

IN THE CHANCERY COURT FOR HAWKINS COUNTY, TENNESSEE

STATE OF TENNESSEE, ex rel

Don G. Dimmick, Raymond Absher, Lowell and Alice Bailey, Albert and Tammy Barker, Ronald Lynn Barrett, Hugh Lee and Elizabeth Bass, Cecil and Margaret Beglely, Virginia Bernard, Charles and Susan Blair, Roy R. Bradley, Laura D. Brewer, Richard A. and Jean K. Brickell, Kenneth E. and Carolyn Byrd, Terry and Michelle Byrd, Steven and Billie Chappell, Rocky and Betsy R. Clevinger, Joyce M. Collins, Phillip E. Condra, James D. Davis, Perry Davis, John C. Davis, James L. and Ella R. Dean, Charlotte J. DeBord, Maurice DeWitte, Robert D. & Debra Drinnon, Bruce B. & Brenda Elliott, Jerald W. English, James B. Fields, Kathy Lynn Fultz, Larry J. and Margaret E. Gilliam, Harry E. Gladson, Phil and Teresa Goodson, Howard D. Harris, Raymond L. Hill, Jr., Teresa Holt, Robert Hood, Hugh K. Horton, J. A. Hughes, Randall or Barbara Kenner, H. A. Kite, Jim and Dot Klepper, Tommy E. LaRoy, Gary and Deborah Lawley, David L. Lawson, Frank E. Lawson, Sidney K. and Dorothy J. Lawson, Mack and Elizabeth Lawson, Freddie and Wanda Lee, Robert Maes, Sam A. and Mildred M. Mallory, Robert K. and Jo Etta Mallory, Donald Manis, John D. McBride, Lora Lee Mease, John C. Myers, Charles L. and Melissa Newton, John B. Nichols, Barlow and Lorane Price, Windell Wayne and Carolyn Price, Blevie (Bud) Price, Anthony and Charlotte Reed, Mary J. Richards, Mary K. Ross, Harold E. Salyers, Parrot E. and Faye Setsor, William E. and Debbie G. Shedden, Shirley F. Smith, Harold L. Smith, Vaughn L. and Carolyn M. Stroup, James H. Trent, Sr., Melvin Turner, William T. and Phyllis A. Van Cleave, Homer Wallace, J. David and Bobbie S. Williams, Larry J. and Margaret E. Worley, Margaret S. Wright, Johnny B. Cinnamon, Sue M. Elkins, Jerry Byrd, Wayne Greene, Carolyn Alvis, Billy G. & Shirley F. Helton, Raymond F. Fleenor, William G. & Mary A. Hurst, Steve Waller, Gene & Charlotte Price, David Keeton, Orville & Loretta Gladson, Peggy L. Hall, Ada R. Young, Wilma Bennett, Brent Barrett, Mark Ward, Jack & Georgia DeBord, Ada R. Young, Eula V. Dodge, Kenneth House, Ralph Wayne Collins, James B. Jones, Roy and Geneva Crownover, Gary R. Greene, Vivian Nalley, Bruce and Lisa Lemons, Warren and Mildred Wattenbarger, Marilyn Winstead, Franklin R. Fricke, Kenneth W. and Kimberly R. Cradic, Darlene Drinnon, Brandy Manis, Perry and Michelle Evans, Donald L. and Barbara S. Lawson, Wanda Long, Evelyn Carpenter, James and Elizabeth Lewis, William N. Durham, Joyce M. Lemons, Donald and Ruth Freeman, Robert and Patricia Price,

PLAINTIFFS,

vs.

NO. _____

CITY OF ROGERSVILLE, 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 Rogersville, Tennessee, and seeking declaratory relief and for cause of action would show as follows:

1. Plaintiffs own real property in Hawkins County, Tennessee, which property purports to be included within an area which Defendant City of Rogersville, Tennessee, a municipal corporation, seeks to annex into its corporate limits pursuant to Ordinance # 1-9-07-03, 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 third reading on or about the 13th day of March, 2007, 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 Rogersville have received a request or approval from the Plaintiffs to annex Plaintiffs' property.

4. The governing body of the City of Rogersville, Tennessee, has no power to provide any services to the citizens and residents of Hawkins County, Tennessee, which the citizens and residents of Hawkins 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 Hawkins 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 of territory sought to be annexed, will not be materially retarded in the absence of such annexation.

6. Plaintiffs have previously, timely filed a lawsuit in this Court contesting the original annexation of their property by Ordinance # 09-19-06-2.

7. Plaintiffs aver that Ordinance # 1-9-07-03 is, upon its face an attempt to amend Ordinance # 09-19-06-2 to correct deficiencies in the passage of that ordinance.

8. Plaintiffs aver that the attempt to amend Ordinance #09-19-06-2, does not cure the defects in the original ordinance # 09-19-06-2 and same is void ab initio.

9. Plaintiffs aver that Ordinance # 1-9-07-3 is invalid and cannot stand alone as an ordinance of annexation.

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

11. Plaintiffs have standing to bring this Action under Tennessee's Declaratory Judgement Act seeking a determination of this Court as to the validity of Ordinance # 1-9-07-03 purporting to annex their property and residences into the City of Rogersville.

12. There is a genuine dispute between the parties as to whether Ordinance # 1-9-07-03 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 of the proposed annexed 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 WITH REGARD TO ORDINANCE # 1-9-07-03 AND NO COURT HAS HERETOFORE DENIED SUCH RELIEF.

Respectfully submitted,



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(865) 637-9800 (Fax)
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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.

TOWN OF ROGERSVILLE**ORDINANCE NO. 1-9-07-3**

AN ORDINANCE TO AMEND ORDINANCE NO. 9-19-06-2 (AN ORDINANCE TO ANNEX CERTAIN TERRITORY, KNOWN AS TIMBERLAKE SUBDIVISION, BROOKS LANDING SUBDIVISION, ALLISON HEIGHTS SUBDIVISION, CEDAR CREST SUBDIVISION, AREA BETWEEN CEDAR CREST SUBDIVISION AND MORGAN ESTATES SUBDIVISION, MORGAN ESTATES SUBDIVISION, WESTERN HEIGHTS SUBDIVISION AND WEST END MOBILE HOME PARK, AREA "A", AND AREA "B" AS DESCRIBED ON THE ANNEXATION BOUNDARY MAP, BY THE TOWN OF ROGERSVILLE, TENNESSEE, AND TO INCORPORATE THE SAME WITHIN THE CORPORATE BOUNDARIES OF THE TOWN OF ROGERSVILLE, TENNESSEE) BY PROVIDING A DIFFERENT DATE FOR A PUBLIC HEARING ON A PROPOSED PLAN OF SERVICES FOR THE AREA TO BE ANNEXED AND A DIFFERENT DATE FOR THE ADOPTION OF THE PLAN OF SERVICES AND BY PROVIDING FOR A DIFFERENT EFFECTIVE DATE FOR THE ANNEXATION OF THE AREA DESCRIBED IN ORDINANCE 9-19-06-2.

WHEREAS, Ordinance No. 9-19-06-2 provided that a plan of services for the area described therein to be annexed was adopted on October 10, 2006; and,

WHEREAS, the publication of the time date and place of the public hearing on the plan of services failed to include information regarding three locations of copies of the plan be available for public inspection during all business hours; and,

WHEREAS, a new and amended notice of public hearing on the plan of services has been published in the Rogersville Review on the 17th day of January, 2007, and the plan of services was duly adopted by the Board of Mayor and Aldermen by Resolution No. 2-13-07-1 on February 13, 2007; and,

WHEREAS, Resolution No. 1-9-07-2 was duly adopted by the Board of Mayor and Aldermen on January 9, 2007 calling for a public hearing on this ordinance on February 13, 2007, and a notice thereof published in the Rogersville Review on January 17, 2007;

NOW, THEREFORE, BE IT HEREBY ORDAINED:

Section 1. That the first and third paragraphs of Ordinance No. 9-19-06-2 be and hereby are deleted, and that the following is substituted therefore:

WHEREAS, a public hearing before this body was held on the 13th day of February 2007 pursuant to a resolution adopted on January 9, 2007, and a notice thereof published in the Rogersville Review on January 17, 2007; and

WHEREAS, a plan of services for this area was adopted by resolution of February 13, 2007 as required by Tennessee Code Annotated §66-51-102; to wit, Resolution No. 2-13-07-1.

EXHIBIT A

Section 2. That section 2 of Ordinance 9-19-06-2 be and hereby is deleted, and the following be substituted therefore:

Section 2. That this ordinance shall be effective, and the territory described herein shall be annexed within the corporate limits of the Town of Rogersville, thirty (30) days from and after its passage, or thirty (30) days from and after the passage and adoption of the Plan of Services for the area to be annexed, which ever shall occur later, the public welfare requiring it.

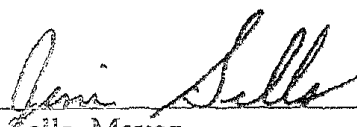
Reviewed by Planning Commission: 8/31/06 and 1/23/07

Passed 1st Reading: 1/9/07

Passed 2nd Reading: 2/13/07

Public Hearing Held: 2/13/07

Passed 3rd Reading: 3/13/07




Jim Sells, Mayor

ATTEST:



William H. Lyons, City Recorder



William E. Phillips, City Attorney