

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

Cara Spencer, Jeanette Oxford and James Wilson

Plaintiffs,

v.

The City of St. Louis,

[Do not Serve]

**Land Clearance for Redevelopment
Authority,**

[Do not Serve]

St. Louis Blues Hockey Club, L.P.

Kiel Center Partners, L.P.

**[Serve Hockey Club and KCP by serving:
Registered Agent, Phillip Siddle
1401 Clark Ave.
St. Louis, MO 63103]**

Defendants.

Cause No.

PETITION FOR DECLARATORY JUDGMENT

Plaintiffs state the following as their Petition for Declaratory Judgment:

STATEMENT OF THE CASE

1. This suit is being brought by a group of concerned citizens who began meeting in early January 2017 to discuss the issues raised by this Petition, soon after the introduction of St. Louis City Bill Number 246, which resulted in passage of St. Louis City Ordinance 70473 (“Ordinance”).¹

¹ See Attached copy of the Ordinance, marked Exhibit C.

2. Plaintiffs hereby seek a declaration by this Court that this Ordinance is not enforceable.
3. The owners of the St. Louis Blues and Scottrade Center (“Hockey Ownership”²) are the beneficiaries of a comprehensive 50-year lease signed with the City in 1992, which requires them to pay rent of only \$1 per year, which gives them:
 - a. sole and exclusive control of Scottrade Center³ during the 50-year lease;
 - b. the right to use Scottrade Center as the forum for any type of event through during the 50-year lease, with the right to keep all the profits;
 - c. the duty to make their own repairs and improvements to Scottrade Center during the 50-year lease.
4. The City does not own any aspect of the Scottrade Center lease and will not receive any profits from either the hockey team or the leasing of the arena during the 50-year lease.
5. Pursuant to the 1992 agreement, the only aspect of Scottrade retained by the City is bare legal title; the City will not have anything more than bare legal title until Hockey Ownership’s lease expires no earlier than 2042.
6. At a January 4, 2017 press conference, Hockey Ownership promoted the need for the Ordinance, insisting that their arena needed repairs and improvements and further insisting that the City should provide substantial money to fund that work.⁴

² Since 1992, various for-profit organizations have had a financial interest in the Hockey Club, the St. Louis Blues, and the arena, presently known as Scottrade Center. Throughout this Petition, Plaintiffs will use the term “Hockey Ownership” to refer to the Hockey Club and/or any other for-profit entity in privity with the Hockey Club or in privity with the ownership of the hockey arena.

³ The arena opened in 1994 and was known as **Kiel Center** until 2000 and **Savvis Center** from 2000 to 2006. https://en.wikipedia.org/wiki/Scottrade_Center It will be referred to as “**Scottrade Center**” throughout this Petition. In 2006, naming rights for the building were sold to Scottrade. <http://www.scottradedecenter.com/about-us>

⁴ See the videotape of the January 2017 Hearing of the Ways and Means Committee. <https://www.youtube.com/watch?v=9INIOv1yEa8> .

7. At that press conference, Hockey Ownership stated, “We’re going to need the city to invest alongside the Blues ownership.”⁵
8. What the Ordinance requires, however, is not an investment or even a loan. The Ordinance requires the City to give an immense gift of money to Hockey Ownership.
9. The Ordinance requires the City to hand over **\$105.9 Million dollars** to Hockey Ownership over a period of 30 years.
10. Hockey Ownership has touted that this huge transfer of public revenue to Hockey Ownership will benefit the City with sales tax on ticket sales and the possibility of new jobs, but the City already had the rights to all of these “benefits” pursuant to the 1992 agreement.
11. The primary purpose of the Ordinance is to promote the private business interests of a for-profit corporation.
12. In the process of passing the Ordinance, no information was provided to show the extent of damage that would be done to the City were it to neglect essential services for its citizens (e.g., law enforcement, parks and development to attract other industries) in the amount of millions of dollars per year for 30 years.
13. If the City were compelled to make these massive payments to Hockey Ownership, it would prevent the City from providing numerous essential services to its residents for 30 years, causing hardship and detriment, not benefit.
14. Nor does Hockey Ownership’s accounting take into consideration the actual benefits to the City were the City to invest \$105 Million in city services over the next 30 years.

⁵ http://www.stltoday.com/news/local/metro/city-business-leaders-want-million-in-renovations-for-scottrade-center/article_5ed239cf-48b5-51ce-9016-ce069693eef7.html

15. If the Ordinance had required the City to give away \$105 Million in taxpayer money to other sorts of businesses such as a casino, a tattoo parlor, or a payday lender, the principles governing this case would become crystal clear: The City should never give away its tax revenue to any for-profit company.
16. In the minds of many people there exists a moral question about whether a city that struggles to meet its responsibility to maintain the health, safety and welfare of its citizens should ever give away any of its limited tax dollars to a private for-profit enterprise that sells amusement or entertainment.
17. This suit goes beyond this moral question, and these Plaintiffs assert that St. Louis City Ordinance 70473 is illegal and, in fact, violates Article VI, Section 25 of the Missouri Constitution, in that it permanently grants substantial public money to a for-profit corporation for the purpose of assisting that corporation to make further profits for itself.
18. The Plaintiffs are hereby asking this Court to declare the Ordinance unenforceable for reasons stated in Article VI, Section 25 of the Missouri Constitution and for the other reasons set forth in this Petition.

PARTIES

19. Plaintiff **Cara Spencer** is a taxpayer and voter residing in the City of St. Louis. She currently serves as Ward 20 Alderwoman for the City of St. Louis.
20. Plaintiff **Jeanette Oxford** is a taxpayer and voter residing in the City of St. Louis. She previously served a member of the Missouri House of Representatives for the 59th District.
21. Plaintiff **James Wilson** is a taxpayer and voter residing in the City of St. Louis. He previously served as City Counselor for the City of St. Louis.
22. Defendant City of St. Louis is a municipal corporation under Missouri law (“**City**”).

23. Defendant Land Clearance for Redevelopment Authority (“**LCRA**”) is political subdivision of the State of Missouri that acts as an agency of the City of St. Louis and might claim an interest in the outcome of this lawsuit.
24. Defendant Kiel Center Partners (“**KCP**”) is a Missouri for-profit corporation with its offices at 1401 Clark Ave, St. Louis, MO 63103, within the City of St. Louis that might claim an interest in the outcome of this lawsuit.
25. St. Louis Blues Hockey Club, L.P. (“**Hockey Club**”), a limited partnership that owns the St. Louis Blues Hockey Team and the current lease of Scottrade Center that is the focus of this lawsuit. It also operates Scottrade Center, which it leases from the City of St. Louis or its agencies for \$1 per year.⁶

BACKGROUND

26. Many people from the St. Louis area enjoy and support the St. Louis Blues hockey team.
27. The Plaintiffs and their attorneys applaud the efforts of the owners and players of the St. Louis Blues Hockey Team and wish the team well in its quest to someday win the Stanley Cup.
28. The Blues are also a for-profit business selling entertainment.
29. The Blues play their home games at the Scottrade Center, 1401 Clark Ave, St. Louis, MO 63103.

1992 AGREEMENT

30. The events most relevant to this lawsuit begin in 1992, when the City of St. Louis entered an agreement by which the City leased its land at 1401 Clark to the Land Clearance for

⁶ <https://www.nhl.com/blues/news/local-group-completes-purchase-of-blues/c-631301>

Redevelopment Authority as “Master Lessee” in order that Hockey Ownership could construct a sports-entertainment arena on that land and operate it for 50 years (with options to extend that lease by up to 20 additional years). Under this agreement, Hockey Ownership was to retain all profits from operating the entertainment facility it would build.

31. The Amended and Restated Lease and Development Agreement of November 30, 1992⁷ contained the following provisions:

1.02 Term of Amended Lease. . . . The term of this Amended Lease shall end at midnight on the day prior to the fiftieth (50th) anniversary of the Commencement Date.⁸

1.04. Renewal Terms. Lessee shall have four (4) successive options to renew and extend the term of this Amended Lease for a period of five (5) years each, on the same terms and conditions as are contained herein, the first such renewal term to commence immediately upon the expiration of the initial term of this Amended Lease.⁹

3.02. Net Lease. From and after the Commencement Date, this Amended Lease shall be a net lease in all respects, and during the term hereof. Lessee shall perform, or cause to be performed, all obligations connected with arising out of owning, occupying, managing or using the Kiel Site or any part thereof, including, without limitation, the payment of all debt service and principal indebtedness incurred in connection with the Bonds and the redevelopment and operation of the Kiel Site, property taxes and assessments, if any, or payments in lieu thereof in accordance with and only to the extent of, the requirements of Section 4.03 hereof and the Development Agreement, property management fees and expenses, all sums for maintenance, repair and replacement of improvements, insurance premiums, utility charges and expenses, and the like, all as and when the same shall become due and payable; provided, however, that Lessee shall have no obligations or liability for any costs incurred for or in connection with any portion of the Total Site Work Commitment. Insofar as the performance by the Lessee of its covenants and obligations pursuant to this Amended Lease shall impose any financial obligation liability upon the Lessor not otherwise provided for herein to be paid, performed or satisfied by Lessor, said amounts, if not otherwise paid, discharged or satisfied by Lessee, shall constitute additional rent hereunder . . .¹⁰

⁷ See Exhibit A to this Petition.

⁸ See also, Exhibit B, Amended and Restated Master Lease, §2. Term of Master Lease.

⁹ Id.

¹⁰ See also, Exhibit B, Amended and Restated Master Lease, §4 “Rent, Net Lease.”

4.03. Real Estate Taxes. Lessor covenants and agrees to cooperate with Lessee in maintaining the exemption from real estate taxes provided for in the Development: Agreement: as set forth therein.

4.04. Rights Reserved to Lessee. Throughout the term of this Amended Lease, Lessee shall be entitled to retain all revenues, rents, proceeds, profits and issues of any use of the Facilities, it being understood and agreed that with the sole exception of such license fees and taxes as may be due the City of St. Louis, said revenues, rents, proceeds, profits and issues shall not be subject to any levy, charge, lien or assessment on the part of Lessor or anyone claiming by, through or under Lessor.¹¹

4.05. Covenants of Quiet Enjoyment. Lessor hereby covenants and agrees that the Lessee, by keeping and performing the covenants and agreements herein contained, shall at all times during the term hereof, peaceably and quietly, hold and enjoy the Kiel Site, free from any hindrance or molestation by Lessor or anyone claiming by, through or under Lessor, subject only to Permitted Encumbrances. Lessor further covenants and agrees that it shall (a) deliver or cause to be delivered to Lessee, on or before the Commencement Date, the Non-Disturbance Agreement, duly executed by Master Lessor, and (b) execute and deliver the Memorandum of Lease described in Section 9.09 hereof.

....

5.01. Alterations, Additions and Improvements to the Facilities.

Subject to compliance with all applicable laws, regulations and ordinances, Lessee shall have the right during the term of the Amended Lease to make any alterations, additions or improvements of any kind, structural or otherwise, as it shall deem necessary or desirable, on or to the Facilities, to attach fixtures, structures or signs, and to affix any personal property to the improvements on the Project; provided, however, that no such alteration, addition or improvement shall materially alter or change the character or use of the Project without Lessor's consent, which consent shall not be unreasonably withheld. Lessor shall have no approval rights with respect to the design or construction of any of said alterations, additions or improvements. All such alterations, additions and improvements shall become the property of the Lessor as part of the Project and shall be subject hereto.

5.02. Lessee's Equipment. All of the Lessee's equipment and other personal property installed or placed by the Lessee in or on the Facilities which is not a fixture under applicable law shall remain the sole property of the Lessee and may be modified or removed at any time by the Lessee and shall not be subject to the lien of this Amended Lease. Lessee shall repair any damage caused by such removal.

¹¹ See also, Exhibit B, Amended and Restated Master Lease, §9, "Warranties and Covenants."

32. Under this 1992 agreement, Hockey Ownership was required to pay only \$1 per year for exclusive use of the premises for at least 50 years.¹²
33. In the years preceding 1992, the City of St. Louis incurred expenses of approximately \$800,00 per year to maintain the former site (this site included Kiel Auditorium).
34. Under the 1992 agreement, the City agreed to pay only for site clearance to make way for the new arena and parking garage. Because the City had been incurring expenses of approximately \$800,000 per year out of its general revenue fund to maintain and repair buildings on the site, including Kiel Auditorium, the City agreed to allocate an amount commensurate with that \$800,000 annual obligation to obtain a 30-year LCRA bond of approximately \$15.5 million in order to clear the site for the new arena and garage. That \$15.5M bond will be fully paid off in 2021.
35. Under the 1992 agreement, the City obtained the benefit of being relieved of that \$800,000 annual maintenance it was paying to maintain a deteriorating site.
36. Under the 1992 lease, all expenses of building and maintaining the new arena were to be fully funded by Hockey Ownership.
37. As part of the 1992 arrangement, the City agreed to hold only “bare legal title” to the premises.¹³ By agreeing to hold bare legal title throughout this long lease, the City gave

¹² *Id.*, para. 4.

3.01. **Rent.** Lessee shall pay to Lessor, upon written demand, as rent for the use of the Kiel Site, the sum of \$1.00 per annum throughout the term of this Amended Lease, said amount to commence to be due and payable on the Commencement Date and thereafter on each anniversary thereof during the remainder of the term of this Amended Lease.

¹³ *Id.*, para 10.

Hockey Ownership a valuable benefit in that the Hockey Ownership has not incurred any real estate tax regarding Scottrade Center.

38. The 1992 lease allowed Hockey Ownership to completely control and profit from the use of Scottrade Center for at least 50 years.

39. Since the opening of Scottrade Center in 1994, Hockey Ownership has made money using the property by holding sports events at Scottrade.

40. Hockey Ownership also collects revenue from large concerts and other events held at the Scottrade Center, including but not limited to:

- Ed Sheeran Concert, September 17, 2017
- Bob Seger Concert, October 12, 2017
- Fall Out Boy Concert, October 21, 2017
- Katy Perry Concert, October 22, 2017
- Lady Gaga Concert, November 16, 2017
- Jim Gaffigan Performance, December 2, 2017

41. Some of these events generate large revenue. For instance, admittance to the Lady Gaga concert required tickets priced as high as \$469 per seat.

42. Since 1992 the City of St. Louis has had no control over Scottrade Center.¹⁴

43. This 1992 lease is still in effect.

¹⁴ *Id.* para 10.

All benefits and incidents and obligations of ownership of the Master Lease Premises shall, for the term hereof, inure to the benefit of Master Lessee, including without limitation, all rights to enter into and to collect all proceeds of leases of and licenses authorizing the use of the Master Lease premises and other uses of the Master Lease Premises permitted hereunder.

2016-2017 EVENTS

44. This lawsuit concerns St. Louis City Ordinance 70473 (“Ordinance”) which, if enforced, requires proceeds from the City of St. Louis to be paid to Hockey Ownership to fund improvements to the Scottrade Center, even though Scottrade is a private lease property interest.
45. The St. Louis Board of Aldermen adopted Board Bill 246 in February 2017; the bill was then signed by Francis G. Slay, then Mayor of St. Louis.
46. The Ordinance, if deemed enforceable by this court, would dramatically conflict with the 1992 lease by requiring the City to pay large amounts of tax revenue directly to a for-profit business that will use that money to make more money for the sole benefit of Hockey Ownership.
47. The Ordinance is coupled with a Financing Agreement, that has not yet been fully executed.¹⁵
48. To the extent that the Ordinance is valid and enforceable, it would require the City through various measures collectively referred to herein as “the financing arrangement” to pay approximately the present value of **\$67.5 million** in City revenue for repairs and improvements to the Scottrade Center.¹⁶

¹⁵ See Ordinance, Exhibit A. Finance Agreement is attached. On page 7, Ordinance states: “The Financing Agreement is hereby approved by the Board of Aldermen of the City, and the Mayor and Comptroller of the City are hereby authorized and directed to enter into and execute the Financing Agreement for and on behalf of the City.” The Finance Agreement (Exhibit D) has not yet been signed by Comptroller Darlene Green.

¹⁶ “City, business leaders want \$138 million in renovations for Scottrade Center,” St. Louis Post-Dispatch. http://www.stltoday.com/news/local/metro/city-business-leaders-want-million-in-renovations-for-scottrade-center/article_5ed239cf-48b5-51ce-9016-ce069693eef7.html

49. To the extent that this Ordinance is valid and enforceable, **the City of St. Louis would be required to make payments to a for-profit business adding up to \$105.9 Million over the next 30 years.**
50. Plaintiffs do not know Hockey Ownership’s precise reasoning for insisting that the City provide free money for new construction on Scottrade Center. For instance, Plaintiffs do not know whether Hockey Ownership is either unwilling or unable to sell private bonds to the general public to raise the money they are seeking from the City.¹⁷
51. On numerous occasions at the St. Louis City Board of Aldermen Ways & Means Committee Meeting of January 19, 2017 (“Committee Meeting”), persons associated with Hockey Ownership and the City indicated that the Scottrade Center was “City Property,” implying that the City should repair and maintain the Scottrade Center.¹⁸
52. Until 2042, the City owns no meaningful aspect of the Scottrade Center. Until 2042 (and beyond, if the Hockey Ownership exercises its contractual options), Hockey Ownership is the owner of every meaningful aspect of Scottrade Center.
53. It is thus highly misleading to suggest that Scottrade Center is “City Property.” It is far more accurate to state that Scottrade Center is solely property of the Hockey Ownership until at least 2042.

¹⁷ It adds confusion to passage of the Ordinance that on its current website, Scottrade Center claims that it already has “State-of-the-Art facilities and equipment.” See Exhibit E, Website of Scottrade Center. <http://www.scottradedcenter.com/about-us>

¹⁸ <https://www.youtube.com/watch?v=9INIOv1yEa8> . For the “City Owned” references, See also presentations of Tom Stillman presentation, Chris Zimmerman and Lewis Reed. See also Ordinance, p. 5.

54. To the extent that the Scottrade Center can meaningfully be said to be “city property,” the Ordinance fails for a different reason, in that it would conflict with the St. Louis City Charter.¹⁹
55. Pursuant to the 1992 arrangement, the Scottrade Center was built on land to which the City retained only “bare legal title.” Under the 1992 lease it has been the sole responsibility of Hockey Ownership to build, repair, modify or improve for the entire 50-year lease, in its quest to make profits from its own investment.²⁰
56. The terms of the 1992 lease gave Hockey Ownership full use of a huge tract of City land upon which to build and use its arena.
57. The situation is akin to that of a woman who owns land, who leases full use of her land to a family for 50 years, retaining only bare legal title. The family builds a big house, then

¹⁹ Article 22 PUBLIC WORKS AND IMPROVEMENTS – ESTIMATE OF COSTS

Section 1 - Ordinance initiating public works—Recommendations required.

No ordinance for public work or improvements of any kind, or repairs thereof, shall be adopted, unless prepared and recommended by the board of public service with an estimate of the cost endorsed thereon.

Section 2 - Ordinance—Contents; authorization for subsequent appropriations.

Such ordinances shall authorize the particular work or improvement; specify the general character and extent thereof, the material to be used therein and in the alternative if desirable; the manner and regulations under which it shall be executed; the term for which it shall be guaranteed, if at all; the fund or source from which payment shall be made; that it shall be done in accordance with detailed plans and specifications finally adopted and approved by the board of public service before bids are advertised therefor; and shall contain a specific appropriation of an amount sufficient to pay the city's part of the estimated cost; provided, that emergency work and repairs requiring prompt attention may be done under supervision of the board of public service as provided by general ordinance.

²⁰ See Exhibits A and B.

halfway through the lease complains that she should buy them a big-screen TV and swimming pool for their house simply because she is the “owner.”

58. The terms of the 1992 lease precisely set forth the duties of Hockey Ownership and the City.
59. The lease clearly relieves the City of any duty to maintain, repair or renovate the Scottrade Center.
60. Under the new Ordinance, Hockey Ownership will continue to have exclusive possession and control over the use of the Scottrade Center, and will continue to be totally in control of scheduling events at Scottrade and profiting from those events.
61. Under the new Ordinance the City would retain only bare legal title of the property, thus saving Hockey Ownership the burden of paying any property taxes for many years.
62. Upon information and belief, Hockey Ownership has no intention of paying rent above \$1 to the City of St. Louis for the 30-year period during which the bonds contemplated by the Ordinance would require payments.
63. The Ordinance, if enforced, would be a terrible precedent for a cash-strapped city, whose long wish list includes many more police officers on the street, as well as other substantial needs regarding public health and safety.
64. To the extent that this Ordinance is valid and enforceable, the City of St. Louis would begin making payments in 2019 and those payments would continue until the year 2048, which is 30 years from now. See the attached proposed payment schedule, an exhibit to the Ordinance.²¹

²¹ See Exhibit C, Ordinance. The Payment Schedule is attached as Exhibit C within Exhibit C.

**EXHIBIT C
CITY PAYMENT SCHEDULE**

Fiscal Year	City Payment Amount
2018	\$0
2019	\$1,500,000
2020	\$1,500,000
2021	\$1,500,000
2022	\$2,500,000
2023	\$2,600,000
2024	\$2,600,000
2025	\$2,700,000
2026	\$2,700,000
2027	\$2,800,000
2028	\$2,800,000
2029	\$2,900,000
2030	\$3,000,000
2031	\$3,000,000
2032	\$3,100,000
2033	\$3,200,000
2034	\$4,500,000
2035	\$4,500,000
2036	\$4,500,000
2037	\$4,500,000
2038	\$4,500,000
2039	\$4,500,000
2040	\$4,500,000
2041	\$4,500,000
2042	\$4,500,000
2043	\$4,500,000
2044	\$4,500,000
2045	\$4,500,000
2046	\$4,500,000
2047	\$4,500,000
2048	\$4,500,000

65. It puts the City at significant risk to obligate itself to make massive annual payments over several decades; over that long period of time, tax revenue will undoubtedly be needed for purposes much more central to providing for public health and safety than providing for amusements or entertainment.

66. Further, the payments are structured to be especially onerous in later years, apparently to entice the City to pass the Ordinance, but it then passes on a disproportionate part of the burden to the next generation of St. Louis City residents.
67. To put the length of time of the above payment schedule into perspective, 30 years ago President Ronald Reagan demanded that Mikhail Gorbachev “Tear down this wall!” (referring to the Berlin Wall). The Hubble Telescope was not placed into orbit until 3 years later, in 1990.
68. The Ordinance is essentially requiring the City to predict its budget for all years leading up to 2047.
69. The Ordinance and proposed Finance Agreement do not contain any escape clause that would relieve the city of the obligation to make any of these payments under any circumstances such as severe financial hardship.
70. At the January 19, 2017 Hearing of the St. Louis Board of Aldermen Ways & Means Committee Meeting, several representatives of the Hockey Ownership proposing the \$64.5 million bond proposal spoke to the Committee.²²
71. Two of those presenters at the Hearing, Hockey Ownership stated that the Scottrade Center along with the Peabody Opera House plays host to more than 200 events a year in more than 60% of those events are something other than Blues games.²³ This number, however, conflates the events at Peabody with events at Scottrade and does not indicate the actual number of events that occur at Scottrade.²⁴

²² <https://www.youtube.com/watch?v=9INIOv1yEa8>

²³ *Id.*

²⁴ *Id.* See also, the Scottrade Center Website page titled “Renovations,” which conflates the events held at Peabody with those held at Scottrade Center, even though the proposed payments from the City are only for renovations to Scottrade Center:

72. Reference to the Scottrade Center calendar of events for August 7 through December 7, 2017 shows 6 scheduled non-Blues events and 15 scheduled Blues games.²⁵ This admittedly small and unscientific sampling suggests that most of the upcoming events at Scottrade Center will be Blues games.²⁶
73. The Peabody Opera House is not part of this project site, as indicated by the map immediately below. Peabody occupies the north half of the block, which is not selected for any additional investment on the map below.²⁷

St. Louis Blues hockey games account for only 40 percent of events at Scottrade Center. More than 200 non-hockey events are presented annually at our arena and the adjoining Peabody Opera House, including various NCAA and conference tournament events, concerts and family shows.

<http://www.scottradecenter.com/about-us/renovations>

²⁵ <http://www.scottradecenter.com/events>

²⁶ The money sought is proposed only for improvements to Scottrade Center, not the adjoining Peabody Opera House.

From August 7 through December 7, 2017, 15 additional events are scheduled to be held at Peabody. <http://www.peabodyoperahouse.com/events/>

²⁷ See Ordinance, Exhibit C and refer to Exhibit A within Exhibit C.

**EXHIBIT A
MAP AND LEGAL DESCRIPTION OF PROJECT SITE**



74. For these reasons, it is the belief of Plaintiffs that the majority of events affected by the Ordinance are related to Blues Hockey and the majority of money Hockey Ownership seeks from the taxpayers of St. Louis is related to hockey.

75. The Hockey Ownership took credit for substantial amounts of forecasted City sales tax in an attempt to justify the Ordinance. Like any other for-profit business, however, it is the customers who buy tickets (not the business itself) who pay sales taxes, which the business owner then turns over to the city. To suggest that the business owner provides sales tax

related to ticket sales is to improperly suggest a taxpayer equity position based on the tax structure.

76. It is also the law that all businesses must pay sales tax, meaning that potential sales tax cannot serve as consideration for a contract.
77. The city has used sales tax revenue to provide police, fire department and other services throughout the city, including to the benefit of Hockey Ownership.
78. Upon information and belief, when current Hockey Ownership bought the team and lease in 2012, it had full knowledge of the financials regarding the team and arena and the physical condition of the Scottrade Center.
79. In 2012, Hockey Ownership did not disclose to the City its intent to soon thereafter ask the City for a huge influx of taxpayer money.
80. The Comptroller of the City of St. Louis has recently expressed that the provision of public funds from the City of St. Louis to the Scottrade Center will reduce available funding for public safety and delivery of essential city services.
81. Given the massive expenditure of taxpayer dollars to a corporation that provides amusement and entertainment and given financial risks of borrowing great sums of money over three decades, it is important that this Court meticulously examine the Ordinance, as well as the proposed Financing Agreement attached to the Ordinance.
82. In that context, Hockey Ownership stated as follows to the January 2017 Ways and Means Committee Hearing:

I've been involved in Blues ownership now for about 10 years. Initially I was a minority partner in the previous ownership group, a mostly out-of-town group that as you may know was not a raging success. When that group announced its intention to sell, we put together an all local ownership group to purchase the Blues and arena lease. Now, that the transaction was not exactly a get rich quick scheme at the time the Blues and arena

business was losing about \$20 million a year. But I have to say that not one person in our group made the decision to invest in the Blues and the arena because it looked like a smart financial investment

83. Hockey Ownership candidly stated that the Blues have had 8 owners over their 50 years as a team.²⁸

84. The Ordinance sharply conflicts with the original 1992 agreement and is detrimental to the City. The Ordinance purports to require that the City become a major investor in a private business, Scottrade Center. This is new and starkly different deal when compared to the 1992 agreement. As indicated recently on the Scottrade Website:

For the first time since opening Scottrade Center doors 23 years ago, we are asking our City leaders to invest in Scottrade Center as the current ownership group, led by Tom Stillman, continues to invest their own money into this building – our arena.²⁹

85. What Hockey Ownership seeks through the Ordinance is a major change in position, one that makes the Ordinance illegal.

86. It was anticipated by the parties that this Ordinance might be subjected to juridical review of the sort request in this lawsuit:

SECTION SEVEN. It is hereby declared to be the intention of the Board of Aldermen that each and every part, section and subsection of this Ordinance shall be separate and severable from each and every other part, section and subsection hereof and that the Board of Aldermen intends to adopt each said part, section and subsection separately and independently of any other part, section and subsection. In the event that any part, section or subsection of this Ordinance shall be determined to be or to have been unlawful or unconstitutional, the remaining parts, sections and subsections shall be and remain in full force and effect, unless the court making such finding shall determine that the valid

²⁸ Tom Stillman, Chairman of the St. Louis Blues and the Scottrade Center presenting to the January 19, 2017 Ways and Means Committee.

<https://www.youtube.com/watch?v=9INIOv1yEa8>

²⁹ <http://www.scottradedcenter.com/about-us/renovations>

portions standing alone are incomplete and are incapable of being executed in accord with the legislative intent.³⁰

87. It is the position of the Plaintiffs' that it was not the intent of the Board or Alderman, nor would it be legal (see Count III) to pass an ordinance that conflicts with city obligations established by the 1992 lease, which remains in full force and effect.
88. An actual and genuine justifiable controversy exists between Plaintiffs and Defendants concerning the Ordinance for which plaintiffs seek declaratory relief.
89. The Plaintiffs have no adequate remedy at law.
90. Pursuant to Section 527.010, RSMo and Missouri Rule of Civil Procedure 87, Plaintiffs and Class request various declarations of rights as set forth in the Request for Relief at the end of this Petition.

JURISDICTION AND VENUE

91. This court has jurisdiction over Defendants in that they and the Scottrade Center, the subject of this lawsuit, reside in can be found in the City of St. Louis.
92. Plaintiffs and Defendants all reside in the City of St. Louis or can be found in the City of St. Louis.
93. This Court has jurisdiction to determine the validity and legal effect of the Ordinance discussed throughout this Petition and agreements entered into by the City of St. Louis under Section 527.010, RSMo of the Missouri Revised Statutes.
94. Venue is appropriate is in this Court because Plaintiffs reside in the City of St. Louis, and all Defendants can be found in the City of St. Louis and conduct business in the City of St. Louis.

³⁰ Ordinance, p. 9. See also, Section 9.09 of the Finance Agreement.

95. The City of St. Louis hold bare legal title to the Scottrade Center, located in the City of St. Louis.

**COUNT I -- DECLARATORY JUDGMENT: VIOLATION OF MISSOURI
CONSTITUTION**

96. Plaintiffs hereby incorporate into this Count by reference all allegations contained throughout this Petition.

97. Throughout the lead-up to the passage of Ordinance, Hockey Ownership couched the City's payment of \$105.9 Million over the next 30-years in contractual terms, as though the City is receiving something new and better in return for its money compared to the 1992 arrangement.³¹

98. The City gets no new benefit from the new arrangement compared to the 1992 arrangement, even though the Ordinance, if enforceable, requires the City to pay an enormous amount of money not required by the 1992 agreement, that will constitute a severe hardship on the ability of the city to provide services to its residents.

99. The 2017 Ordinance provides:

WHEREAS, the Scottrade Center Project will significantly benefit the City by: (a) increasing local tax revenues through the retention of existing jobs and increased sales; (b) increasing sports activity, recreational entertainment, convention, and tourism activities within the City; and (c) causing redevelopment City-owned facility in need of such redevelopment.³²

³¹ <https://www.youtube.com/watch?v=9INIOv1yEa8>

³² Ordinance, p. 4-5, Exhibit C.

100. Items a) and b) were benefits the City had already received as part of the 1992 agreement, in that it was the aim of all parties back in 1992 that Hockey Ownership would sell lots of tickets, resulting in these exact same benefits of significant sales tax revenue.

101. Item c) is a claim that the City would benefit to the extent that it pays huge amounts of money to improve the property of a private for-profit corporation. On its face, this is a benefit only to the for-profit corporation, not the City, because the City has no possessory interest in the Scottrade Center, in that the long-term lease affected by such improvements is not “City-owned.”

102. Based on the 1992 lease, the City was always in a position to receive

- a. \$1 per year lease payment; and
- b. The hope of receiving sales tax revenue paid by those who buy tickets to events at Scottrade.

103. The City will receive nothing in return for these massive annual payments the Ordinance purports to require. The Ordinance is not a quid pro quo.

104. Rather than improve the financial condition of the City of St. Louis, the financing arrangement reduces available funding for public safety and deliver of essential services.

105. The Missouri Constitution provides, in Article VI, Section 25, that:

No county, city or other political corporation or subdivision of the state shall be authorized to lend its credit or grant public money or property to any individual, association or corporation excepted as provided in Article VI, Section 23. . . [excepting certain exceptions not applicable in this case]”

106. This provision of the Missouri Constitution prohibits any Grant in Aid.

107. The plaintiffs seek a declaration that the Ordinance as a Grant-in-aid violates the provision of Mo. Constitution.

108. The lease that defines the use of Scottrade Center is not a public asset. Therefore, tax revenue that constitutes an investment in the facility is not a public investment, meaning that it is simply giving away public money. The Ordinance thus violates the Missouri Constitution.

109. Providing a venue for high ticket concerts and other entertainment is not a public purpose when that venue is operated by a private entity for profit while paying no rent for use of the venue which is a public asset.

WHEREFORE, Plaintiffs seek the relief requested in the Request for Relief set forth at the end of this Petition.

**COUNT II -- DECLARATORY JUDGMENT: CONFLICT WITH EXISTING LEASE –
ADDITIONAL RENT PROVISION**

110. Plaintiffs hereby incorporate into this Count by reference all allegations contained throughout this Petition.

111. In February 2017, the City entered into a master lease described throughout this Petition with the Land Clearance Authority regarding Scottrade Center.

112. The Lease prominently provided that the Hockey Ownership would be responsible for the costs of maintenance, repairs and improvements to Scottrade Center.

113. Hockey Ownership is presently the assignee of the Lease and subject to all terms and conditions

114. The existing Lease requires that any funds paid by the City of St. Louis related to the operation of the Scottrade Center shall be paid back to the City in the form of additional rent.

The Lease provides:

Insofar as the performance by the Master Lessee of its covenants and obligations pursuant to this Amended and Restated Master Leases shall impose any financial obligations or liability on the Master Lessor, said amounts, if not otherwise paid, discharged or satisfied by the Master Lessee, shall constitute additional rent herein....³³

115. This provision of the Lease prevents public funds of the City of St. Louis from being used for any financial obligation related to operation of the Scottrade Center.

116. It was never intended by the City of St. Louis to provide funds to maintain the Scottrade Center, the 1992 lease specifies this, and upon information and belief that lease is still in effect.

WHEREFORE, Plaintiffs seek a declaration that any contribution it is required to make pursuant to the Ordinance needs to be immediately paid back to the City by Hockey Ownership as “rent.”

FURTHER, Plaintiffs also seek the relief requested in the Request for Relief set forth at the end of this Petition.

COUNT III-- CONFLICT WITH EXISTING LEASE –DUTY OF HOCKEY OWNERSHIP TO INCUR ALL EXPENSES REGARDING THE LEASED PROPERTY

117. Plaintiffs hereby incorporate into this Count by reference all allegations contained throughout this Petition.

118. The 1992 lease provides that the City would not provide any funds to maintain the Scottrade Center.

119. The lease which states this lack of intention is still in effect.

³³ See Exhibit B, Amended and Restated Master Lease, §4 “Rent, Net Lease.”

120. The Ordinance therefore conflicts with rights and obligations of the City pursuant to the 1992 lease.

WHEREFORE, Plaintiffs seek the relief requested in the Request for Relief set forth at the end of this Petition.

REQUEST FOR RELIEF

WHEREFORE, Plaintiffs seek Judgment as follows:

- A. A declaration by this Court that the Ordinance is not enforceable in that the use of any public funds to improve the Scottrade Center violates Article VI, Section 25 of the Missouri Constitution in that the City would be giving away public funds and public property to a private for-profit corporation.
- B. A declaration by this Court that the Ordinance is not enforceable to the extent that it requires the City to pay \$105 million over 30 years, in that Hockey Ownership is a for-profit entity, and that investing in a privately held lease interest to allow a private company to make profit from concerts and other entertainment events with expensive ticket prices does not constitute a public purpose.
- C. A declaration by this Court that the provisions of the 1992 Lease remain in full force and effect and require that if the City provides any funds for improvements or additions or equipment or fixtures to the Scottrade Center that the Kiel Center Partners pay the City that amount in return as additional rent immediately payable back to the City.
- D. For such other and further relief as may be appropriate.

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