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Attorney for Plaintiffs

**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

WAYNE HOFFMAN, an individual; FRED
BIRNBAUM, an individual; G&G
VENTURES, LLC, an Idaho limited liability
company; BRUCE C. BOYLES, an
individual; ANDREA LANNING, an
individual; BOB TIKKER, an individual,

Plaintiffs,

vs.

THE CITY OF BOISE, IDAHO; a municipal
corporation and a political sub-division of the
State of Idaho.

Defendant.

Case No. CV01-19-01127

**COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF**

Schedule: AA

Fee: \$221.00

COMES NOW the above named Plaintiffs, by and through their attorney of record, John L. Runft of the firm of Runft & Steele Law Offices, PLLC, and for causes of actions against Defendant complains and alleges as follows:

PARTIES AND INTRODUCTION

1. Plaintiff Wayne Hoffman (“Hoffman”) was at all times material to this Complaint, and is, a registered voter, a resident of and a real property owner in, and pays *ad valorem* taxes to, Ada County, State of Idaho.
2. Plaintiff Fred Birnbaum (“Birnbaum”) was at all times material to this Complaint, and is, a registered voter, a resident of and a real property owner in the City of Boise, Idaho, and pays *ad valorem* taxes to Ada County Idaho.
3. Plaintiff G&G Ventures, LLC, an Idaho limited liability company, (“G&G”), was at all times material to this Complaint, and is, a resident of and a real property owner in the City of Boise, and pays *ad valorem* taxes to Ada County, State of Idaho.
4. Plaintiff Bruce C. Boyles (“Boyles”) was at all times material to this Complaint, and is, a registered voter, a resident of and a real property owner in the City of Boise, Idaho, and pays *ad valorem* taxes to Ada County Idaho.
5. Plaintiff Andrea Lanning (“Lanning”) was at all times material to this Complaint, and is, a registered voter, a resident of and a real property owner in the City of Boise, Idaho, and pays *ad valorem* taxes to Ada County Idaho.
6. Plaintiff Bob Tikker (“Tikker”) was at all times material to this Complaint, and is, a registered voter, a resident of and a real property owner in the City of Boise, Idaho, and pays *ad valorem* taxes to Ada County Idaho.
7. Defendant City of Boise (“City”) is a municipal corporation, a body corporate and politic, and a political sub-division of the State of Idaho, located in Ada County, Idaho (Idaho Code §50-301).

JURISDICTION AND VENUE

8. This Court has jurisdiction over this matter pursuant to Idaho Code §50-2027; §50-2911; 7- §5-514; Rule 84 IRCP.
9. Venue is proper in this Court pursuant to Idaho Code § 5-404.

ALLEGATIONS OF FACT AND LAW

10. On November 28, 2018, the City passed Ordinance No. 55-18 (“Ord. 55-18”) approving the Shoreline District Urban Renewal Plan (“Shoreline Plan”) that was developed by and presented to the City for approval by the urban renewal agency of the City of Boise, now known as the Capital City Development Corporation, (“CCDC”).
11. Ord. 55-18 adopted and provided for “revenue allocation financing” also known as “tax increment financing” (“TIF”) of the Shoreline Plan pursuant to I.C. §50-2906.
12. By its terms, Ord. 55-18 was made effective upon its publication in the Idaho Statesman on December 20, 2018.
13. On December 6, 2018, the City passed Ordinance No. 58-18 (“Ord. 58-81”) approving the Gateway East District Urban Renewal Plan (“Gateway Plan”) that was developed by and presented to the City for approval by the CCDC.
14. Ord. 58-18 adopted and provided for “revenue allocation financing” also known as “tax increment financing” (“TIF”) of the Gateway Plan pursuant to I.C. §50-2906.

15. By its terms, Ord. 58-18 was made effect upon its publication in the Idaho Statesman on December 20, 2018.
16. In promulgating Ord. 55-18, the City committed to providing TIF financing to the CCDC's estimated "Project Costs" in the sum of \$66,500,000.00 for the 20 year duration of the Shoreline Plan, commencing retroactively from January 1, 2018, through December 31, 2038. Said financing substantially exceeded the City's annual income and revenue.
17. In promulgating Ord. 58-18, the City committed to providing TIF financing to the CCDC's estimated "Project Costs" in the sum of \$96,500,000.00 for the 20 year duration of the Gateway Plan, commencing retroactively from January 1, 2018, through December 31, 2038. Said financing substantially exceeded the City's annual income and revenue.
18. Both Ord. 55-18 and Ord. 58-18 (the "Ordinances") were passed without the assent of two-thirds (2/3) of the qualified electors thereof voting at an election to be held for that purpose as required under Article VIII §3 of the Idaho Constitution for cities and other subdivisions of the State whenever they incur any indebtedness or liability, other than for ordinary and necessary expenses, in excess of their income and revenue for the year.
19. In promulgating the Ordinances, the City failed to find or to establish that the subject revenue allocation financing (TIF financing) for the Shoreline Plan or the Gateway Plan would be used to fund "ordinary and necessary" expenses of the City as provided and required under Article VIII §3 of the Idaho Constitution.

20. None of the exceptions set forth in Article VIII §3 of the Idaho Constitution to the requirement that the assent of two-thirds (2/3) of the qualified electors be obtained in the event there is no finding that the revenue allocation funding would be used to fund “ordinary and necessary” expenses of the City are applicable with respect to the promulgation of the Ordinances.
21. As required by Idaho Code §50-2908, the TIF revenues allocated to the CCDC pursuant to the Ordinances are calculated and paid directly to the CCDC by the County Treasurer of Ada County, Idaho.
22. The commitment by the City to allocate the TIF to the CCDC for 20 years pursuant to the Ordinances violates Article VIII, §3 of the Idaho Constitution and creates by and through said commitment a liability on the part of the City to the CCDC in violation of the express prohibition contained in Article VIII, §3, to wit:

No county, city, board of education, or school district, or other subdivision of the state, shall incur any indebtedness, or liability, in any manner, or for any purpose, exceeding in that year, the income and revenue provided for it for such year....

COUNT I

23. Plaintiffs reassert and re-allege the preceding paragraphs and incorporate them herein by reference as though fully set forth herein.
24. As applied to the City’s promulgation of the Ordinances and the City’s related conduct in the premises, the Local Economic Development Act I.C. 50-2901, et seq. violates the provisions Article VIII §3 of the Idaho Constitution prohibiting a city or any sub-division of the state municipality from incurring, outside of “ordinary and

necessary expenses,” an indebtedness or liability exceeding income and revenue for a specific year without the assent of qualified electors.

ATTORNEY’S FEES

25. As a direct and proximate result of the aforementioned conduct of Defendants, Plaintiffs have been required to hire legal counsel and incur the costs and attorney’s fees of this suit and is entitled to an award of same pursuant to Idaho Rule of Civil Procedure 54, Idaho Code §§ 12-120 and 12-121.

WHEREFORE Plaintiffs pray that the Court enter judgment against Defendant, the City of Boise, as follows:

1. An order entering an injunction prohibiting the City from proceeding under the Ordinances.
2. A judgment declaring the revenue allocation provisions (TIF) set forth under I. C. § 50-2901 et seq. (the Local Economic Development Act) as applied to the City and the Ordinances to be violation of Article VIII, §3.
3. For reasonable costs of suit, including attorney’s fees pursuant to Idaho Code §§ 12-120 and 12-121;
4. For such other and further relief as the Court deems just and proper.

DATED this 17th day of January 2019.

RUNFT & STEELE LAW OFFICES, PLLC

By: 
JOHN L. RUNFT
Attorney for Plaintiff

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Norton, Lynn G.

Attorney for Plaintiffs

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SUMMONS

NOTICE: YOU HAVE BEEN SUED BY THE ABOVE-NAMED PLAINTIFFS. THE COURT
MAY ENTER JUDGMENT AGAINST YOU WITHOUT FURTHER NOTICE UNLESS YOU
RESPOND WITHIN 20 DAYS. READ THE INFORMATION BELOW.

To: CITY OF BOISE, IDAHO
CITY HALL, 150 NORTH CAPITOL BOULEVARD
BOISE, IDAHO 83702

You are hereby notified that in order to defend this lawsuit, an appropriate response must be filed with the court designated above at 200 W. Front St., Boise, Idaho 83702, Tel: 208-287-6900, within 21 days after the service of the Summons on you. If you fail to so respond, the Court may enter judgment against you as demanded by Plaintiff in the Complaint.

Copies of the COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF are served with this Summons. If you wish to seek the advice of or representation by an attorney in this matter, you should do so promptly so that your written response, if any, may be filed in time and other legal rights protected.

An appropriate response requires compliance with Rule 10(a)(1) and other Rules of Civil Procedure and shall include:

1. The title and number of this case.
2. If your response is an answer to the COMPLAINT FOR BREACH OF CONTRACT AND PIERCING THE CORPORATE VEIL, it must contain admissions or denials of the separate allegations of the COMPLAINT FOR BREACH OF CONTRACT AND PIERCING THE CORPORATE VEIL and other defenses you may claim.
3. Your signature, mailing address and telephone number, or the signature, mailing address and telephone number of your attorney.
4. Proof of mailing or delivery of a copy of your response to the Plaintiff, if appearing *pro se*, or to Plaintiff's attorney, as designated above.

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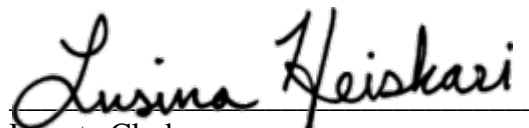
DATED this _____ day of January, 2019



PHIL MCGRANE

~~CHRISTOPHER D. RICH~~
CLERK OF THE DISTRICT COURT

By


Deputy Clerk