

**IN THE CIRCUIT COURT OF THE  
FOURTH JUDICIAL CIRCUIT IN AND  
FOR DUVAL COUNTY, FLORIDA**

**METRO GARDENS NEIGHBORHOOD  
ASSOCIATION *et al.*,**

**Plaintiffs,**

**CASE NO.:  
DIVISION:**

**v.**

**CITY OF JACKSONVILLE, DUVAL COUNTY  
FLORIDA,**

**Defendant.**

\_\_\_\_\_ /

**COMPLAINT**

**COME NOW** the Plaintiffs, **METRO GARDENS NEIGHBORHOOD ASSOCIATION** (referred to herein as “Metro Gardens”), and **LYDIA F. BELL, DIANE WISHOP, CHARLES SAMPLES, KATRINA B. SPENCER, TRACIE EDWARDS, DELORIS H. ROBINSON, TESSAL NOISETTE, ALRIC NOISETTE, and AMEENA SHAREEF** (collectively referred to herein as the “Resident Plaintiffs”) as well as **KATHLEEN PERERA, CARLOS PERERA, GLORIA LOVETT, APRIL HALL-LLOYD, TABITHA BYERS, ADDIE HARRIS, and MARY DUNBAR** and **DR. ZALIKA NISBETH** (collectively with the Resident Plaintiffs and Metro Gardens referred to as the “Plaintiffs”), by and through the undersigned counsel, and hereby bring this action against Defendant, **CITY OF JACKSONVILLE, DUVAL COUNTY, FLORIDA** (the “COJ”), respectfully seeking special damages against the COJ for reducing the usability, value and salability of real property due to the failure of the COJ to reasonably comply with its own laws in the building of a Medical Examiner’s

Office and forensic laboratory with a 300 body capacity morgue operating 24/7 in a residential area, and awarding declaratory relief, finding that the failure of the COJ to provide proper notice to the community and opportunity to have input regarding the construction of a morgue in the Brentwood area neighborhood is in violation of the laws of the City of Jacksonville and that the COJ is required to comply with the Neighborhood Bill of Rights, City of Jacksonville Ordinance 95-247-106.

### **INTRODUCTION**

1. “A popular government, without popular information, or the means of acquiring it, is but a prologue to Farce or Tragedy; or perhaps both.” Letter from James Madison to W.T. Barry (August 4, 1822), *The Writings of James Madison, comprising his Public Papers and his Private Correspondence*, ed. Gaillard Hunt (New York: G.P. Putnam’s Sons, 1900). Vol. 9. Without open information about governmental functions, citizens are subject to both a farce and a tragedy. Here, the COJ had previously crafted an ordinance containing the Neighborhood Bill of Rights (“NBR”), City of Jacksonville Ordinance 95-247-106, and other laws to aid in the goal of incorporating public opinion into the decisions being made. The purpose of this ordinance is to create expectations for government officials which allow neighborhood residents to be made aware of the changes and decisions that affected them and their community to create a level of transparency and accountability for citizens and government. The Plaintiffs herein complain of, *inter alia*, special damages due to a new Medical Examiner’s Office to be located within their neighborhood in the Brentwood area of the City of Jacksonville at 4368 Davis Street North, Jacksonville, Florida (the “Morgue Facility”) being placed in their community without proper approvals prior to the

construction commencing and the lack of due notice regarding the locating and construction of the Morgue Facility and input from the community.

### **PARTIES, JURISDICTION AND VENUE**

2. Plaintiff Metro Gardens Neighborhood Association (“Metro Gardens”) is a registered neighborhood association with the COJ, representing the entire Brentwood community of the City of Jacksonville, and is officially recognized by the City of Jacksonville. Metro Gardens has legal standing to bring this action.

3. Plaintiff Lydia F. Bell is a citizen of the COJ residing at 530 Linwood Avenue, Jacksonville, FL 32206.

4. Plaintiff Diane Wishop is a citizen of the COJ residing at 4552 Perry Street, Jacksonville, FL 32206.

5. Plaintiff Charles Samples is a citizen of the COJ residing at 1217 Northshore Drive, Jacksonville, FL 32208.

6. Plaintiff Katrina B. Spencer is a citizen of the COJ residing at 4620 W. Castlewood Drive, Jacksonville, FL 32206.

7. Plaintiff Tracie Edwards is a citizen of the COJ residing at 4638 W. Castlewood Drive, Jacksonville, FL 32206.

8. Plaintiff Deloris H. Robinson is a citizen of the COJ residing at 4724 W. Castlewood Drive, Jacksonville, FL 32206.

9. Plaintiff Tessal Noisette is a citizen of the COJ residing at 4634 W. Marlboro Circle, Jacksonville, FL 32206.

10. Plaintiff Alric Noisette is a citizen of the COJ residing at 4634 W. Marlboro

Circle, Jacksonville, FL 32206.

11. Plaintiff Ameena Shareef is a citizen of the COJ residing at 4732 W. Castlewood Drive, Jacksonville, FL 32206.

12. Plaintiff Kathleen Perera is a citizen of the COJ residing at 3923 Station Court South, Jacksonville, FL 32246.

13. Plaintiff Carlos Perera is a citizen of the COJ residing at 3923 Station Court South, Jacksonville, FL 32246.

14. Plaintiff Gloria Lovett is a citizen of the COJ residing at 780 Northpoint Cir. N., Jacksonville, FL 32218.

15. Plaintiff April Hall-Lloyd is a citizen of the COJ residing at 36 Jackson Rd., Atlantic Beach, FL 32233.

16. Plaintiff Tabitha Byers is a citizen of the COJ residing at 8449 Glade Lane, Jacksonville, FL 32217.

17. Plaintiff Addie Harris is a citizen of the COJ residing at 6595 Sapphire Drive, Jacksonville, FL 32208.

18. Plaintiff Mary Dunbar is a citizen of the COJ residing at 9111 12<sup>th</sup> Avenue, Jacksonville, FL 32208.

19. Plaintiff Zalika Nisbeth, M.D. is a citizen of the COJ with an address of 438 W. 23rd Street, Jacksonville, FL 32206.

20. Defendant City of Jacksonville, i.e., COJ, is a municipal corporation. Art 1, §1.101, Jacksonville City Charter. All legislative powers of the City of Jacksonville are vested in the City Council as the governing body of Duval County. *Id.* at § 5.07. The City, acting through

its City Council, is a proper party herein under Section 86.091, Florida Statutes.

21. All conditions precedent to bringing this action, if any, have been satisfied, waived or excused.

22. This action involves matters in excess of \$50,000.00 exclusive of interest, costs and attorneys' fees.

23. Jurisdiction in this Court is proper pursuant to Article V, Section 5(b) of the Florida Constitution, and pursuant to § 86.011, Fla. Stat.

24. Venue is proper in Duval County, Florida pursuant to § 47.01, Fla. Stat., due to the cause of action alleged herein accruing in Duval County, Florida.

### **FACTUAL ALLEGATIONS**

25. As a charter government, the Consolidated City of Jacksonville has "all powers of local self-government not inconsistent with general law, or with special law approved by vote of the electors." Art. VIII, § 1(g), Fla. Const. It may enact county ordinances, but such ordinances must not be "inconsistent with general law," Art. VIII, § 1(g), Fla. Const.

26. The Charter of the City of Jacksonville establishes that the Office of General Counsel is a "central service" that has "the responsibility for furnishing legal services to the city and its independent agencies." Art. 7, § 7.01, Jacksonville City Charter.

27. Ordinance 2016-140-E, Section 34.801 established the Neighborhood Services Office (the "Office") on March 22, 2016. The Office, which is located within the COJ Neighborhoods Department, oversees compiling and updating an inventory of all officially recognized neighborhood organizations operating in the community. The Office also manages the City of Jacksonville's six Citizen Planning Advisory Committees ("CPACs"), which are intended

to facilitate communication between the city and local communities, neighborhood organizations, etc.

28. Metro Gardens is a neighborhood organization in the COJ registered within the Neighborhood Services Office's List of Neighborhood Organizations. Metro Gardens neighborhood covers the City of Jacksonville's Brentwood area.

29. In 1995, City Council enacted legislation to facilitate and streamline the communication process between the city government and a myriad neighborhood organization.

30. Council Member Eric Smith, along with seventeen other Council members, introduced Ordinance 95-247-106 (the "Ordinance") to empower the neighborhoods of Jacksonville by establishing the Neighborhood Bill of Rights ("NBR").

31. The goal of the NBR was to establish a "formal policy statement ... regarding the relationship between city government and all of Jacksonville's organized neighborhood associations and groups."

32. The Ordinance noted the importance of Jacksonville's neighborhoods and neighborhood organizations, and that "the city should take better advantage of the opportunity offered by its official neighborhood organizations to facilitate communications between the city and its residents." *See* Ordinance 95-247-106. In a letter introducing the NBR to the public, Smith even described the NBR as "neighborhood insurance."

33. The Ordinance also noted it is reasonable for citizens and taxpayers of the City of Jacksonville to expect "prompt, fair, courteous, and well-informed treatment from the city at all times ...." *See* Ordinance 95-247-106.

34. On March 29, 1995, the City Council passed the Ordinance, which set forth the

NBR as follows:

### **City of Jacksonville Neighborhood Bill of Rights**

Ordinance 95-247-106 provides:

Every organized, officially recognized neighborhood in the City of Jacksonville has the right to expect and receive the following from the officials, employees, and agencies of the City of Jacksonville:

\*Prompt, courteous, informed responses to all questions regarding City business. Replies, if only to report that inquiries or research are underway and a full response will be forthcoming at a later time, should be made within one working day of the original neighborhood contact.

\*Advance notification of any City-related public works or utility project taking place within or adjacent to a neighborhood (e.g. road paving; water, sewer or drainage work; traffic signal installation or removal; park renovation or substantial maintenance; land purchases, etc.), including the day(s) and probable length of any street closures, utility interruptions, or other adverse impacts on the neighborhood, and the name and phone number of the City representative most knowledgeable and able to immediately answer questions during the course of the work.

\*Notification of the submission of any application for rezoning, zoning or land use variance or exception, Development of Regional Impact (DRI) or Planned Unit Development (PUD) application, or other significant land use action; a clear explanation of the date, time and place of all applicable public hearings and other opportunities for public input on the application; and a clear explanation of the type of testimony that is allowable and relevant from neighborhood organizations and residents.

\*Opportunity for formal input into the annual budget process, including the opportunity to express preferred city government priorities, suggested capital improvement projects and other statements that fairly represent the opinion of a majority of the neighborhood's residents.

\*A timely personal response of its district councilperson or that councilperson's aide to questions directed to the City Council office.

\*The opportunity to participate in the design of publicly-funded projects within or adjacent to the neighborhood, including the opportunity early in the planning process to express neighborhood preferences about the choice of location, materials, orientation, size, land-use intensity, and other features.

35. The COJ has ignored the NBR and the expectations it sets forth.

36. The Ordinance was lawfully passed by the City Council and codified into law.

37. Implementation of the NBR is not discretionary. While the COJ may have wide

discretion on how the NBR is implemented it may not actively or passively undermine the Ordinance. Section 2 of the Ordinance notes that the NBR “shall constitute a part of the standard operating procedures of all City offices and agencies,” and that it “shall be observed to the greatest extent possible.” *See* Ordinance 95-247-106, Section 2.

38. A prominent instance of the COJ ignoring its responsibility under the NBR is the broken promises that City officials, at all levels, have made to its citizens regarding the widespread, ongoing issue of aging and damaged septic tanks that plagues much of the City. There have been numerous promises this issue would be taken care of, but no actions have been taken, nor has public input on prioritizing this project been solicited.

39. The COJ lacks pathways for neighborhood organizations to have meaningful input regarding the annual budget, which the NBR requires the COJ to facilitate. The COJ has introduced the Citizen Planning Advisory Committee (“CPAC”) system, seemingly meant to aid in communication with local organizations regarding zoning, budget, etc. In general, the only people allowed meaningful input in the decision-making are CPAC board members, contrary to the requirement that every voice be heard and taken into consideration. The NBR envisions all neighborhood organizations having the opportunity for input, not just those with a member on a CPAC board.

40. An imbalance of representation for underserved communities has been a plaguing issue for the COJ since before the Ordinance was written. Amplifying the voices of the historically underserved communities is a major part of carrying out the NBR. It ensures equal opportunities for all communities to be heard and protected, rather than just those privileged enough to be sufficiently represented - or overrepresented - in the government.



41. In or around September 2023, Metro Gardens, a registered neighborhood organization, and the other Plaintiffs became aware of the Morgue Facility proposed construction, which is in the Brentwood area. That knowledge was obtained due to the Plaintiffs' activities related to a liquor store being proposed in violation of COJ ordinances in the same area.

42. The Brentwood area where the Morgue Facility is being situated is a neighborhood with predominantly African American residents.

43. The 4-acre site for the Morgue Facility's new building is located at 4368 N. Davis Street is bounded by Golfair Boulevard to the south and the on-ramp from Golfair Boulevard to Interstate 95 ("Brentwood Neighborhood Location"). The north and east sides of the site are bordered by two-lane Davis Street, which comes off Golfair Boulevard and winds back to Golfair Manor, a subdivision built in the 1950s with dozens of homes immediately north of where the Morgue Facility will go.

44. The Morgue Facility is contemplated to be a morgue that holds up to 300 bodies and operate 24 hours a day, seven days a week. The Morgue Facility is also designed to accommodate medical staff of the Medical Examiner's office and even the growth in medical staff.

45. The Morgue Facility building will be roughly 51,000 square feet and two stories high.

46. The two-story building of the new Morgue Facility will be visible from the front yards of some Golfair Manor homes. Immediately west of the site of the Morgue Facility, is the KIPP Jax Voice Academy charter school that opened in 2021 and is located across Davis Street.

47. Mayor Lenny Curry's administration asked the City Council of the COJ on March 28, 2023 to approve \$62.8 million in borrowing to get construction started on the Morgue Facility.

48. The City Council agreed with Mayor Curry's request to take up the legislation on an emergency basis and approved the funding on April 11, 2023. The legislation did not say where the new facility would go, but a separate legislative summary showed it would be "on Golfair Boulevard at I-95."

49. Prior to 2023, the Morgue Facility had apparently been in a planning phase, and from 2018 until 2019 approximately 39 different locations were evaluated by the COJ for the Morgue Facility. None of those locations were the Brentwood Neighborhood Location.

50. In 2023, prior to City Council approval of exceptions required for construction of the Morgue Facility, site construction commenced at the Brentwood Neighborhood Location for the Morgue Facility.

51. Specifically, on May 15, 2023, COJ officials gathered for a groundbreaking ceremony for the Morgue Facility. After the groundbreaking ceremony, site-clearing took place for the Morgue Facility, at a time the COJ was applying to rezone the property from the commercial community/general designation ("CCG-1") to the public buildings and facilities category ("PBF-1").

52. The COJ application for rezoning is dated rezoning of the Morgue Facility property is June 9, 2023, application E-2023-0331.

53. Thus, construction of the Morgue Facility commenced prior to proper rezoning and approvals for the work at the Brentwood Neighborhood Location.

54. Thereafter, the City Council voted 17-1 on September 26, 2023, for the rezoning of the Brentwood Neighborhood Location from commercial community/general designation to the public buildings and facilities category.

55. Nevertheless, the Morgue Facility was planned to be nearly 51,000 square feet in size. However, the public buildings zoning category approved by the City Council only allows a building that is up to 40,000 square feet. This required the COJ had to go before the COJ Planning Commission to seek a zoning exception that would allow the bigger building. A hearing was set for November 9, 2023.

56. Prior to September 2023, no agencies or offices of the COJ government informed Metro Gardens or the other Plaintiffs about the proposed Morgue Facility.

57. The Brentwood area community, including Metro Gardens or the Plaintiffs, was not sought out for input on the development of the Morgue Facility, a significant public project that would shape the character and nature of the community.

58. Plaintiffs were provided no notice by any means under the NBR or any other law of the City of Jacksonville for the initial approval of the Morgue Facility and its placement in the Brentwood area neighborhood.

59. Instead of November 9, 2023, the COJ Planning Commission took up the zoning exception that would allow the bigger building for the Morgue Facility on or about December 7, 2023, matter E-23-72. At that time, however, the construction had commenced substantially for the Morgue Facility. In fact, the COJ had spent almost \$5 million on the Morgue Facility construction prior to proper zoning approvals being in place and officials advised community members that the COJ would millions of dollars if the construction was halted.

60. On or around December 7, 2023, the COJ Planning Commission rejected the zoning exception for the Morgue Facility. Accordingly, the exception sought by COJ related to the larger Morgue Facility was denied by the COJ Planning Commission. Nevertheless, construction of the Morgue Facility continued.

61. Section 656.1601 of the COJ Ordinance Code regarding zoning defines the term “exception” to mean as follows:

**Exception means a use that would not be appropriate generally or without restriction throughout the zoning district but which, if controlled as to number, area, location or relation to the neighborhood, could promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity or general welfare. Such uses may be permissible in the zoning district as exceptions if specific provision for the exception is made in the Zoning Code and the uses are found by the Commission and the Council to be in conformity with the standards and criteria set forth in Section 656.131(c). In the case of exceptions for telecommunications towers, the supplemental standards and criteria contained in Part 15 shall also apply.**

62. Despite the rejection of the zoning exception for the Morgue Facility, the construction by the COJ of the Morgue Facility continued at the Brentwood Neighborhood Location.

63. The COJ also appealed the rejection of the zoning exception for the Morgue Facility by the COJ Planning Commission to the COJ City Council.

64. During the pendency of the appeal to the City Council of the zoning exception for the Morgue Facility, construction continued on the Morgue Facility.

65. On or about March 12, 2024, the City Council overruled the COJ Planning Commission and voted to approve the zoning exception for the Morgue Facility.

66. The Morgue Facility will directly harm each of the Resident Plaintiffs, who each

reside in close proximity to the Morgue Facility. For example, research has found that there is an average decrease in property values of 17.3% when a mortuary is sited in an area. *See e.g.* Chapman, D., Ludlum, M., Vijayan, R. *et al.* Stigmatized Properties And Housing Values: An Exploratory Study, *J Hous. and the Built Environ.* 34, 683–696 (2019). <https://doi.org/10.1007/s10901-019-09662-2>.

67. The Morgue Facility is hazardous, unsightly and entirely out of character with the residential area adjacent to the Brentwood Neighborhood Location.

68. The Morgue Facility will impair the character and value of the land in the Brentwood community, including the Resident Plaintiffs' real property and property interests, thereby harming the Residential Plaintiffs by reducing the usability, value and salability of their property.

69. Additionally, there was not proper notification of the Morgue Facility to the community prior to work commencing on the project. Therefore, the notification and community involvement required by the NBR and other laws was disregarded by the COJ. If the NBR and other notice laws had been followed, Plaintiffs would have vigorously exercised their rights to participate in the approval process with City Council members, the Mayor and other officials to oppose the Morgue Facility being located in the Brentwood Neighborhood Location. However, Plaintiffs were not afforded that opportunity.

70. At all times relevant herein, Plaintiffs did not receive notice with sufficient time to engage in a meaningful process to oppose the placement of the Morgue Facility in the Brentwood Neighborhood Location. Instead, by the time Plaintiffs became aware of the Morgue Facility final location in the Brentwood Neighborhood Location, work by COJ on the Morgue Facility had commenced.

71. The failure to provide notice to the Plaintiffs and others in the community prior to the proper zoning for and commencement of work on the Morgue Facility, is an ongoing custom and practice of the COJ, including failure to properly notify community groups and interested individuals of construction projects that will alter the quality of communities throughout the City of Jacksonville.

72. Plaintiffs have had to retain counsel in this matter in light of the wrongful acts and omissions of the COJ as set forth herein.

**COUNT I:  
CLAIM FOR SPECIAL DAMAGES BY THE RESIDENT PLAINTIFFS**

73. The Resident Plaintiffs restate and reallege each and every allegation contained in paragraphs 1 through 72 of this Complaint with the same force and vigor as if set out here in full.

74. In spite of its clear legal duties, Defendant failed to follow the requirements of the laws of the COJ prior to commencing construction of the Morgue Facility.

75. Each of the Resident Plaintiffs own and/or have a property interest in real property in close proximity to the Morgue Facility.

76. The COJ had a duty to the Resident Plaintiffs to follow the Ordinance Code and regulations in locating and commencing work on the Morgue Facility. However, the COJ commenced work without proper zoning and without notice to the Resident Plaintiffs.

77. Each of the Resident Plaintiffs have been harmed by the acts and omissions of the COJ as set forth herein by the impairment of the character and value of their real property interests.

78. Each of the Resident Plaintiffs have been damaged by the COJ by the reduction of the usability, value and salability of their property

79. As a direct and proximate result of Defendant's actions, the Resident Plaintiffs have suffered special damages, including damages relating to the usability, value and salability of their property.

**COUNT II:  
COMPLAINT FOR DECLARATORY RELIEF BY ALL PLAINTIFFS**

80. Plaintiffs restate and reallege each and every allegation contained in paragraphs 1 through 72 of this Complaint with the same force and vigor as if set out here in full.

81. This is an action for declaratory judgment and ancillary injunctive relief under Chapter 86, Florida Statutes.

82. The COJ's failure to carry out its duties outlined within the NBR, brings up the question whether the City Council and all other City agencies and employees must abide by the text of the Ordinance.

83. Pursuant to Section 86.021, Florida Statutes, this Court is authorized to determine any question of the construction or validity of a statute, regulation, or municipal ordinance and to declare the "rights, status, or other equitable or legal relations thereunder."

84. Accordingly, Plaintiffs are in doubt concerning their rights and those of neighborhood organizations generally, and the obligations required of the COJ under Ordinance 95-247-106.

85. There exists a bona fide, actual present, and practical need for a declaration that the COJ, acting through its City Council, agencies, offices, etc., has an obligation to communicate in a timely, respectful, and meaningful manner with Jacksonville's neighborhood organizations and individual citizens.

86. The declaration sought by Plaintiffs concern a present, ascertained, or ascertainable state of facts, or a present controversy as to a state of facts.

87. The Plaintiffs and the COJ have an actual, present, adverse, and antagonistic interest, in either law or fact.

88. The antagonistic and adverse interests of the Plaintiffs and the City are before this Court by proper process.

89. The relief sought in this declaratory action by the Plaintiffs is not merely the giving of legal advice or the answer to questions propounded for curiosity.

90. Plaintiffs seek a declaration of this Court that the NBR is the law of the City of Jacksonville and should be enforced.

**WHEREFORE**, Plaintiffs respectfully requests this Court to enter Judgment against Defendant City of Jacksonville, Duval County, Florida and further requests this Court to provide relief in the form of the following:

- A. Declaring that the NBR was lawfully and properly passed and is legally binding on the City of Jacksonville;
- B. Declaring that the City of Jacksonville cannot ignore part or all the NBR without going through the proper legislative procedure;
- C. Enjoining the City of Jacksonville from continuing to neglect its duties under the NBR;
- D. Directing the City of Jacksonville and its agencies, boards, etc. to develop processes and protocols as soon as possible to better fulfill its obligations under



the NBR, including more transparent budgetary, zoning, and project prioritizations;

E. Awarding Plaintiffs their costs as in equity actions, including their attorneys' fees.

F. Awarding the Resident Plaintiffs their special damages as proven; and

G. Awarding any further relief as this Court deems just and proper under these circumstances.

Dated: June 20, 2024

Respectfully submitted,

HENRICHSEN LAW GROUP, P.L.L.C.  
301 W. Bay Street, Suite 900  
Jacksonville, Florida 32202  
(904) 381-8183  
Fax: (904) 212-2800

/s/ Neil L. Henrichsen  
Neil L. Henrichsen  
Fla. Bar No.: 0111503  
[nhenrichsen@hslawyers.com](mailto:nhenrichsen@hslawyers.com)  
[service@hslawyers.com](mailto:service@hslawyers.com)

Attorneys for Plaintiffs