

CIVIL DISTRICT COURT FOR THE PARISH OF ORLEANS

STATE OF LOUISIANA

NO.

DIVISION “ ”

MAYOR LATOYA CANTRELL OF THE
CITY OF NEW ORLEANS

VERSUS

THE NEW ORLEANS CITY COUNCIL

FILED: _____

DEPUTY CLERK

**VERIFIED PETITION AND APPLICATION FOR
TEMPORARY RESTRAINING ORDER, PRELIMINARY INJUNCTION,
PERMANENT INJUNCTION AND DECLARATORY RELIEF**

NOW INTO COURT, through undersigned counsel, comes Petitioner, LaToya Cantrell, in her official capacity as Mayor of the City of New Orleans (the “Mayor”), who respectfully represents the following:

INTRODUCTION AND OVERVIEW

1.

This is an action for a Temporary Restraining Order, Preliminary Injunction, Permanent Injunction and Declaratory Relief seeking an immediate and permanent injunction of Ordinance 30239 (the “Ordinance”), the New Orleans City Council’s (“Council”) self-proclaimed “Travel Moratorium.”¹ Continuing a pattern of usurpation of Executive authority—illustrated most recently by two Judgments of this Court invalidating the Council’s attempts to legislate veto authority over Executive contracts²—the Council adopted the Ordinance on February 27, 2025,

¹ **Exhibit B**, Letter to Chief Administrative Officer and Director of Finance from City Council President JP Morrell (March 10, 2025) (“On February 27, the Council adopted Ordinance Cal. No. 30239 (the ‘Travel Moratorium’) temporarily banning precisely this kind of non-essential travel and the incurrence of non-essential-travel-related expenses.” (emphasis added)).

² **Exhibit C**, *Henry Consulting, LLC vs. New Orleans City Council*, Civil District Court for the Parish of New Orleans, No. 2024-11139 (Jan. 7, 2025) (Judgment entering mandamus requiring City Council to “vote to authorize the Council President to sign the professional services agreement between the City of New Orleans and Henry Consulting, LLC”); **Exhibit D**, *Rice Group, LLC vs. New Orleans City Council*, Civil District Court for the Parish of New Orleans, No. 2024-11139 (Jan. 7, 2025) (Judgment declaring

declaring that no public officer or employee of the City of New Orleans—including Petitioner, Mayor LaToya Cantrell—may engage in non-essential travel, incur any non-essential travel-related expense or obligation, or be reimbursed by the City of New Orleans for non-essential travel-related expenses.³ The Ordinance deems travel “intended to pursue economic-development opportunities” as non-essential and therefore banned. The Ordinance also bans the City from entering into the lease for any passenger vehicle.

The Ordinance violates the City’s Home Rule Charter on its face, because it does not provide for administrative review and right to appeal, as required of all temporary prohibitions ordained by the Council. Furthermore, the Ordinance is an unlawful and unconstitutional abuse of power by the Council, whose authority extends only to the consideration and adoption of the annual operating budget appropriation ordinance; whereas the Mayor has executive and administrative rights and duties, including the power to pursue economic development opportunities on behalf of the City. The Ordinance is also unconstitutional because it is vague, overbroad and retroactive. The Ordinance has no rational basis or foundation in concern for the public welfare; rather, it is part of a pattern of Council bias and retaliation against the Mayor.

THE PARTIES, VENUE, AND JURISDICTION

2.

Petitioner, Mayor LaToya Cantrell, pursues this action in her official capacity as the duly elected Mayor of the City of New Orleans (hereinafter, the “Mayor”), who has the capacity to sue and be sued.

3.

Made, Defendants in this action are:

- a. The New Orleans City Council (hereinafter, the “Council”), which operates through its members and is part of the political subdivision of city of New Orleans, which has the capacity to sue and be sued.

Ordinance No. 29676 related to City Council review and execution of professional services contracts “NULL, VOID, AND ILLEGAL” under the Home Rule Charter).

³ **Exhibit A**, New Orleans City Council Ordinance No. 30239 (Feb. 27, 2025).

b. The following individual Council Members who collectively constitute the City Council, and are made Defendants in their official capacities, only:

- Jean-Paul (JP) Morrell, Council President
- Joseph Giarrusso III
- Eugene Green
- Lesli Harris
- Freddie King III
- Helena Moreno
- Oliver Thomas

Hereinafter, referred to collectively as “City Council Members.”

4.

Venue and jurisdiction are proper before this Honorable Court because the matter at issue involves the City Council’s actions as a representative of the City of New Orleans, and the City Council Members’ actions in their official capacities.

FACTUAL ALLEGATIONS

5.

HRC Separation of Powers. The New Orleans Home Rule Charter (“HRC”) Sections 3 and 4 delineate the separation of powers between the City Council and the Mayor.

6.

Legislative Powers of Council. The Council’s functions are legislation and policy. Specifically, HRC Section 3-101 states:

All legislative powers of the City shall be vested in the Council and exercised by it in the manner and subject to the limitations hereinafter set forth.⁴

7.

The Council’s powers and duties include consideration and adoption of the annual

⁴ Section 3-101 of the Home Rule Charter of the City of New Orleans.

operating budget appropriation ordinance.⁵

8.

Executive Powers of Mayor. The Mayor is the administrative head of government. Specifically, HRC Section 4-101 states:

Any All executive and administrative powers of the City shall be vested in and exercised by the Executive Branch.⁶

9.

The Mayor's powers and duties as the executive and administrative chief include general oversight and supervision of all administrative activities. Specifically, HRC Section 4-206(1) states, in relevant part:

The Mayor shall be the chief executive officer of the City. The Mayor shall have the power and shall be required to: (a) Exercise general oversight of the activities of boards and other agencies of City government and coordinate them with other activities of the City. (b) Exercise directly or through the Chief Administrative Officer supervision over all other executive and administrative work of the City and provide for the coordination of administrative activities.⁷

10.

The Mayor's powers and duties also include promoting economic development of the City. Specifically, HRC Section 4-206(3)(f) states:

The Mayor shall have the authority to exercise such other powers and perform such other duties as may be prescribed by this Charter or by state or municipal law, including but not limited to . . . Study, devise, and implement programs to foster economic development in the City.⁸

11.

The Office of the Mayor includes the Chief Administrative Officer. Specifically, HRC Section 4-208 states, in relevant part:

The position of Chief Administrative Officer shall be in the Office of the Mayor, but the employees of the Administrative Office shall be in the classified service except as provided by applicable civil service law. **The Chief Administrative Officer shall be the Mayor's principal assistant and the budget officer of the City** and shall be appointed solely on the basis of ability to perform the duties and functions of the office.⁹

⁵ See Section 3-115 of the Home Rule Charter of the City of New Orleans, "Consideration and Adoption of the Annual Operating Budget Ordinance" (describing the Council's processes of adopting and amending the annual operating budget ordinance).

⁶ Section 4-101 of the Home Rule Charter of the City of New Orleans.

⁷ Section 4-206(1) of the Home Rule Charter of the City of New Orleans.

⁸ Section 4-206(3)(f) of the Home Rule Charter of the City of New Orleans.

⁹ Section 4-208 of the Home Rule Charter of the City of New Orleans (emphasis added).

12.

The HRC expressly delegates to the Chief Administrative Officer the responsibility for supervising and executing the budget allocated by Council ordinance. Specifically, HRC Section 4-302 states, in relevant part:

The Chief Administrative Officer shall . . . 5) Prescribe accepted standards of administrative practice to be followed by all offices, departments and boards. (6) Prepare the annual operating and capital budgets, and supervise the execution of the budget ordinances.¹⁰

13.

The Executive Branch of the City of New Orleans, of which the Mayor is head, includes the Department of Finance.¹¹

14.

The Department of Finance's powers and duties include contracting for services and managing requisitions, including the acquisition and disposal of movable and immovable property.

Specifically, HRC Section 4-1301(1) states, in relevant part:

The Department of Finance, headed by the Director of Finance, shall . . . (g) Contract for services to be rendered by independent contractors, and purchase materials, supplies and equipment. . . . (h) Acquire immovable property upon the recommendations of the Department of Property Management and dispose of immovable property upon such recommendations when authorized by ordinance. (i) Dispose of movable property not needed by the City. (q) Approve all disbursements of funds held by the City.¹²

15.

The Department of Finance's powers and duties include dispersal of all City funds. Specifically, HRC Section 4-1301(1) states, in relevant part:

The Department of Finance, headed by the Director of Finance, shall . . . (q) Approve all disbursements of funds held by the City.¹³

16.

The HRC provides no role for the Council in the supervision and execution of the annual budget after it passes the budget ordinance, nor in the Executive branch's disbursements of funds.

¹⁰ Section 4-302(5)-(6) of the Home Rule Charter of the City of New Orleans.

¹¹ Section 4-102 of the Home Rule Charter of the City of New Orleans (describing the organization of the Executive Branch and listing the departments thereunder).

¹² Section 4-1301(1) of the Home Rule Charter of the City of New Orleans.

¹³ Section 4-1301(1) of the Home Rule Charter of the City of New Orleans.

17.

HRC Requirements for Temporary Prohibitions. The HRC provides that the City Council may impose a moratorium “where necessary to protect the public health, safety, or welfare for a temporary period,” provided it includes a process for review and a right of appeal.

18.

Specifically, HRC Section 3-126(1) governs temporary provisions and states, in relevant part:

The Council may by the affirmative vote of a majority of its membership impose a moratorium ordinance, interim zoning district, or other temporary prohibition on zoning, permitting, and other similar functions where necessary to protect the public health, safety, or welfare for a temporary period. All such temporary prohibitions **shall specify the type of review required and the city agency responsible for the review**; the agency shall complete its review and provide its report to the Council within the time limits established for such temporary prohibitions..¹⁴

19.

HRC Section 3-126(3) states:

Any moratorium ordinance, interim zoning district, or other temporary prohibition **shall provide for a right of appeal to the Council for waivers or exceptions thereto**. Such waivers or exceptions may be granted by an ordinance adopted by a majority of all members of the Council.¹⁵

20.

Ordinance No. 30239. On February 27, 2025, the Council approved Ordinance 30239, which ordained that no public officer or employee of the City of New Orleans may engage in non-essential travel, incur any non-essential travel-related expense or obligation, or be reimbursed by the City of New Orleans for non-essential travel-related expenses, from the date the ordinance became effective until April 30, 2025.¹⁶

21.

The Ordinance deemed travel “intended to pursue economic-development opportunities”

¹⁴ Section 3-126(1) of the Home Rule Charter of the City of New Orleans (emphasis added).

¹⁵ Section 3-126(3) of the Home Rule Charter of the City of New Orleans (emphasis added).

¹⁶ **Exhibit A**, New Orleans City Council Ordinance No. 30239, § 1 (Feb. 27, 2025).

as non-essential, and therefore banned, “in every case.”¹⁷

22.

The Ordinance banned the City from entering into the lease for any passenger vehicle during the period the ordinance is in effect.¹⁸

23.

The Ordinance took effect on March 10, 2025.

24.

The Council has since extended the Ordinance to December 31, 2025.

25.

The Ordinance, by its plain language, violates HRC Section 3-126 because it is a moratorium that does not specify a process for review nor a right of appeal.¹⁹

26.

The Council’s passage of the Ordinance is unauthorized and unlawful, in patent violation of the HRC, because the Council’s powers do not include supervision and execution of the annual budget ordinance nor the disbursements of funds—powers that are vested in the Executive Branch headed by the Mayor.

27.

The Council’s passage of the Ordinance is unauthorized and unlawful, in patent violation of the HRC, because it specifically restricts the Mayor’s powers to pursue economic development opportunities for the City—a power that is vested in the Mayor.

28.

Council President’s Letter. On March 10, 2025, the Council President issued a letter to Chief Administrative Officer Gilbert Montaña and Director of Finance Romy Samuel (hereinafter, “the Letter”), expressing his “dismay and extreme concern” at the Mayor’s recent attendance at the Mayors College conference in Washington, D.C.²⁰

¹⁷ **Exhibit A**, New Orleans City Council Ordinance No. 30239, § 1(a)(2) (Feb. 27, 2025).

¹⁸ **Exhibit A**, New Orleans City Council Ordinance No. 30239, § 3 (Feb. 27, 2025).

¹⁹ *See* **Exhibit A**, New Orleans City Council Ordinance No. 30239 (Feb. 27, 2025).

²⁰ **Exhibit B**, Letter to Chief Administrative Officer and Director of Finance from City Council President JP Morrell (March 10, 2025).

29.

The Letter demanded of Montaña and Samuel that they prevent the Mayor from being reimbursed for her travel on behalf of the City. Specifically, the letter states in relevant part:

As public officials, each of you has an independent legal duty to faithfully uphold and enforce the law—even in the face of other high-ranking officers who would ignore it. I therefore request that no city funds be used to reimburse Mayor Cantrell or any member of her traveling retinue for any expenses or credit card charges, including per diem allowances, incurred in connection with this patently unlawful trip.²¹

30.

The Letter also demanded of Montaña and Samuel that they provide Council with an accounting of expenses and reimbursements in relation to the Mayor's travel and a list of employees who facilitate such reimbursements. Specifically, the letter states in relevant part:

I am also making a formal and continuing request that you provide the Council a statement of any additional expenses incurred by the Mayor or her team in connection with this trip, a statement of any reimbursements paid, and a list of the employees involved in approving and facilitating these reimbursements.²²

31.

The Council President's demands that Montaña and Samuel refuse to reimburse the Mayor and that they provide the Council with a list of names of employees who facilitate reimbursements is unauthorized and unlawful, in patent violation of the City Charter, given the limits of the Council's powers.

32.

Lacking any legitimate authority to approve, deny, or restrict spending by the City's public officers or employees, outside of the annual operating budget ordinance, the Council's actions are, by definition, arbitrary and capricious.

33.

Lacking any other option to curb the Council's arbitrary and capricious acts and omissions, the Mayor now submits this Petition, seeking a Temporary Restraining Order, Preliminary Injunction, and Permanent Injunction against the Council's actions, and a declaration of the

²¹ **Exhibit B**, Letter to Chief Administrative Officer and Director of Finance from City Council President JP Morrell (March 10, 2025).

²² **Exhibit B**, Letter to Chief Administrative Officer and Director of Finance from City Council President JP Morrell (March 10, 2025).

Mayor's rights under the Home Rule Charter.

LEGAL ANALYSIS

34.

The party moving for a temporary restraining order and preliminary injunction bears the burden of proof and must ordinarily establish by prima facie evidence that: (1) it will suffer irreparable injury, loss, or damage if the motion is not granted; and (2) it is entitled to the relief on a showing that it will likely prevail on the merits. *Ard v. GrrlSpot, LLC*, 2019-0312 (La. App. 4 Cir. 10/23/19), 364 So. 3d 358, 366.

35.

Where, however, the mover seeks to enjoin enforcement of conduct that is unconstitutional or unlawful—e.g., a direct violation of the HRC—the mover is entitled to injunctive relief without showing irreparable injury. *Barlow v. Town of Waterproof*, 45,211 (La. App. 2 Cir. 5/19/10), 39 So. 3d 768, 773 (“A showing of irreparable injury is not necessary, however, when the conduct sought to be restrained is unconstitutional or unlawful, i.e., when the conduct sought to be enjoined constitutes a direct violation of a prohibitory law and/or violation of a constitutional right.” (citing *Jurisich v. Jenkins*, 99-0076 (La. 10/19/99), 749 So. 2d 597, 599 (“A petitioner is entitled to injunctive relief without the requisite showing of irreparable injury when the conduct sought to be restrained is unconstitutional or unlawful, i.e., when the conduct sought to be enjoined constitutes a direct violation of a prohibitory law and/or a violation of a constitutional right.”); *Downtown Dev. Dist. of City of New Orleans v. City of New Orleans*, 2018-0726 (La. App. 4 Cir. 5/8/19), 272 So. 3d 917, 930, *writ denied*, 2019-00947 (La. 9/24/19) (same).

36.

In such instances, the Court will grant the prohibitory preliminary injunction if it determines the following requirements: **“(1) the conduct violates a prohibitory law (ordinance or statute) or the constitution; (2) the injunction seeks to restrain conduct, not order it; and (3) the petitioner has met the low burden of making a *prima facie* showing that he is entitled to the relief sought.”** *Downtown Dev. Dist. of City of New Orleans v. City of New Orleans*, 2018-0726 (La. App. 4 Cir. 5/8/19) (emphasis added; quoting *Yokum v. Pat O'Brien's Bar, Inc.*, 2012-0217 (La. App. 4 Cir. 8/15/12), 99 So. 3d 74, 81), *writ denied*, 2019-00947 (La. 9/24/19), 279 So.

3d 388).

37.

Here, the Mayor seeks a prohibitory injunction that will restrain the Council from interfering in the exercise of her rights and duties as vested in the Mayor, and the Executive Branch that she heads, by the HRC.

38.

The conduct that the Mayor seeks to restrain is unlawful, because it violates the HRC on its face; it is unconstitutionally vague and overbroad; an abuse of power; and retroactive, as detailed below.

39.

The Ordinance violates the HRC on its face. “HRC provisions are interpreted according to rules of statutory interpretation.” *Council of City of New Orleans v. Donation*, 2023-01106 (La. 3/22/24), 382 So. 3d 27, 32, *reh’g denied*, 2023-01106 (La. 5/10/24), 384 So. 3d 890. “Those rules require a court to give words ‘their generally prevailing meaning,’ and, when such meanings render a law ‘clear and unambiguous,’ ‘the law should be applied as written and no further interpretation may be made in search of the intent of the legislature.’” *Id.* (citing La. Civ. Code arts. 9, 11).

40.

Questions of statutory interpretation are pure questions of law, reserved exclusively to the Courts. *Bourgeois v. A.P. Green Indus., Inc.*, 2000-1528 (La. 4/3/01), 783 So. 2d 1251, 1260 (“Statutory interpretation and the construction to be given to legislative acts is a matter of law and rests with the judicial branch of the government.”).

41.

The Ordinance is plainly a temporary prohibition, or moratorium.²³

42.

The Ordinance fails to comply with the right to appeal and administrative review requirements of HRC Section 3-126 on Temporary Prohibitions. HRC Section 3-126 permits moratorium ordinances expressly conditioned on: (1) administrative review procedures (“All such

²³ **Exhibit B**, Letter to Chief Administrative Officer and Director of Finance from City Council President JP Morrell (March 10, 2025) (referring to Ordinance 30239 as “the ‘Travel Moratorium’”).

temporary prohibitions shall specify the type of review required and the city agency responsible for the review; the agency shall complete its review and provide its report to the Council within the time limits established for such temporary prohibitions.”) and (2) “a right of appeal to the Council for waivers or exceptions thereto.”²⁴

43.

The ordinance fails both requirements, is therefore unconstitutional under the plain terms of the HRC, and must be enjoined. *E.g., Jurisich v. Jenkins*, 99-0076 (La. 10/19/99), 749 So. 2d 597, 605 (entering preliminary injunction against Secretary for the Louisiana Department of Wildlife and Fisheries absent showing of irreparable harm where Secretary’s refusal to issue oyster lease renewals violated state law); *Downtown Dev. Dist. of City of New Orleans v. City of New Orleans*, 2018-0726 (La. App. 4th Cir. 5/8/19) 272 So. 3d 917, 930-34 (affirming preliminary injunction entered against City absent showing of irreparable harm where City’s withholding of proceeds of a special ad valorem tax was unconstitutional), *writ denied*, 2019-00947 (La. 9/24/19), 279 So. 3d 388; *Pittman Const. Co. v. E. Baton Rouge Par.*, 493 So. 2d 178, 192 (La. App. 1 Cir. 7/7/86) (affirming injunction against Metro-Council prohibiting contract awards contrary to Plan of Government award requirements: “The Council should not continue to ignore the plain provisions of the Plan of Government. It should either comply with it or seek its change. The fact of non-compliance for many years does not provide this Court with justification to clothe non-compliance with validity[.]”), *writ denied*, 493 So. 2d 1206 (La. 1986); *Morton v. Jefferson Par. Council*, 408 So. 2d 3, 5 (La. App. 4 Cir. 9/15/81) (entering preliminary injunction prohibiting Parish Council from “closing, hampering, or otherwise impeding the operation of plaintiffs’ business” after unreasonably and arbitrarily failing to comply with its own permitting procedures), *affirmed in relevant part*, 419 So. 2d 431 (La. 1982); *accord Yokum v. Pat O'Brien's Bar, Inc.*, 2012-0217 (La. App. 4 Cir. 8/15/12), 99 So. 3d 74, 81, 272 So. 3d 917, 930 (affirming injunction absent showing of irreparable harm against music venue and bar where venue’s music volume violated noise ordinances and statutes).

²⁴ Section 3-126 of the Home Rule Charter of the City of New Orleans.

44.

The Ordinance is unconstitutionally vague. The Ordinance’s provisions are contradictory. On one hand, the Ordinance expressly permits travel “that would, if not undertaken, cause a direct and material harm to the financial wellbeing of the City.”²⁵ In the same section, the Ordinance expressly prohibits “travel intended to pursue economic-development opportunities ... in every case.”²⁶

45.

These two provisions cannot be reconciled, thus denying city officials “a reasonable opportunity to know what conduct is prohibited so that [they] may act accordingly.” *Monumental Task Comm., Inc. v. Foxx*, 157 F. Supp. 3d 573, 599 (E.D. La. 2016), affirmed, 678 F. App’x 250 (5th Cir. 2017).

46.

The Ordinance is unconstitutionally overbroad. The Ordinance categorically prohibits all “international travel; travel to conventions, festivals, special events, and conferences; and travel intended to pursue economic-development opportunities,” without any opportunity to appeal for a waiver or exception.²⁷

47.

A regulation is constitutionally overbroad if it (1) prohibits a substantial amount of constitutionally-protected freedoms, when judged in relation to the regulation’s ‘plainly legitimate sweep’ and (2) is not susceptible to a limiting construction that avoids constitutional problems.” *McClelland v. Katy Indep. Sch. Dist.*, 63 F.4th 996, 1012 (5th Cir.), *cert. denied*, 144 S. Ct. 348 (2023), *reh’g denied*, 144 S. Ct. 629 (2024) (quotation and citations omitted).

48.

The Council obviously cannot anticipate what exigencies may require the Mayor or another public officer or employee to travel abroad, to special events, or for economic development opportunities in the upcoming weeks.

²⁵ **Exhibit A**, New Orleans City Council Ordinance No. 30239, § 1(a)(1) (Feb. 27, 2025).

²⁶ **Exhibit A**, New Orleans City Council Ordinance No. 30239, § 1(a)(1) (Feb. 27, 2025).

²⁷ **Exhibit A**, New Orleans City Council Ordinance No. 30239, § 1(a)(1) (Feb. 27, 2025).

49.

The Ordinance’s categorical ban on such travel stretches far beyond what may be necessary for the Ordinance’s stated purpose of “respond[ing] to the current budget challenges facing the City.”²⁸

50.

The Ordinance is an abuse of power. The HRC makes the Mayor solely responsible for the administration of City government, centralizing Executive authority in the Executive branch, made accountable to the voters for the performance of the Executive departments of government.

51.

While the Mayor is the Executive head of government, the Council is restricted to legislative and policy functions: as it relates to allocation of City funds, the Council’s sole and exclusive role is to consider and pass the annual budget appropriation ordinance.

52.

The Ordinance is not concerned with any responsibilities of the legislative body, namely, policy or considering and passing the annual budget appropriation ordinance.

53.

Rather, the Ordinance expressly seeks to limit the Executive branch’s lawful Executive functions under the HRC.

54.

Absent any administrative review or fact-findings for justification, the Ordinance is a bald usurpation of the authority of the Executive Branch to pursue its constitutionally required functions, and is therefore an improper, arbitrary and capricious action.²⁹ *See a Hewitt v. Lafayette Mun. Fire & Police Civ. Serv. Bd.*, 2013-1429 (La. App. 3 Cir. 6/4/14), 139 So. 3d 1213, 1224 issuing mandamus requiring Parish Council’s to correct its arbitrary and capricious refusal to

²⁸ **Exhibit A**, New Orleans City Council Ordinance No. 30239, § 1(a)(1) (Feb. 27, 2025).

²⁹ There is no HRC provision permitting Council interference in lawful Executive Branch administrative activities, such as fostering economic development, supervising agency activities, and disbursement of funds. To permit such interference would require amending the HRC, which cannot occur without a vote of the citizens of New Orleans. *See* HRC Section 9-201. No vote of the electorate was held to authorize the Council’s actions.

issue a use permit consistent with its own procedures: “Arbitrary or capricious’ means the lack of a rational basis for the action taken.” (quoting *Shields v. City of Shreveport*, 579 So.2d 961, 964 (La. 1991)).

55.

An ordinance is an abuse of power when it pretextual or has no real or substantial relationship to the general welfare of the community. *E.g.*, *Cossich v. Plaquemines Par. Gov’t*, 2009-1522 (La. App. 4 Cir. 10/8/10), 50 So. 3d 869, 880 (rejecting Plaquemines Parish Council’s attempt to rewrite Ordinance and issuing mandamus requiring Council to submit a charter proposed by the Charter Commission to for public referendum as required by law), *writ denied*, 2011-0003 (La. 2/18/11), 57 So. 3d 334.

56.

Here, the Ordinance is pretextual, has no rational basis, and is not rooted in the general welfare of the community. Rather, the Council’s actions are part of an extended campaign to usurp authority from the Mayor,³⁰ and are expressly motivated to retaliate against the Mayor for having withdrawn from a settlement agreement with New Orleans Public Schools.³¹

57.

The Ordinance is Retroactive. Under the HRC, the Council’s budgetary role is limited to considering and adopting the annual operating budget appropriation ordinance.³² Once the appropriations are made, the Council has no power to control how the Executive Branch spends the money. These powers belong to the Mayor, the Chief Administrative Officer, and the

³⁰ **Exhibit C**, *Henry Consulting, LLC vs. New Orleans City Council*, Civil District Court for the Parish of New Orleans, No. 2024-11139 (Jan. 7, 2025) (Judgment entering mandamus requiring City Council to “vote to authorize the Council President to sign the professional services agreement between the City of New Orleans and Henry Consulting, LLC”); **Exhibit D**, *Rice Group, LLC vs. New Orleans City Council*, Civil District Court for the Parish of New Orleans, No. 2024-11139 (Jan. 7, 2025) (Judgment declaring Ordinance No. 29676 related to City Council review and execution of professional services contracts “**NULL, VOID, AND ILLEGAL**” under the Home Rule Charter).

³¹ **Exhibit B**, Letter to Chief Administrative Officer and Director of Finance from City Council President JP Morrell (March 10, 2025) (citing “the fiscal crisis that promoted [the Mayor] to withhold funding from Orleans Parish schoolchildren.”).

³² *See* Section 3-115 of the Home Rule Charter of the City of New Orleans, “Consideration and Adoption of the Annual Operating Budget Ordinance” (describing the Council’s processes of adopting and amending the annual operating budget ordinance).

Department of Finance, as described *supra*.

58.

The Ordinance seeks to control the Executive branch's lawful expenditures, amounting to an after-the-fact reallocation of funds appropriated by the Council under the budget ordinance.

59.

The Council's attempt to retroactively reappropriate funds has no rational relationship to any legitimate government interest. The Council's ban on expenditure and reimbursement of travel, and prohibition on leasing of passenger vehicles, amounts to an arbitrary and unreasonable retroactive reappropriation, and is therefore unconstitutional.

60.

In sum, the Ordinance is unlawful and unconstitutional. It does not provide for administrative review and right to appeal, as required for all temporary prohibitions under the HRC. The Council is abusing its legislative power by attempting to block the Mayor from carrying out the administrative and executive functions that are her right and duty under the HRC to perform. The Council, which has the power only to consider and adopt the annual budget ordinance, is instead attempting to retroactively re-appropriate spending. The Ordinance is also unconstitutional because it is vague, overbroad, and retroactive. The Ordinance is born not out of any concern for the public or the fiscal circumstances of the City, but out of bias and a desire to retaliate against the Mayor.

WHEREFORE, Petitioner, LaToya Cantrell, in her official capacity as Mayor of New Orleans, prays that:

- I. The City Council and its Members be served with this petition and ordered to show cause on the date and the hour assigned why a Temporary Restraining Order should not be issued restraining the Council from enforcing the Ordinance because the Ordinance is unconstitutional on its face due to its failure to comply with the agency review and appeal procedure of Home Rule Charter Section 3-126;
- II. The City Council and its Members be required to show cause why, after a hearing, the Council should be enjoined from enforcing and extending the Ordinance;
- III. The City Council and its Members be required to show cause why they should not

be cast in judgment for the Petitioner's reasonable attorney's fees, and costs of this proceeding.

Respectfully submitted,

PHELPS DUNBAR LLP

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**ATTORNEYS FOR PETITIONER,
CITY OF NEW ORLEANS MAYOR
LATOYA CANTRELL**

PLEASE SERVE

CITY COUNCIL OF NEW ORLEANS
JEAN-PAUL MORRELL, PRESIDENT
JOSEPH GIARRUSSO III
EUGENE GREENE
LESLI HARRIS
FREDDIE KING III
HELENA MORENO
OLIVER THOMAS

THROUGH THEIR COUNSEL
DONESIA TURNER, CITY ATTORNEY
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ARTICLE 3603 CERTIFICATION

Consistent with the requirements of Code of Civil Procedure art. 3603, I certify that on Tuesday, March 18, 2025, prior to filing the foregoing Verified Petition And Application For Temporary Restraining Order, Preliminary Injunction, Permanent Injunction And Declaratory Relief, I provided notice of the same by email to City Attorney Donesia Turner (donesia.turner@nola.gov) and City Counsel Attorney Adam Swensek (adam.swensek@nola.gov), stating:

Ms. Turner and Mr. Swensek,

Consistent with La. Code Civ. Proc. art. 3603, Petitioner LaToya Cantrell, in her official capacity as Mayor of the City of New Orleans, provides notice of her intent to file a Verified Petition today (3/18/25) in Orleans Parish Civil District Court seeking a temporary restraining order and preliminary and permanent injunctive relief prohibiting the New Orleans City Council and its Members from enforcing Ordinance 30239.

You are invited to attend and participate as you deem necessary.

Allen


Allen C. Miller

CIVIL DISTRICT COURT FOR THE PARISH OF ORLEANS

STATE OF LOUISIANA

NO.

DIVISION " "

LATOYA CANTRELL

VERSUS

THE NEW ORLEANS CITY COUNCIL

FILED: _____

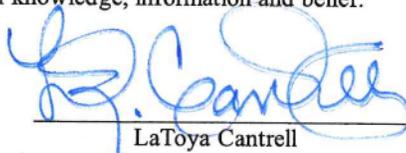
DEPUTY CLERK

VERIFICATION

STATE OF LOUISIANA

PARISH OF ORLEANS

BEFORE ME, the undersigned authority, a Notary Public, in and for the Parish of Orleans, State of Louisiana, duly commissioned and qualified, personally came and appeared LaToya Cantrell, in her official capacity as Mayor of the City of New Orleans who, by me first and duly sworn, did depose and say that she has read the above Petition and Application for Temporary Restraining Order, Preliminary Injunction, Permanent Injunction and Declaratory Relief, the assertions of which are true and correct to the best of her knowledge, information and belief.



LaToya Cantrell

Sworn and subscribed before me,

Notary, this 18th day of March 2025.



Notary Public

Notary/Bar No. 26338

Commission Lifetime

CIVIL DISTRICT COURT FOR THE PARISH OF ORLEANS

STATE OF LOUISIANA

NO.

DIVISION “ ”

**MAYOR LATOYA CANTRELL OF THE
CITY OF NEW ORLEANS**

VERSUS

THE NEW ORLEANS CITY COUNCIL

FILED: _____

DEPUTY CLERK

TEMPORARY RESTRAINING ORDER

Considering the foregoing Verified Petition and Application for Temporary Restraining Order, Preliminary Injunction, Permanent Injunction and Declaratory Relief filed herein on behalf of LaToya Cantrell, in her official capacity as Mayor of New Orleans:

IT IS HEREBY ORDERED that Petitioner’s Application for a Temporary Restraining Order is **GRANTED**, and that a Temporary Restraining Order is entered against Defendants, the City Council of New Orleans, and Council Members Jean-Paul Morrell (President), Joseph Giarrusso III, Eugene Green, Lesli Harris, Freddie King III, Helena Moreno, and Oliver Thomas, in their official capacity as members of the City Council of New Orleans, enjoining, restraining, and prohibiting Defendants from enforcing the provisions of Ordinance 30239 due to the Ordinance being unconstitutional on its face and in violation of the Home Rule Charter.

IT IS FURTHER ORDERED that this temporary restraining order shall remain in effect for the lesser of: (i) ten (10) days; or (ii) until the date of the hearing on Petitioner’s request for issuance of a preliminary injunction. This order shall not prejudice Petitioner’s right to seek an extension of the Temporary Restraining Order issued herein pursuant to La. Code of Civil Procedure art. 3604(A) in the event that the hearing on the request for issuance of a preliminary injunction cannot be held until more than ten days from the date of this Judgment.

IT IS FURTHER ORDERED that Petitioner’s request for preliminary injunction be and is hereby set for hearing on the _____ day of March, 2025 at _____ a.m./p.m. and Defendants

shall show cause as to why:

- I. A Preliminary Injunction should not be issued restraining the Council from enforcing the Ordinance because the Ordinance;
- II. The City Council and its Members, after a hearing, should not be enjoined from enforcing and extending the Ordinance;
- III. The City Council and its Members should not be cast in judgment for the Petitioner's reasonable attorney's fees, and costs of this proceeding.

IT IS FURTHER ORDERED that this Temporary Restraining Order is granted without the necessity of a bond posted by Petitioner, pursuant to La. R.S. § 13:4581.

New Orleans, Louisiana, this _____ day of _____, at _____ a.m./p.m., 2025.

JUDGE

PLEASE SERVE:

CITY COUNCIL OF NEW ORLEANS
JEAN PAUL MORRELL, PRESIDENT
JOSEPH GIARRUSSO III
EUGENE GREENE
LESLI HARRIS
FREDDIE KING III
HELENA MORENO
OLIVER THOMAS

THROUGH THEIR COUNSEL
DONESIA TURNER, CITY ATTORNEY
1300 PERDIDO ST ROOM 5E03
NEW ORLEANS LA 70112