the ordinances, the Board of Police Commissioners' ability to demand funding over and above the 20% cap, and the validity of the unique Board of Police Commissioners statutory scheme which makes Kansas Citians like Proposed Intervenor the only residents of a local government in the State of Missouri who can be compelled by the state to turn over an apparently unlimited portion of the City's tax revenue to a state entity.

III. CONCLUSION

Because Proposed Intervenor has a significant interest in the subject matter of this action, disposition of the action will impair Proposed Intervenor's ability to protect that interest, and Proposed Intervenor's interests are not adequately represented by the current Defendants, Proposed Intervenor is entitled to intervene in this action as a matter of right pursuant to Rule 52.12(a). Alternatively, Proposed Intervenor should be permitted to intervene in this action pursuant to Rule 52.12(b).

WHEREFORE, for the foregoing reasons, Proposed Intervenor respectfully requests that the Court enter an order allowing her to intervene of right pursuant to Rule 52.12(a), or alternatively, granting her permissive intervention pursuant to Rule 52.12(b), and for such other relief as the Court deems just and proper.

Dated: June 13, 2021

Respectfully Submitted,

/s/ Braden Perry
Braden Perry MO #53865
John Kennyhertz MO #58055
KENNYHERTZ PERRY, LLC
2000 Shawnee Mission Parkway, Suite 210
Mission Woods, Kansas 66205
Telephone: (816) 527-9447
Facsimile: (855) 844-2914
braden@kennyhertzperry.com
john@kennyhertzperry.com

ATTORNEYS FOR PROPOSED INTERVENOR

CERTIFICATE OF SERVICE

I hereby certify that on June 13, 2021, the foregoing was filed using the Missouri electronic filing system, causing a true and correct copy to be served on all counsel of record. I further certify that I sent a copy of the foregoing by electronic mail to the following:

Patrick A. McInerney. MO #37638
Michael W. Seitz, MO #69337
Blake Smith, MO #70365
SPENCER FANE, LLP
1000 Walnut Street, Suite 1400
Kansas City, Missouri 64106-2140
Tele: 816-474-8100
Fax: 816-474-3216
pmcinerney@spencerfane.com
mseitz@spencerfane.com
bsmith@spencerfane.com

ATTORNEY FOR PETITIONERS/RELATORS

Douglas McMillan, MO #48333
Managing Attorney, Office of the City Attorney
Tara M. Kelly, MO #64624
Associate Attorney, Office of the City Attorney
414 East 12th Street
2300 City Hall
Kansas City, Missouri 64106
Telephone: (816) 513-3117
Fax: (816) 513-3133
doug.mcmillan@kcmo.org
tara.kelly@kcmo.org

ATTORNEYS FOR RESPONDENTS/DEFENDANTS

Respectfully submitted,

/s/ Braden Perry
ATTORNEY FOR PROPOSED INTERVENOR