

DISTRICT COURT, COUNTY OF LARIMER,
COLORADO

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CASE NUMBER: 2020CV30833

Plaintiff: THE CITY OF FORT COLLINS, COLORADO,
a Colorado home rule city and municipal corporation,

v.

Defendants: PLANNING ACTION TO TRANSFORM
HUGHES STADIUM SUSTAINABLY CORP, a
Colorado nonprofit corporation; and ELENA M. LOPEZ,
MELISSA ROSAS, AND PAUL PATTERSON, each in
their official capacity as a petition representative of the
persons signing the petition for a citizen-initiated ordinance
relating to the City of Fort Collins rezoning and acquiring
certain real property

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▲ COURT USE ONLY ▲

Case Number: 2020CV _____

Division: _____

PLAINTIFF'S UNOPPOSED MOTION FOR EXPEDITED CONSIDERATION
with proposed Order

Plaintiff City of Fort Collins, Colorado, (the “City”) by and through its attorneys, Carrie M. Daggett, Esq. City Attorney, and John R. Duval, Esq., Deputy City Attorney, of the Fort Collins City Attorney’s Office, and Andrew D. Ringel, Esq., of Hall & Evans, L.L.C., pursuant to C.R.C.P. 57(m), respectfully submits this Unopposed Motion for Expedited Consideration, as follows:

1. Contemporaneously with the instant Motion, Plaintiff has filed a Complaint for Declaratory Relief Pursuant to C.R.C.P. 57 and the Uniform Declaratory Judgments Law (“Complaint”). The purpose of the Complaint is to seek a declaration from this Court pursuant to C.R.C.P. 57 whether the Initiated Ordinance and Ballot Measure include *administrative* matters that are *not* subject to a citizen initiative under Article V, Sections 1(2) and 1(9) of the Colorado Constitution and Charter Article X, Section 1(a) and, more specifically, whether the provisions in the Initiated Ordinance and Ballot Measure requiring the City to “use best efforts in good faith to acquire the Hughes Stadium property” at “fair market value” to use “for parks, recreation and open lands, natural areas, and wildlife rescue and education” and to do so using certain funding sources and mechanisms, are *administrative* and *not legislative* matters and therefore not subject to an initiated ordinance. [See Complaint, ¶ 15].

2. The next regular election of the City is on April 6, 2021. The City only has until February 16, 2021, for any revisions to be made to the Initiated Ordinance and Ballot Measure for those revisions to be made in time for presentation to the registered electors of the City at the April 6, 2021. [See Complaint, ¶ 61]. Accordingly, the City asks this Court to make its determination about the issues raised in the Complaint prior to February 16, 2021.

3. Pursuant to C.R.C.P. 57(m), this Court possesses the authority to order a speedy hearing and advance any such hearing on the Court’s calendar. See C.R.C.P. 57(m). “Under

C.R.C.P. 57(m), a court may order a speedy determination of an action for declaratory judgment and may advance it on the calendar. When a matter is expedited, case management provisions and rules governing discovery do not apply.” *Keybank, Nat’l Assn. v. Mascarenas*, 17 P.3d 209, 215 (Colo. App. 2000), *overruled on other grounds by*, *West v. Roberts*, 143 P.3d 1037, 1045 (Colo. 2006). “The primary purpose of the declaratory judgment procedure is to provide a speedy, inexpensive, and readily accessible means of determining actual controversies which depend on the validity or interpretation of some written instrument or law.” *Toncray v. Dolan*, 593 P.2d 956, 957 (Colo. 1979).

4. Here, due to the February 16, 2021, deadline for the City to make any changes to the Initiated Ordinance and Ballot Measure, expedited consideration of this matter is necessary and appropriate before this Court.

5. Accordingly, the City respectfully requests this Court to set an expedited status conference by telephone or video to allow this Court to set appropriate procedures for consideration of the Complaint on an expedited basis. The City believes this matter involves only questions of law and can be determined by this Court on expedited briefs submitted by the parties. However, the City also recognizes Defendants need to be heard on the issue of expedited proceedings and this Court will need to make a determination after its own review of the Complaint to determine how appropriately to proceed.

6. Pursuant to C.R.C.P. 121(1-15)(8), prior to filing the instant Motion, counsel for the Plaintiff conferred with counsel for the Defendants, Michael Foote, Esq. Mr. Foote indicated the Defendants do not object to this Motion.

WHEREFORE, for all of the foregoing reasons, Plaintiff City of Fort Collins, Colorado, respectfully requests this Court exercise its authority pursuant to C.R.C.P. 57(m) for a speedy consideration of this matter, set an expedited status conference by telephone or video to set appropriate procedures for consideration of the Complaint on an expedited basis, and for all other and further relief as this Court deems just and appropriate.

Dated this 7th day of December, 2020.

Respectfully submitted,

/s/John R. Duval_____.

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