

IN THE CIRCUIT COURT, FOURTH
JUDICIAL CIRCUIT, IN AND FOR
DUVAL COUNTY, FLORIDA

CASE NO. 2017-CA-1263
DIVISION CV-E

JOHN PARSONS, an individual,

Plaintiff,

vs.

CITY OF JACKSONVILLE,
a municipal corporation and political
subdivision of the State of Florida,

Defendant.

MOTION TO DISMISS

Defendant, City of Jacksonville (the “City”), respectfully moves that the Court enter an order dismissing the above-styled complaint, and in support thereof says:

1. The Plaintiff seeks to have Ordinance 2017-15-E (the “HRO Ordinance”)¹ declared null and void and enjoin its enforcement based upon three alleged deficiencies: a) non-compliance with section 166.041, Florida Statutes; b) non-compliance with section 3.105, Jacksonville Ordinance Code; and c) non-compliance with Rule 3.102, Rules of the Jacksonville City Council. [*Compl. at ¶¶11-22*].

2. First, regardless of the merits, this action should be dismissed because Plaintiff lacks standing. The complaint fails to allege a specific injury in fact, fails to allege a specific statutory provision allowing him to bring this cause of action, fails to allege that his conduct is regulated or covered or affected by the ordinance, and fails to allege that anyone has sought to

¹ The HRO Ordinance became law on February 14, 2017. Plaintiff filed this action fifteen days later, on March 1, 2017.

enforce the ordinance as to him, or ever will do so. There is thus no assertion in the complaint that any right of the Plaintiff has been invaded or affected by the ordinance.

3. Plaintiff's only allegation of fact pertaining to standing to bring this suit is the statement that he is "a natural person residing in Jacksonville, Duval County, Florida." *Id.* at ¶ 3. The complaint does contain a conclusory statement that there is an "actual present and practical need for a declaration of the validity of the HRO," but no facts—ultimate or otherwise—are alleged to support this assertion. *Id.* at ¶ 23. The complaint contains no hint that Plaintiff has suffered any sort of special injury different from the public at large. Under the circumstances of this case, special injury is required for standing; the provisions of Chapter 166 of the Florida Statutes do not change this requirement, even assuming *arguendo* that the Plaintiff's listed sections of Chapter 166 apply to the Consolidated City of Jacksonville.

4. Moreover, the complaint is bereft of allegations of ultimate facts showing a justiciable controversy; no facts alleged in the complaint show that the Plaintiff has a bona fide and direct interest in the result sought by the action, nor any present legal or practical need for obtaining either a declaratory judgment or an injunction.

5. Second, there is no specific or special standing provision in either section 3.105, Jacksonville Ordinance Code or in Rule 3.102 of the Rules of the Jacksonville City Council to provide a cause of action for a citizen to challenge a legislative act for failure to adhere to the compliance requirements of the City's own rules. There is no such cause of action created by either the Ordinance Code or the Council Rules, and Council Rule 5.103 specifically provides that no ordinance of the Council can be declared invalid merely because of failure of the Council to abide by one of its own rules.

6. The complaint, therefore, is due to be dismissed as it fails to state a cause of action, and shows on its face that Plaintiff lacks standing.

WHEREFORE, Defendant, the City of Jacksonville, respectfully moves that the Court enter an order dismissing the complaint, and granting any additional relief which the Court deems just and appropriate.

Dated: March 22, 2017

OFFICE OF GENERAL COUNSEL

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 22nd day of March, 2017, a true and correct copy of the foregoing was filed with the Clerk of Court via the Florida Courts e-Filing Portal, which will send notice of electronic filing to the following:

Counsel for Plaintiff

/s/ Jason R. Teal _____
Counsel for Defendant City of Jacksonville