

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

| | | |
|--------------------------------------|---|------------------------------|
| CHERYL COMPTON, et al., |) | |
| |) | |
| Plaintiffs, |) | |
| |) | No. 4:11-CV-01975 CEJ |
| v. |) | |
| |) | |
| ST. LOUIS METROPOLITAN POLICE |) | |
| DEPARTMENT, et al., |) | |
| |) | |
| Defendants. |) | |

**DEFENDANT CITY OF ST. LOUIS’ RESPONSE IN OPPOSITION TO
PLAINTIFFS’ MOTION FOR PRELIMINARY INJUNCTION**

COMES NOW Defendant City of St. Louis, Missouri (“City”), by and through undersigned counsel, and pursuant to Rule 65 of the Federal Rules of Civil Procedure, sets forth the following in opposition to Plaintiffs’ Motion for Preliminary Injunction:

1. Plaintiffs have failed to state a claim for injunctive relief because they have not—and cannot—establish that they are likely to succeed on the merits.
2. City Ordinance 58262, codified as § 22.18.010 of the City of St. Louis Revised Code (hereinafter “§ 22.18.010” or the “Ordinance”) is a reasonable time, manner and place restriction upon speech that is both content- and viewpoint-neutral regulation.
3. The legitimate purposes of § 22.18.010 are: (1) the general public’s enjoyment of park facilities; (2) the viability and maintenance of those facilities; (3) the public’s health, safety and welfare; and (4) the protection of the City’s parks and public property from overuse and unsanitary conditions
4. The Ordinance is narrowly tailored to serve its purposes.

5. The Ordinance provides for ample alternative channels of communication.
6. Plaintiffs are not likely to suffer irreparable injury in the absence of preliminary relief.
7. The balance of equities does not tip in Plaintiffs' favor.
8. An injunction is contrary the public interest.
9. Should the preliminary injunction issue, the Court should set a bond in an amount in excess of \$2,545,062.00 to pay costs and damages sustained by the City as a direct result of the preliminary injunction.
10. The City submits herewith a Memorandum of Law in Support.

WHEREFORE, the City prays an Order from this Court denying Plaintiffs' Motion for Preliminary Injunction, awarding the City reasonable attorneys' fees expended herein and for such other and further relief the Court deems equitable in this matter.

Respectfully submitted,
PATRICIA A. HAGEMAN
CITY COUNSELOR

/s/ Donald G. Dylewski
Donald G. Dylewski #25325MO
Associate City Counselor
Attorney for Defendant City of St. Louis and
Room 314, City Hall
St. Louis, MO 63103
314.622.3361
FAX: 314.622.4956
DylewskiD@stlouiscity.com

Certificate of Service

I hereby certify that on November 14, 2011, the foregoing was electronically filed with the Clerk of the Court to be served by operation of the Court's electronic filing system upon:

Joseph P. Welch
1708 Olive Street
Saint Louis, MO 63103
Attorney for Plaintiffs

Maggie Ellinger-Locke
797 West Terra Lane
O'Fallon, MO 63366
Attorney for Plaintiffs

Cynthia West
625 N. Euclid Ave., Suite 534
Saint Louis, MO 63108
Attorney for Plaintiffs

/s/ Donald G. Dylewski _____