

STATE OF INDIANA)
) SS:
COUNTY OF JOHNSON)

IN THE JOHNSON SUPERIOR COURT
CAUSE NO.: 41D01-0809-PL-00066

CITY OF GREENWOOD, INDIANA,)
FELSON and JANE BOWMAN,)
PARET LLC, and)
ZINKAN & BARKER DEVELOPMENT)
COMPANY, LLC,)
)
)
Plaintiffs,)
)
v.)
)
TOWN OF BARGERSVILLE,)
)
)
Defendant.)

AGREED PRELIMINARY INJUNCTION ORDER

The Court, having received the Parties' "Joint Motion For Entry Of Agreed Preliminary Injunction," being duly and fully advised, and finding that the relief sought by the parties should be GRANTED;

THE COURT FINDS AS FOLLOWS:

1. On November 28, 2007, the Town of Bargersville ("Bargersville") introduced Ordinance No. 2007-19, which was later amended, (the "Ordinance") concerning the proposed annexation of approximately two thousand two hundred fifty three (2,253) acres of land along North State Road 135 (the "Territory").
2. On September 17, 2008, Plaintiffs filed a "Complaint For Declaratory Judgment And Injunctive Relief" and "Motion For Preliminary Injunction And Request For A Hearing" (the "Complaint").
3. The Court set a hearing on September 25, 2008, on Plaintiffs' Motion For A Preliminary Injunction.

4. The Parties have conferred, by counsel, and have agreed to the entry of a preliminary injunction precluding the Bargersville Ordinance from taking effect pending resolution of the merits of the Complaint by this Court.

5. The Parties have conferred, by counsel, and agreed to limit the scope of issues to be decided by Plaintiffs' request for a declaratory judgment and permanent injunction.

IT SHALL BE AND IS HEREBY ORDERED THAT:

1. Notwithstanding Ind. Code § 36-4-3-7, the Ordinance shall not take effect until further Order of the Court.

2. Bargersville shall not take any steps to implement the Ordinance, other than voting to adopt the Ordinance, publishing notice that the Ordinance has been adopted and defending against any other actions against the Ordinance.

3. Bargersville shall not take any vote on the Ordinance prior to October 15, 2008.

4. If the Court determines the merits of the Complaint in the Plaintiffs' favor, the injunction will become permanent unless reversed on appeal.

5. If the Court determines the merits of the Complaint in Bargersville's favor, the injunction will be dissolved.

6. The parties agree that security is not necessary and this preliminary injunction is effective immediately.

7. Representatives of Bargersville and the City of Greenwood shall meet no later than September 29, 2008, to commence negotiations concerning the boundaries of the proposed annexation territory. Representatives of the other Plaintiffs may attend and participate.

8. This Order preserves the *status quo ante*, eliminates the threat of irreparable harm to the Plaintiffs in that the parties have agreed that the Ordinance shall not go into effect until the

merits of the Complaint are resolved and eliminates the need for injunction proceedings concerning Bargersville's adoption of the Ordinance. The Plaintiffs shall not take any action or seek an injunction or other relief that would interfere with or prevent Bargersville's adoption of the Ordinance. The Plaintiffs believe no further equitable relief is necessary or anticipated pending the resolution of the merits of the Complaint.

9. The September 25, 2008 hearing on Plaintiffs' Motion For A Preliminary Injunction is vacated.

Dated: _____

Hon. Kevin Barton
Judge Johnson Superior Court

Copies to:

Wayne C. Turner
Matthew M. Price
Gregory A. Neibarger
Bingham McHale LLP
2700 Market Tower
10 West Market Street
Indianapolis, IN 46204

Shawna Koons-Davis
City Attorney
The City of Greenwood
225 S. Emerson Avenue, Suite B
Greenwood, IN 46143

Nicholas K. Kile
Hillary Jane Spike Fordice
Barnes & Thornburg
11 S. Meridian St.
Indianapolis, IN 46204

Brian J. Deppe
Deppe Fredbeck & Boll
Nine East Court
Franklin, IN 46131