

IN THE CHANCERY COURT FOR MCMINN COUNTY, TENNESSEE

STATE OF TENNESSEE, ex rel
Eddie Leonard, Ken Baxter, Greg and Lisa Whitlock,
Alex Moses, Cobia Edgemon, Danny and Gracie Housley,
Michael and Janet Tabor, John and Margaret Mackersie,
Roger and Ginger Malloy, Lois Duck,
Randy and Linda Burger, Girleen Howard, Richard and Dawne Lay,
Joseph and JoAnn Roy, Mr. and Mrs. Charles Leonard,
Rebecca Jaquish, John and Sharon Davidson,
William and Brenda Ratledge, Jerry D. Harris, Ray Harris,
Nicholas and Ivana Kurwoski, Darrell Murray,
Doyle and Maria Daniels, Alan M. and Vivian F. Doherty,
Donald C Mackey, Charles W. and Lois E. Byrd,
James W. and Shirley S Woodcock, Thomas L. Baines,
Randolph J and Patti Hall, David O'Daniel,

PLAINTIFFS

vs.

NO. _____

CITY OF ATHENS, TENNESSEE

DEFENDANT

**COMPLAINT IN NATURE OF QUO WARRANTO and
DECLARATORY RELIEF**

Come your Plaintiffs, by and through counsel, and bring this action in the nature of quo warranto, pursuant to TCA 6-51-103 and related statutes contesting the annexation of their property by the City of Athens, Tennessee, and seeking declaratory relief and for cause of action would show as follows:

1. Plaintiffs own real property in McMinn County, Tennessee, which property is included within an area which Defendant City of Athens, Tennessee, a municipal corporation, seeks to annex into its corporate limits pursuant to Ordinance Number 944, a copy of which ordinance is

attached hereto as Exhibit A and made a part hereof by reference. Defendant undertook to pass said Ordinance on second reading on or about the 17th day of October, 2006, allegedly, under authority of Tennessee Code Annotated 6-51-102, et seq.

2. Plaintiffs bring this action in the nature of quo warranto pursuant to Tennessee Code Annotated 6-51-103, et seq., and related statutes including T.C.A. 6-58-111, contesting the annexation ordinance and the attempted annexation of Plaintiffs' property without the consent and approval of your Plaintiffs.

3. Plaintiffs aver that neither the Mayor nor the City Council of Athens have received a request or approval from the Plaintiffs to annex Plaintiffs' property.

4. The governing body of the City of Athens, Tennessee, has no power to provide any services to the citizens and residents of McMinn County, Tennessee, which the citizens and residents of McMinn County, Tennessee, do not already have or are not able, by and through their county legislative body, to procure for the benefit of all citizens and residents of McMinn County, Tennessee, including the citizens in the proposed annexed area.

5. Plaintiffs aver that the health, safety, and welfare of the citizens and property owners of the municipality and territory sought to be annexed, will not be materially retarded in the absence of such annexation.

6. Plaintiffs aver that the City of Athens did not comply with the strict statutory requirements for annexation of territory under TCA §6-51-102, and avers that the following are fatal defects in a passage.

(a) The notice of public hearing did not have published with it a tract map meeting the requirements of TCA §6-51-101(3).

(b) The public notice does not give notice of a public hearing on the the ordinance itself as required by TCA §6-51-102(a)(1).

7. All of said referenced defects render the said Annexation Ordinance to be invalid and void *ab initio*.

8. Plaintiffs have standing to bring this Action under Tennessee's Declaratory Judgement Act seeking a determination of this Court as to the validity of the Ordinance purporting to annex their property and residences into the City of Athens.

9. There is a genuine dispute between the parties as to whether the Ordinance is valid as to your Plaintiffs, giving rise to their request for declaratory relief.

PREMISES CONSIDERED, PLAINTIFF PRAYS:

1. That process issue and be served upon Defendant requiring it to appear and answer this Complaint.

2. That this Court find and hold that the subject annexation ordinance is unreasonable for the overall well-being of the communities involved; or that the health, safety, and welfare of the citizens and property owners of the municipality and territory will not be materially retarded in the absence of such annexation (T.C.A. § 6-58-111).

3. That as a result of such finding the Court enter an order vacating the ordinance.

4. That this Court declare the subject annexation ordinance is void *ab initio* for failure to comply with the strict statutory requirements of T.C.A. § 6-51-102.

5. That Plaintiffs have such other, further, equitable and general relief to which this Court may deem it entitled

THIS IS THE FIRST PETITION IN THE NATURE OF QUO WARRANTO OR FOR EXTRAORDINARY RELIEF FILED ON BEHALF OF THE PLAINTIFF IN THIS MATTER AND NO COURT HAS HERETOFORE DENIED SUCH RELIEF.

Respectfully submitted,

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COST BOND

We hereby acknowledge ourselves as sureties for statutorily provide court costs as provided in T.C.A. §20-12-120, in the above cause.

David L. Buuck, Atty.