

**IN THE CIRCUIT COURT OF NEWTON COUNTY, MISSOURI
AT NEOSHO**

CITY OF JOPLIN, MISSOURI,

Plaintiff,

vs.

Case No. 24NW-CV02237

ROCKY RIDGE RV PARK, LLC, AND

FREDERICK G. CULLER,

Defendants.

MOTION FOR PRELIMINARY INJUNCTION

COMES NOW, the Plaintiff, City of Joplin, Missouri, a municipal corporation, by and through Assistant City Attorney, Andrea Knoblock, and moves this Court pursuant to Rule 92.02(c) of the Missouri Rules of Civil Procedure, for a preliminary injunction in the above-entitled cause until such a time this matter may be adjudicated at trial, restraining and enjoining Defendants from unlawful use of the City of Joplin sanitary sewer system. As cause for granting such order, Plaintiff states as follows:

FACTS

1. The City of Joplin maintains a sanitary sewer system for the benefit of the citizens and charges rates set forth by ordinance.

2. Under RSMo 250.240. *Purpose of law.* — “It is the purpose of this chapter to enable cities, towns and villages and sewer districts to protect the public health and welfare by preventing or abating the pollution of water and creating means for supplying wholesome water, and to these ends every such municipality and sewer district shall have the power to do all things necessary or convenient to carry out such purpose, in addition to the powers

conferred in this chapter. This chapter is remedial in nature and the powers hereby granted shall be liberally construed.”

3. The City’s sanitary sewer is comprised of a vast system of subterranean pipelines that terminates at the wastewater treatment plant and is designed to prevent the contamination of the drinking water; thus, preventing disease and protecting public health.
4. On or about December 2, 2022, the City Joplin was investigating its sanitary sewer lines located in a city-owned easement in Shoal Creek Drive, Missouri.
5. An illegal tap of the sewer line was discovered at 705 Glendale Road, Joplin, Missouri.
6. The City of Joplin Infrastructure Supervisor of Sewer Maintenance, Joey Burton, investigated a new lateral line actively depositing sewage.
7. Mr. Burton was able to confirm this from the City’s internal pipe with a camera, and noted that the new lateral was not a permitted or metered location according to the City of Joplin sanitary sewer system.
8. Mr. Burton was also able to confirm above ground, the dirt leading to the pipeline had been freshly dug up, and a nearby RV park had connecting waste disposal lines in the and ground was actively dumping sewage into the sewer system.
9. Defendants had connected eighty-five feet from the RV parcel to the City of Joplin sanitary sewer system on the neighbor’s property.
10. Unpermitted use of the sewer is a violation of the City code of ordinances under Sec. 118-82. *Unauthorized discharges prohibited.* “Wastewater discharges to the city's wastewater facilities are not authorized unless approved by the superintendent in accordance with the provisions of this article.” (Ord. No. 2022-098, § 1, 6-20-22).
11. The code also states Sec. 118-88. *Damaging or tampering with sewer system.* (a) “No person shall tamper with any sewer lines or make any connection to the sanitary sewerage

system of the city, either direct or indirect, without written permission from the city, or reconnect sewage service when such service has been disconnected for nonpayment of a bill for sewage service unless such bill for sewage service, including charges for disconnection, has been paid in full. (b) No person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment that is part of the city's wastewater treatment facilities.” (Ord. No. 2022-098, § 1, 6-20-22).

12. Defendant, Frederick G. Culler, took ownership of the property at 703 Glendale by general warranty deed on September 3, 2021, and later formed Rocky Ridge RV Park LLC.

13. Mr. Culler was confronted by City of Joplin officials in December of 2022 and ordered to desist.

14. Mr. Culler was adamant that he had a right to use the City of Joplin sewer system, even though he is not a resident of the city and does not hold an out-of-town sewer agreement to connect to the sewer system, nor pay for sewer services.

15. Mr. Culler has never paid for sewer services.

16. Mr. Culler never sought permission from the City to connect to the sewer, but did so on his own accord, and proceeded to freely take advantage of said services.

17. The City of Joplin disconnected Mr. Culler and his RV Park from sewer services.

18. Upon excavation of the sewer main where Mr. Culler connected, it was found to be fully collapsed, with raw sewage seeping into the ground, creating a significant health hazard.

19. The City demanded payment of \$5,383.53 to repair the broken sewer main, which Mr. Culler refused.

20. In October of 2023, the City of Joplin suspected that Mr. Culler’s RV Park had reconnected to the sewer system.

21. Joey Burton, Infrastructure supervisor ran a dye test to confirm the RV park is reconnected and is once again illegally dumping sewage into the system, and has ten (10) hook-ups in place.

22. Though not properly zoned to do so by the Village of Shoal Creek, Mr. Culler's RV park is set up to host 10 campers/long term tenants at a time and has 10 sewer disposal hook-ups that illegally dump into the City of Joplin sewer system.

23. The Plaintiff is poised to disconnect Defendants; however, Defendants RV Park tenants will be backed up with raw sewage if their vehicles are connected to the City's sewer main when the termination takes place, causing a significant mess and creating a health hazard.

24. The Defendants property lies outside the jurisdiction of the Joplin Police Department required to enforce its code of ordinances, and therefore the Plaintiff is without an adequate remedy at law.

ARGUMENT

“The issuance and terms of an injunction rest within the sound discretion of the trial court to shape and fashion relief, when appropriate, based on the facts and equities of the case.” *A.B. Chance Co. v. Schmidt*, 719 S.W.2d 854, 857 (Mo. Ct. App. 1986). The Court shall grant a temporary restraining order when “the party seeking relief demonstrates that immediate and irreparable injury, loss, or damage will result in the absence of relief.” Mo. R. Civ. P. 92(a)(1).

I. Irreparable Harm to the Public Interest

“The balance of harms analysis examines the harm of granting or denying injunctive relief upon the parties to the dispute and other interested parties, including the public.” *H&R Block Tax Servs. LLC v. Thomas*, No. 18-00091-CV-W-ODS, 2018 WL 910170, at *4 (W.D. Mo. Feb. 15, 2018) (citing *Glenwood Bridge, Inc. v. City of Minneapolis*, 940 F.2d 367, 372 (8th Cir. 1991)) (applying Missouri law). Here, the harm to the public interest is an ongoing and repeated physical

harm to critical infrastructure owned and maintained by the taxpayers of the City of Joplin. The sanitary sewer system protects public health by protecting contamination of the water supply. Mr. Culler has compromised the City's sewer system and threatened public health and welfare.

The harm inflicted upon the public is also financial. The taxpayers will be twice required to pay for the repair and labor related to the damage of hacking the pipeline. Finally, the public is also harmed as it ultimately shoulders the burden of paying for the substantial volume of sewer output the commercial property produces. The balance of harm greatly weighs in favor of granting relief to the Plaintiff as a public entity.

II. Success on the Merits

When considering whether a preliminary injunction should issue, a court "should weigh the movant's probability of success on the merits, the threat of irreparable harm to the movant absent the injunction, the balance between this harm and the injury that the injunction's issuance would inflict on other interested parties, and the public interest." *Minana v. Monroe*, 467 S.W.3d 901 (Mo. Ct. App. 2015). Plaintiff's success on the merits is high. The City of Joplin is a constitutional charter city organized under Art. VI, Section 19 and 20 of the Missouri Constitution, duly authorized to enact ordinances and collect taxes, fines, and utilities fees, and the Defendants are liable and indebted to the City as the owners of the damaged property and the duly authorized collector of the sewer utility set forth in Joplin City Code Section 118, *et seq.*

III. Debt in Lieu of Bond

Rule 92.02(d) provides as follows:

(d) Bond. No injunction or temporary restraining order, unless on final hearing or judgment, shall issue in any case, except in suits instituted by the state in its own behalf, until the plaintiff, or some responsible person for the plaintiff, shall have executed a bond with sufficient surety or sureties to the other party, in such sum as the court shall deem sufficient to secure the amount or other matter to be enjoined, and all damages that may be occasioned by such injunction or temporary restraining order to the parties enjoined, or

to any party interested in the subject matter of the controversy, conditioned that the plaintiff will abide by the decision that shall be made thereon and pay all sums of money, damages and costs that shall be adjudged if the injunction or temporary restraining order shall be dissolved. In lieu of the bond the plaintiff may deposit with the court such sum, in cash, as the court may require sufficient to secure such amount.

Plaintiff City of Joplin respectfully submits to the Court that the outstanding repair bill previously issued and demanded of \$5,383.53 be offered on the Plaintiff's behalf in lieu of a bond, this being the amount in materials, equipment, and labor spent from the City of Joplin's emergency funds to disconnect and fix the damage to the sewer, that has been demanded of the Defendant but refused to remit, and that being a sufficient sum.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, City of Joplin, prays the Court issue an Order for Preliminary Injunction enjoining the above-named Defendants from the unpermitted use of the City of Joplin sanitary sewer system, to immediately disconnect the ten (10) illegal RV park hook-ups from the City of Joplin sanitary sewer and cease the dumping of sewage as described in Plaintiff's verified petition; and that this preliminary injunction shall remain in full force and effect until this matter is adjudicated at trial; and for such other and further relief as the Court deems just and proper in the premises.

Respectfully submitted,

/s/Andrea Knoblock

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