

**IN THE CIRCUIT COURT OF MARION COUNTY, MISSOURI
DISTRICT NO. 2
AT HANNIBAL, MISSOURI**

BOARD OF PUBLIC WORKS,)	
CITY OF HANNIBAL; RANDY PARK;)	
TIM GOODMAN; LENNIE ROSENKRANS;)	
AND DAN PATTERSON)	
)	Case No. 17MR-CV00868
)	
Plaintiffs,)	
)	
V.)	
)	
CITY OF HANNIBAL, MISSOURI AND)	
JEFF LAGARCE)	
)	
)	
Defendants.)	
)	
And)	
KELLIE COOKSON)	
)	
Intervenor)	

ORDER

On July 17, 2017, Plaintiffs filed a Petition for Declaratory Judgment and Injunctive Relief, including a request for a temporary restraining order. On August 8, 2017, the Court heard arguments from attorneys for Plaintiffs and Defendants regarding the request for a temporary restraining order prohibiting Defendants City of Hannibal and City Manager Jeff LaGarce from enforcing an Ordinance known as "Proposition 1," which had been approved by a majority of the voters in the April 2017 election. Kellie Cookson, intervenor, also participated in the proceedings.

The enforcement provisions of Proposition 1, which prohibit the use of ammonia in the Public Drinking Water System, state that the Ordinance "shall be enforced by the City Manager or an authorized designee" and further provide that "[a]ny citizen who desires to register a complaint under this Ordinance may initiate enforcement with the City Manager or authorized designee." The Ordinance also states that "any person aggrieved by failure of the City Manager or his/her designee in control to enforce any provisions of this Ordinance

may apply for injunctive relief to enforce those provisions in any court of competent jurisdiction.”

At the August 8, 2017, proceedings, the attorney for Defendants stated on the record that Defendant LaGarce would not be seeking enforcement of Proposition 1 while proposed amendments to the Ordinance were pending before the City Council. The attorney for Defendants then presented a proposed amendment to the Ordinance that would be considered for “first reading” at the August 15, 2017, City Council meeting.

According to the Missouri Supreme Court in Geier v. Missouri Ethics Commission, 474 S.W.3d 560, 569 (Mo. 2015), the doctrine of ripeness

. . . requires the dispute to be “developed sufficiently to allow the court to make an accurate determination of the facts, to resolve a conflict that is presently existing, and to grant specific relief....” [Schweich v. Nixon, 408 S.W.3d 769, 773–74 (Mo. banc 2013)]. A claim is not ripe for adjudication if it “rests upon contingent future events that may not occur as anticipated, or indeed may not occur at all.” Texas v. United States, 523 U.S. 296, 300, 118 S.Ct. 1257, 140 L.Ed.2d 406 (1998).

See also Missourians for Fiscal Accountability v. Klahr, 830 F.3d 789 (8th Circuit 2016) for further discussion of the ripeness doctrine applied to a case from Missouri.

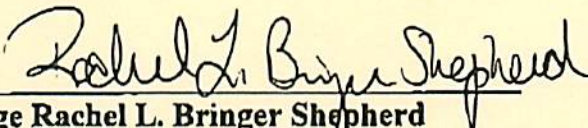
The arguments presented at the hearing on the request for a temporary restraining order revealed that no attempts or plans to enforce Proposition 1 have been made. Further, no argument or evidence was presented about the Defendants’ previous history of enforcing similar ordinances. *See Id.* (in which evidence of enforcement history was presented). Moreover, Defendant LaGarce’s attorney stated on the record that no such enforcement action would be taken while amendments to the Ordinance are pending.

This Court is required to follow Missouri law. Therefore, the request for a temporary restraining order is denied because the controversy is not ripe for judicial intervention.

Matter scheduled September 1, 2017, at 9 a.m. for case management conference.

SO ORDERED.

August 14, 2017



Judge Rachel L. Bringer Shepherd
Presiding Circuit Judge



**RACHEL BRINGER SHEPHERD
PRESIDING JUDGE
TENTH JUDICIAL CIRCUIT**

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Sent by: Judge Rachel Bringer Shepherd
Lisa Mattingly, Presiding Judge Secretary