

STATE OF RHODE ISLAND
PROVIDENCE, SC.

SUPERIOR COURT

HARRISBURG ASSOCIATES, LLC :
LERNER ASSOCIATES, LLC, :
THE ALICE BUILDING, LLC, :
PEERLESS LOFTS, LLC, :
SMITH/KEEN, LP, :
LAPHAM 290, LLC, :
RWB ASSOCIATES, LLC, :
276 WESTMINSTER, LLC, :
CLEMENCE 91, LLC, and :
DOWNCITY REVITALIZATION FUND 1, LLC, :
Plaintiffs :

Hearing Date: August 24, 2023

vs.

C.A. NO.: PC-2020-04757

THE CITY OF PROVIDENCE, :
ELYSSE PARE, in her capacity as :
Tax Assessor of the City of Providence, and :
JAMES LOMBARDI, III, in his capacity as :
Treasurer of the City of Providence, :
Defendants :

PROVIDENCE CITY COUNCIL’S MOTION FOR LEAVE TO INTERVENE

The City Council of the City of Providence (“City Council”) hereby moves for leave to intervene as a Defendant. The City Council’s proposed pleading is attached hereto as Exhibit A. The City Council relies in support on its memorandum and the affidavits of Gina Costa and Sean Bouchard filed herewith.

Respectfully submitted,

Proposed Intervenor
City Council of the City of Providence,

By Its Attorneys,

/s/ Max Wistow

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August 8, 2023

CERTIFICATE OF SERVICE

I hereby certify that, on the 8th day of August, 2023, I filed and served the foregoing document through the electronic filing system on the following users of record:

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The document electronically filed and served is available for viewing and/or downloading from the Rhode Island Judiciary's Electronic Filing System.

/s/ Benjamin Ledsham

Exhibit A

STATE OF RHODE ISLAND
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CITY COUNCIL OF THE CITY OF :
PROVIDENCE, :
Defendants :

[PROPOSED]

ANSWER OF DEFENDANT CITY COUNCIL OF THE CITY OF PROVIDENCE

Defendant City Council of the City of Providence (“City Council”) hereby answers
Plaintiffs’ Amended Complaint for Declaratory Judgment filed on May 14, 2021, as follows.

RESPONSE TO PLAINTIFFS’ “INTRODUCTION”

Plaintiffs’ lengthy “Introduction” violates the requirements of Rule 8(a)(1) of the
Superior Court Rules of Civil Procedure, requiring a “short and plain statement of the
claim,” and the requirements of Rule 8(e)(1), requiring that “[e]ach averment shall be

simple, concise, and direct.” Moreover, that “Introduction” improperly purports to disclose alleged settlement negotiations between Plaintiffs and the City of Providence and to summarize the legal and factual positions of the Plaintiffs and the City of Providence and to advocate for Plaintiffs’ positions, none of which is appropriate for a complaint. To the extent that any reply is required, Defendant City Council denies the allegations set forth in this “Introduction.”

1. Defendant City Council is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 1 of Plaintiffs’ Amended Complaint.

2. Defendant City Council is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 2 of Plaintiffs’ Amended Complaint.

3. Defendant City Council is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3 of Plaintiffs’ Amended Complaint.

4. Defendant City Council is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 4 of Plaintiffs’ Amended Complaint.

5. Defendant City Council is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 5 of Plaintiffs’ Amended Complaint.

6. Defendant City Council is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 6 of Plaintiffs' Amended Complaint.

7. Defendant City Council is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 7 of Plaintiffs' Amended Complaint.

8. Defendant City Council denies the allegations contained in paragraph 8 of Plaintiffs' Amended Complaint.

9. Defendant City Council is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 9 of Plaintiffs' Amended Complaint.

10. Defendant City Council is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 10 of Plaintiffs' Amended Complaint.

11. Defendant City Council is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 11 of Plaintiffs' Amended Complaint.

12. Defendant City Council is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 12 of Plaintiffs' Amended Complaint.

13. Defendant City Council is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 13 of Plaintiffs' Amended Complaint.

14. Defendant City Council admit that the Court has subject matter jurisdiction. Defendant City Council denies that the Court has personal jurisdiction over the Tax Assessor of the City of Providence, no service of the summons and complaint having been returned as to the Tax Assessor.

FACTUAL BACKGROUND

15. Defendant City Council incorporates by reference its answers to Paragraphs 1-14 of Plaintiffs Amended Complaint.

16. Defendant City Council is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 16 of Plaintiffs' Amended Complaint.

17. Defendant City Council is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 17 of Plaintiffs' Amended Complaint.

18. Defendant City Council is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 18 of Plaintiffs' Amended Complaint.

19. Defendant City Council is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 19 of Plaintiffs' Amended Complaint.

20. Defendant City Council denies that Plaintiffs have accurately quoted a portion of R.I. Gen. Laws § 44-5-13.11.

21. Defendant City Council is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 21 of Plaintiffs' Amended Complaint.

22. Defendant City Council is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 22 of Plaintiffs' Amended Complaint.

23. Defendant City Council is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 23 of Plaintiffs' Amended Complaint.

24. Defendant City Council is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 24 of Plaintiffs' Amended Complaint.

25. Defendant City Council is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 25 of Plaintiffs' Amended Complaint.

26. Defendant City Council is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 26 of Plaintiffs' Amended Complaint concerning Plaintiffs' disagreement. Defendant City Council denies the remaining allegations contained in paragraph 26 of Plaintiffs' Amended Complaint.

27. Defendant City Council is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 27 of Plaintiffs' Amended Complaint.

28. Defendant City Council is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 28 of Plaintiffs' Amended Complaint.

29. Defendant City Council denies the allegations contained in paragraph 29 of Plaintiffs' Amended Complaint.

30. Defendant City Council is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 30 of Plaintiffs' Amended Complaint.

COUNT I

31. Defendant City Council incorporates by reference its answers to Paragraphs 1-14 and 16-30 of Plaintiffs Amended Complaint.

32. Defendant City Council is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 32 of Plaintiffs' Amended Complaint.

33. Defendant City Council denies the allegations contained in paragraph 33 of Plaintiffs' Amended Complaint.

34. Defendant City Council refers to R.I. Gen. Laws § 9-30-2 for the provisions thereof, and, except as so stated, denies the allegations contained in paragraph 34 of Plaintiffs' Amended Complaint.

35. Defendant City Council denies the allegations contained in paragraph 35 of Plaintiffs' Amended Complaint.

36. Defendant City Council denies the allegations contained in paragraph 36 of Plaintiffs' Amended Complaint.

37. Defendant City Council denies the allegations contained in paragraph 37 of Plaintiffs' Amended Complaint.

38. Defendant City Council denies the allegations contained in paragraph 38 of Plaintiffs' Amended Complaint.

39. Defendant City Council denies the allegations contained in paragraph 39 of Plaintiffs' Amended Complaint.

40. Defendant City Council denies the allegations contained in paragraph 40 of Plaintiffs' Amended Complaint.

41. Defendant City Council denies the allegations contained in paragraph 41 of Plaintiffs' Amended Complaint.

WHEREFORE Defendant City Council asks that Plaintiffs' Amended Complaint be dismissed, that judgment enter in favor of Defendant City Council and the other defendants; that Defendant City Council be awarded costs; and such other and further relief as may be fair and just.

AFFIRMATIVE DEFENSES

Affirmative Defense 1: Plaintiffs have failed to state a claim upon which relief can be granted.

Affirmative Defense 2: Plaintiffs have failed to state a cause of action upon which relief can be granted.

Affirmative Defense 3: The Court lacks jurisdiction over Plaintiffs' action.

Affirmative Defense 4: Defendants assert no actual case and controversy exists.

Affirmative Defense 5: Plaintiffs have failed to exhaust their administrative remedies so as to permit this court to hear Plaintiffs' Amended Complaint.

Affirmative Defense 6: Plaintiffs have not met the statutorily required conditions precedent to commencing a suit for relief from assessment of taxes under R.I. Gen. Laws §§ 44-5-15, 44-5-16, 44-5-26, and 44-5-27; therefore, Defendants plead the defense of R.I. Gen. Laws §§ 44-5-15, 44-5-16, 44-5-26, and 44-5-27.

Affirmative Defense 7: This Court lacks jurisdiction over Plaintiffs' action under the R.I. Gen. Laws § 9-30-1 *et seq.*

Affirmative Defense 8: Plaintiffs Lapham, RWB, Clemence, and 276 Westminster waived and forever forwent any and all of their rights and privileges under Title 44 of the Rhode Island General Laws.

Affirmative Defense 9: Defendant City Council reserves such further affirmative defenses which may exist, but of which it may not be currently aware, which may appear hereafter during discovery, trial or otherwise.

Defendant City Council of the City of Providence,
By Its Attorneys,

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Dated: _____, ____, 2023

JURY DEMAND

Defendant City Council of the City of Providence hereby demands a trial by jury.

Defendant City Council of the City of Providence has separately served a written demand therefor in accordance with Super. R. Civ. P. 38(b).
