

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS,
EASTERN DIVISION

Protect Our Parks, Inc.; Charlotte Adelman;)	
Maria Valencia and Jeremiah Jurevis;)	
Plaintiffs,)	No. 18-cv-03424
v.)	
)	Honorable Robert Blakey
Chicago Park District and City of Chicago,)	Magistrate Mary Rowland
Defendants.)	

PLAINTIFFS' MOTION TO LIFT STAY

Now come the Plaintiffs, Protect Our Parks, Inc.; Charlotte Adelman; Maria Valencia and Jeremiah Jurevis, through their attorneys, Roth Fioretti, LLC, and for their Motion to Lift Stay state:

1. The Defendants in this case, the Chicago Park District and the City of Chicago, filed a motion to delay their responses to Plaintiffs' Complaint and to delay all of their mandatory obligations under this Court's Mandatory Initial Discovery Pilot Project (MIDP) [Dkt. No. 19]. The Defendants' basis for the motion was that the Complaint was allegedly "premature" for two reasons. First, the Park District and the City were not performing any operations in Jackson Park whatsoever related to the Obama Center. Second, the City's attorney represented that the City Council would introduce a more refined ordinance related to the Obama Center on July 25, 2018, and which would be voted on at its September 2018 City Council meeting.
2. Plaintiffs argued, in their Motion and in court, that the Complaint was not premature and further that the City and Park District were poised to begin construction activities related to the Obama Center. Plaintiffs' attorney strenuously objected to staying the Defendants' obligation to respond to the Complaint, and staying the parties' MIDP obligations.

3. This Court accepted the Defendants' representations that no work would take place in Jackson Park related to the Obama Center. This Court advised the City that the City should present the ordinance at the July council meeting, and report back to the Court at the next status hearing that was set in late August. This Court entered an order on July 5, 2018 providing that case management dates would be set at the next status date on August 28, 2018 [Dkt. No. 22].

4. Now, the City and the Park District have acted directly contrary to the representations made in their Motion and in person to this Court and the Plaintiffs. Attached hereto as Exhibit A is a copy of the Chicago Sun Times article published on August 6, 2018 entitled "Jackson Park Trees Cut Down Near Obama Center Site Despite Lawsuit, Promises." That article shows the destruction of Jackson Park to make way for the Obama Center. Also attached hereto as Exhibit B is a copy of the Chicago Tribune Article dated August 7, 2018 entitled "Work Begins to Relocate Track in Jackson Park to Make Way for Obama Center." That article similarly details work that the Chicago Park District is performing to relocate a track and field in Jackson Park in order to accommodate the construction of the Obama Center. Therefore, the Park District and City falsely represented to this Court that no work would commence in Jackson Park related to the Obama Center.

5. Further, despite this Court's instruction that the City must present its ordinance to the City Council at the July council meeting, to be voted on in September, the City did not present the Ordinance at the July meeting. Once again, the City blatantly disregarded this Court in failing to introduce the ordinance.

6. The basis for this Court's order staying the lawsuit no longer exists. The City has not introduced the phantom ordinance at its July Council meeting, despite explicit instructions from this Court. In addition, the City's claim that there is no urgency to the suit as the City and Park

District will not begin any construction activities related to the Obama Center has turned out to be a lie.

7. Moreover, the Complaint is not premature. The Complaint is based upon existing Constitutional and related statutory laws, and what are undisputed facts, which establish the illegality of the diversion of dedicated lakefront public park land in historic Jackson Park to a non-governmental entity for a private use. Defendants may file affirmative defenses, including whatever defenses they intend to also raise by motion, but nothing Defendants may attempt to accomplish in a speculative future City Council action will affect Plaintiffs' existing causes of action.

8. The Complaint alleges, in brief, that the City's January 2015 Ordinance gave the City the authority to accept public Park District land in Jackson Park from the Chicago Park District to use for the private Obama Center. The Complaint alleges that the Park District already voted and approved a transfer of that public Jackson Park land to the City for the price of \$1.00, so that the City could lease the public park to the private Obama Center on a long term (99 year plus) lease. The Complaint attaches the plans for the Obama Center and the filings with the Chicago Zoning Department. The Complaint alleges that the Park District has absolutely no authority to transfer land in Jackson Park to the City of Chicago, so that the City, in turn, may transfer possession and effective ownership of the property to the private Obama Foundation. The transfer of that land, which has already been approved by the City and the Park District, is directly contrary to Illinois statutes. Further, the City and Park District's actions diminish the beneficial ownership interest of the Plaintiffs and other citizens of the City and State in the property without the required protective procedure, and in violation of their rights in the property under the Due Process Clause of the Fourteenth Amendment. Proceeding with the transfer also

violates the well-established public trust doctrine. Further, the City and Park District's actions are *ultra vires*.

9. The Complaint further alleges that the City's reliance on an amendment to the Illinois Museum Act to transfer public park land to the Obama Center is improper, as the amendment is invalid special legislation. Moreover, funding the Obama Center itself with public funds, when the former President Barack Obama has publically avowed to use his Center to continue his political activities, is a violation of the First Amendment.

10. The Complaint in this matter was filed on May 14, 2018. An attorney for the City of Chicago filed an appearance three days later, on May 18, 2018. The Park District was served on May 17, 2018, and the Park District's attorneys filed appearances on May 29, 2018. The Defendants have had this lawsuit for approximately three months, without any substantive response to the suit.

11. In the interim, all the Defendants have done is delayed and sought an open-ended continuance of all litigation, presumably until after ground is broken for the Obama Center, at which point the Defendants will claim the suit is moot. This Court should not countenance the Defendants' actions.

12. Plaintiffs request that this Court enter an order providing that the Defendants shall answer or otherwise respond to the Complaint within 14 days. Plaintiffs request that this Court require that the parties comply with this Court's MIDP requirements, as set forth in the MIDP. Further, Plaintiffs request an order halting any further construction in Jackson Park related to the Obama Center during the pendency of this litigation.

Wherefore, the Plaintiffs request that this Court vacate the stay in this Court's Order of July 5, 2018, Plaintiffs request that this Court enter an order requiring the Defendants to answer

or otherwise respond to the Complaint within 14 days. Plaintiffs request that this Court require that the parties comply with this Court's MIDP requirements, as set forth in the MIDP. Further, Plaintiffs request an order halting any further construction in Jackson Park related to the Obama Center during the pendency of this litigation. Plaintiffs also requests such other and further order as this Court deems just.

Respectfully submitted,

/s/ Mark D. Roth

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