

CIVIL DISTRICT COURT FOR THE PARISH OF ORLEANS

STATE OF LOUISIANA

NO. 2015-5129

DIVISION "L"

FAUBOURG MARIGNY IMPROVEMENT ASSOCIATION, INC. AND LISA SUAREZ

VERSUS

THE CITY OF NEW ORLEANS, THE NEW ORLEANS CITY COUNCIL, AND
THE NEW ORLEANS CITY PLANNING COMMISSION

FILED: _____
DEPUTY CLERK

**DEFENDANTS' ANSWER TO PLAINTIFFS' ORIGINAL AND FIRST AMENDED
PETITION FOR DECLARATORY RELIEF AND PERMANENT INJUNCTION**

NOW INTO COURT, through undersigned counsel, come the City of New Orleans, the New Orleans City Council, and the New Orleans City Planning Commission (collectively, "the City"), and respond to plaintiffs' original and First Amended Petition for Declaratory Relief and Permanent Injunction ("Petition") as follows:

1.

The allegations of Paragraph 1 of the Petition are a recitation of "background" statements and legal conclusions that require no response. To the extent that Paragraph 1 contains allegations against the City, those allegations are denied.

2.

The allegations of Paragraph 2 of the Petition are denied for lack of sufficient knowledge on which to justify a belief therein.

3.

The allegations of Paragraph 3 of the Petition are denied for lack of sufficient knowledge on which to justify a belief therein.

4.

The allegations of Paragraph 4 of the Petition are legal conclusions which require no response. To the extent a response is required, the allegations are denied.

5.

The allegations of Paragraph 5 of the Petition are admitted.

6.

The allegations of Paragraph 6 of the Petition are admitted.

7.

The allegations of Paragraph 7 of the Petition are admitted.

8.

The allegations of Paragraph 8 of the Petition are a recitation of the New Orleans City Charter and the Comprehensive Zoning Ordinance and require no response. Further answering, those laws are the best evidence of their contents.

9.

The allegations of Paragraph 9 of the Petition are admitted.

10.

The allegations of Paragraph 10 of the Petition are denied as written.

11.

The allegations of Paragraph 11 of the Petition are admitted to the extent that the City Council adopted Ordinance Calendar No. 30,637 (the "Ordinance") on May 14, 2015, and that the Ordinance will become effective and replace the existing Comprehensive Zoning Ordinance 90 days after adoption. The City further admits that the Ordinance, as adopted, includes amendments captioned "MJL-6." Any remaining allegations in Paragraph 11 are denied.

12.

The allegations of Paragraph 12 of the Petition restate select portions of Amendment MJL-6 and require no response. Further answering, the text of MJL-6 is the best evidence of its contents.

13.

The allegations of Paragraph 13 of the Petition are denied.

14.

The allegations of Paragraph 14 of the Petition are denied.

15.

The allegations of Paragraph 15 of the Petition are denied.

16.

The allegations of Paragraph 16 of the Petition are denied.

17.

The allegations of Paragraph 17 of the Petition are denied.

18.

The allegations of Paragraph 18 of the Petition are denied.

19.

The allegations of Paragraph 19 of the Petition are admitted to the extent that City Planning Commission review and public participation generally are components of the process necessary to promulgate new or amended zoning laws. All other allegations of Paragraph 19 are denied.

20.

The allegations of Paragraph 20 of the Petition are denied.

21.

The allegations of Paragraph 21 of the Petition are denied.

22.

The allegations of Paragraph 22 of the Petition are admitted to the extent that the City has adopted a new Master Plan, titled "Plan for the 21st Century: New Orleans 2030." Further answering, the Master Plan is the best evidence of its contents. All other allegations of Paragraph 22 are denied.

23.

The allegations of Paragraph 23 of the Petition are legal conclusion and recitations of law, which require no response. Further answering, the Master Plan and City Charter are the best evidence of their contents. Any other allegations in Paragraph 23 are denied as written.

24.

The allegations of Paragraph 24 of the Petition are a recitation of portions of the Master Plan and require no response. Further answering, the Master Plan is the best evidence of its contents.

25.

The allegations of Paragraph 25 of the Petition are a recitation of portions of the Master Plan

and require no response. Further answering, the Master Plan is the best evidence of its contents.

26.

The allegations of Paragraph 26 of the Petition are admitted to the extent that Amendment MJL-6 applies to portions of the Faubourg Marigny neighborhood and affects Article 18 of the Comprehensive Zoning Ordinance. All other allegations of Paragraph 26 are denied.

27.

The allegations of Paragraph 27 of the Petition are denied.

28.

The allegations of Paragraph 28 of the Petition are denied.

29.

The allegations of Paragraph 29 of the Petition are denied.

30.

The allegations of Paragraph 30 of the Petition are denied.

31.

The allegations of Paragraph 31 of the Petition are denied.

32.

The allegations of Paragraph 32 of the Petition are denied.

33.

The allegations of Paragraph 33 of the Petition are denied.

The “WHEREFORE” paragraph of the Petition and accompanying prayers for relief are denied.

AFFIRMATIVE DEFENSES

FIRST DEFENSE

The Petition fails to state a cause of action against the City.

SECOND DEFENSE

The City affirmatively asserts that it is immune from liability under La. R.S. 9:2798.1, which provides that liability shall not be imposed on public entities or their officers or employees based upon the exercise or performance or the failure to exercise or perform their policymaking or

discretionary acts when such acts are within the course and scope of their lawful powers and duties.

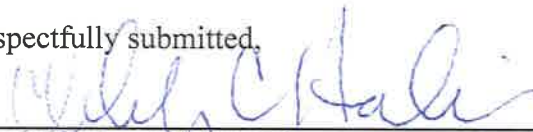
THIRD DEFENSE

The Petition inappropriately combines ordinary proceedings with summary proceedings.

RESERVATION OF RIGHTS

The City reserves its right to supplement and amend this Answer and to assert additional affirmative defenses as future discovery may warrant and/or require.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing pleading has this date, been forwarded to all parties by U.S. or electronic mail, this 18th day of June, 2015.



CHRISTY C. HAROWSKI