IN THE IOWA DISTRICT COURT FOR OSCEOLA COUNTY

AL BRUEGGEMAN, DAN BREUKER, TOM BREMER, ROGER BOSMA, MARK DILLEHAY, RANDY ROWE, ALLEN ROWE, and JARROD WALLACE,
 	
      Plaintiffs,
 	
vs.
 	
OSCEOLA COUNTY, and the CITY OF HARRIS,
 	
      Defendants.
	No. CVCV019663
	
	PETITION FOR WRIT OF CERTIORARI and DECLARATORY JUDGMENT

_____

The Plaintiffs, for their Petition for Writ of Certiorari and Declaratory Judgment, state the following:

NATURE OF ACTION

1.   This action is being brought by residents and taxpayers of Osceola County to challenge Defendants' actions under Iowa Code Chapter 403 (also known as the "Urban Renewal Law") and the Iowa Constitution.

PARTIES, JURISDICTION, and VENUE

2.   Plaintiffs are citizens of the State of Iowa. They reside and pay taxes in Osceola County and have a substantial personal and legal interest in this matter.

3.   Defendant Osceola County is a governmental body organized under the laws of the State of Iowa.

4.   Defendant City of Harris is an incorporated city organized under the laws of the State of Iowa.

5.   Jurisdiction is proper in the Iowa District Court for Osceola County.

6.   Venue is proper pursuant to Iowa Code § 616.16.

SUMMARY OF APPLICABLE LAW

7.   The Plaintiffs restate and replead paragraphs 1 through 6.

8.   Iowa Code Chapter 403, also known as the "Urban Renewal Law," provides authority to municipalities to prevent, eliminate, and remedy the problem of "slum and blighted areas." Iowa Code § 403.2. Municipality is defined as "any city or county in the state." Iowa Code § 403.17(16).

9.   Under this authority, the Urban Renewal Law allows a municipality to carry out "urban renewal projects" within its area of operation. Iowa Code § 403.6.

10.   The municipality must adopt an "urban renewal plan." This plan sets forth the criteria for the "development, redevelopment, improvement, or rehabilitation of a designated urban renewal area." Iowa Code § 403.17(24).

11.   In order to pay for the urban renewal plan, a municipality may use tax increment financing ("TIF"). Iowa Code § 403.9(1).

12.   An urban renewal plan must "conform to the general plan for the municipality as a whole." Iowa Code § 403.5(4)(b).

13.   Further, an urban renewal project must also be consistent with the urban renewal plan. Iowa Code § 403.17(24).

14.   The Iowa Constitution provides: "All laws of a general nature shall have a uniform operation; the general assembly shall not grant to any citizen or class of citizens, privileges or immunities, which, upon the same terms shall not equally belong to all citizens." Iowa Const. art. I, § 6.

VIOLATIONS OF APPLICABLE LAW

15.   The Plaintiffs restate and replead paragraphs 1 through 14.

16.   Defendants adopted a Resolution that created an urban renewal area that includes the City of Harris and wind energy conversion property, as defined in Iowa Code § 427B.26, located outside the City of Harris.

17.   Defendants also purportedly adopted an Ordinance. Meetings in an attempt to adopt the Ordinance were held on October 20, 2015; October 27, 2015; and November 10, 2015.

18.   Final action on the Ordinance was taken by Defendants during one of these meetings.

19.   In adopting both the Resolution and Ordinance, Defendants are exercising a judicial function.

20.   This Resolution and Ordinance is unlawful, because it violates Iowa Code Chapter 403 and the Iowa Constitution.

WHEREFORE, Plaintiffs pray the Court issue a Writ of Certiorari and that Defendants' act of approving the Resolution and Ordinance be annulled and declared void. Plaintiffs further pray for a declaratory judgment that Defendants' actions violate Iowa Code Chapter 403 and the Iowa Constitution, for attorney's fees and costs of this action, and for any other relief provided by law.

Respectfully submitted,

EICH, VAN DYKE, WERDEN & STEGER PC

By _/s/ John C. Werden_____

    John C. Werden   AT0008430

By _ /s/ Aaron W. Ahrendsen_____

    Aaron W. Ahrendsen   AT0012634
    815 North Main Street
    P.O. Box 851
    Carroll, IA 51401
    Telephone: 712-792-3424
    Facsimile: 712-792-7770
    Email: jwerden@evws.com
           aahrendsen@evws.com
ATTORNEYS FOR PLAINTIFFS