

**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

**MOTION TO ENLARGE AND AMEND  
PURSUANT TO IOWA R. CIV. P. 1.904**

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The Plaintiffs, for their Motion to Enlarge and Amend Pursuant to Iowa R. Civ. P. 1.904, state the following:

1. On June 9, 2016, the Court entered an Order denying the Plaintiffs' Motion for Summary Judgment and stating a material fact question exist surrounding the adoption of Ordinance 47. However, the Order does not make mention of Resolution No. 10-15/16; nor does the Order make any findings or conclusions of law about Resolution No. 10-15/16.

2. Plaintiffs' Memorandum of Authorities in Support of the Motion for Summary Judgment referenced Resolution No. 10-15/16 several times. Resolution No. 10-15/16 is not the same thing as Ordinance 47. *See* Plfs' App. at 4-18.

3. Ordinance 47 is required by Iowa Code § 403.19 and deals with division of revenue within the TIF district. Ordinance 47 does nothing to establish Urban Renewal Area 7—the TIF district in this case. Urban Renewal Area 7 was established by Resolution No. 10-15/16. *See* Plfs' App. at 6-7. Ordinance 47 and Resolution No. 10-15/16 are two separate actions taken by the board of supervisors.

4. Pursuant to Iowa Code § 380.3, a resolution is passed upon the first vote. This is why Resolution No. 10-15/16 was never given further consideration at subsequent meetings. The statute of limitations to challenge Resolution No. 10-15/16 began to run on October 20, 2015. The Plaintiffs' Petition was timely filed on November 3, 2015, to challenge the establishment of Urban Renewal Area 7.

5. Further, Plaintiffs' statement of facts were incorporated into the Court's Order. Plaintiffs' statement of facts make several references to Resolution No. 10-15/16. No reference was made to Ordinance 47 due to the fact that a successful challenge to Ordinance 47 will do nothing to undo Urban Renewal Area 7. Only a successful challenge to Resolution No. 10-15/16 will undo Urban Renewal Area 7.

6. Plaintiffs request this Motion be set for hearing.

WHEREFORE, the Plaintiffs pray, that upon hearing, the Court grant their Motion to Enlarge and Amend the Court's June 9, 2016, Order; that the Order be enlarged and amended to make findings and conclusions as to Resolution No. 10-15/16; that the Order be amended to grant summary judgment in favor of Plaintiffs and against Defendants.

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

Telephone: 712-792-3424

Facsimile: 712-792-7770

Email: jwerden@evws.com

aahrendsen@evws.com

ATTORNEYS FOR PLAINTIFFS