

FORT COLLINS MUNICIPAL COURT 215 N. Mason Fort Collins, CO 80521 Phone (970) 221 6800	
Plaintiffs: Eric Sutherland, J & M Distributing, DBA Fort Collins Muffler and Automotive v. Defendant : THE CITY COUNCIL OF THE CITY OF FORT COLLINS, the governing body of a Colorado municipal corporation; and THE ADMINISTRATION BRANCH OF THE CITY OF FORT COLLINS, by and through its City Manager, Darin Atteberry. Intervenor: NEXT CHAPTER PROPERTIES, LLC	<p style="text-align: center;">▲ COURT USE ONLY ▲</p> Case Number: 2018civil01
<hr/> Party without attorney Eric Sutherland 3520 Golden Currant Fort Collins, CO 80521 (970) 224 4509 sutherix@yahoo.om	
RESPONSE TO CITY OF FORT COLLINS MOTION FOR AMENDMENT OF FINDINGS AND JUDGMENT PURSUANT TO C.R.C.P RULE 59	

Plaintiff, Eric Sutherland files this Response to the City of Fort Collins Rule 59 Motion requesting that this court amend its findings and judgment. Sutherland will sometimes refer to himself with 1st personal pronouns.

In regard to claim 5, this Court has ordered a remand so that requirements that could not possibly be more ambiguous are more clearly delineated (but not made less ambiguous) for enforcement under a legal paradigm that provides no means for enforcement.

I am in agreement with the City that the court exceeded its authority in ordering "relief" on claim 5. Claim 5 was a request for declaratory judgment. Such claims usually present binary choices for a court to decide. Either the

plaintiff is granted declaratory judgement or he or she is not. On the basis of a grant for declaratory judgment, a Plaintiff may or may not request additional relief and the court is authorized to apply such equitable relief that is necessary to effectuate the ends of justice.

The court clearly misapprehended the substance of the claim for declaratory judgment in Claim 5 and then went on to Order relief that was not requested or desired by Plaintiffs. In order to better understand the substance of claim 5, this court is urged to engage in some basic autosocratic inquiry.

Does the City of Fort Collins or any other person have any realistic opportunity of enforcement of conditions that may very well be applied to a project, but are intended to survive far beyond the issuance of a certificate of occupancy inperpetuity? Answer: No.

Does the absence of a realistic enforcement mechanism deprive those mitigation strategies that are intended to be employed for the purposes of reducing required parking without creating havoc in the neighboring areas of any effect? Answer: Yes.

Should a request for declaratory judgment as to the rights of the public to be assured that havoc will not be created be granted by this court? Answer: ????? That is what this court is being asked to decide. Plaintiffs filings with this court have made sufficient argument as to leave only one reasonable decision for this court to make.

If this court had any idea whatsoever how a high density student housing project that was built 5 years ago immediately across the park from the subject property with insufficient parking had created enormous headaches for every resident and business within a quarter mile of that project, the issue presented for this court might come into a little clearer focus. It is an unfortunate characteristic of the kangaroo courts below that the public does not always get the opportunity to

enter sufficient evidence into the record. Suffice it to say, the quality of life of the good people of Fort Collins makes the pursuit of remedies and avoidance of havoc worth while, even if that means dealing with the likes of attorneys with overly developed aesthetics to be applied to the quality of pleadings who couldn't give a rip about preserving quality of life in this fair city.

Plaintiffs' 5th claim for relief should be granted. In the absence of relief, the future owner and operator of the project facilities will have absolutely zero motivation to take any action to reduce the impact of overflow parking on the surrounding area. Why would he or she? There is nothing but a slim chance that anyone, including the City of Fort Collins, would file a request for specific performance in the district court and an even slimmer, as in non-existent, chance that any such claim would be granted.

This court should immediately schedule a hearing for presentation of oral arguments if it remains confused about the simple foundation and requests for relief requested by Plaintiffs. Defendants have opposed such a hearing, but it is very likely to be worth the effort. In the alternative, this court should simply grant the relief requested and order remand to deal with the very simple issues that have been raised.

Respectfully submitted this 2nd day of January, 2019

Eric Sutherland

Eric Sutherland

The above motion was served to City of Fort Collins and Next Chapter via email at the same time it was submitted by email to the municipal court.