

ORDINANCE NO. 825

AN ORDINANCE ADOPTING A NEW CHAPTER OF THE TROUTDALE MUNICIPAL CODE CHAPTER 1.06, "HOME RULE AUTHORITY" AND EXERCISING THE HOME RULE AUTHORITY OF THE CITY OF TROUTDALE UNDER THE OREGON CONSTITUTION, AND DECLARING AN EMERGENCY.

THE TROUTDALE CITY COUNCIL FINDS AS FOLLOWS:

1. Article XI section 2, and Article IV section 1(5) of the constitution of Oregon describe the home rule powers that may, in a city charter, be reserved to the people of cities in Oregon; and
2. Whereas, Section 5 of the Charter of the City of Troutdale provides that "The city has all the powers that the constitutions, statutes, and common law of the United States and of this state now or hereafter expressly or impliedly grant or allow the city"; and
3. Whereas, the City desires to declare and clarify that it alone may exercise those exclusive and concurrent powers granted or allowed to it, except, as provided in the constitution, where statutes preempt its authority in favor of the exercise of state power, or unless the City consents to the exercise of authority by another local government within the City.
4. Whereas, Multnomah County has adopted an ordinance that purports to apply within the City of Troutdale (MCC 15.064), which is the subject of a challenge in the Circuit Court of Oregon in Multnomah County, and the challenge is scheduled for a hearing on the merits on July 9, 2014. This ordinance is necessary, and its immediate effectiveness is necessary to preserve the authority of the City to govern the City to the greatest extent allowed, when the court makes a decision at or after the hearing scheduled for July 9, 2014.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TROUTDALE:

Section 1. Title 1, GENERAL PROVISIONS, of the Troutdale Municipal Code is amended to add a new chapter, 1.06, Home Rule Authority, to read as follows:

Chapter 1.06 HOME RULE AUTHORITY UNDER THE OREGON CONSTITUTION

1.06.010 Purpose

The authority of the City of Troutdale extends to the greatest extent allowed by the constitutions, statutes and common law of the United States and Oregon. To that effect:

- A. Governance of the City of Troutdale rests, to the greatest extent allowed, in the people and City Council of the City.
- B. No ordinance of any county or other local government (whether under home rule, statutory or other authority), shall be enforceable within the City of Troutdale, except (a) with the express consent of the electors of the City or City Council (and only to the extent of such consent), or (b) as required by the constitution of Oregon.
- C. State laws that are required by the constitution of Oregon to apply in the city, shall apply in the city. Other state laws shall apply only with the consent or acquiescence of the city.
- D. This section is intended, and shall be construed to reserve to the City of Troutdale, exclusive jurisdiction over all matters that the City may regulate.

Section 2. Multnomah County has adopted an ordinance that purports to apply within the City of Troutdale (MCC 15.064), which is the subject of a challenge in the Circuit Court of Oregon in Multnomah County, and the challenge is scheduled for a hearing on the merits on July 9, 2014. This ordinance is necessary, and its immediate effectiveness is necessary to preserve the authority of the City to govern the City to the greatest extent allowed, when the court makes a decision at or after the hearing scheduled for July 9, 2014.

Section 3. For the reasons set forth in the findings above, the Council hereby declares an emergency. In accordance with Section 30 C of the Troutdale Charter, this ordinance shall take effect immediately upon its adoption.

**YEAS: 7
NAYS: 0
ABSTAINED: 0**



Doug Daoust, Mayor

Date 7/8/2014



Debbie Stickney, City Recorder
Adopted: July 8, 2014

Debbie Stickney

From: Erich Mueller
Sent: Wednesday, July 09, 2014 9:30 AM
To: Debbie Stickney
Subject: FW: City of Troutdale (Ordinance 825) - Matter 72791 [IWOV-Worksite.FID1692838]
Attachments: Motion to Appear Amicus - FINAL.PDF; City_s Amicus Brief + Ordinance - FINAL.PDF; EHT Dec re city ordinance + Ex - FINAL.PDF

From: Rose Hedrick [mailto:Rose.Hedrick@jordanramis.com]
Sent: Wednesday, July 09, 2014 9:14 AM
To: Erich Mueller; Craig Ward
Cc: Ed Trompke; Chris Dolan
Subject: City of Troutdale (Ordinance 825) - Matter 72791 [IWOV-Worksite.FID1692838]

Mr. Ward & Mr. Mueller,

Attached are copies of the court filings made today in the above matter. Please let me know if you have any trouble opening the attachments.

Thank you,

ROSE HEDRICK | Legal Assistant/Secretary
Jordan Ramis PC | Attorneys at Law | *Celebrating 50 years*
Direct: 503-598-5562 Main: 503-598-7070

Portland OR | Vancouver WA | Bend OR
www.jordanramis.com

CONFIDENTIALITY NOTICE: Please do not read, copy, or disseminate this communication unless you are the intended addressee. This e-mail may contain confidential and/or privileged information intended only for the addressee. If you have received this in error, please notify me via return e-mail.

TAX ADVICE NOTICE: IRS Circular 230 requires us to advise you that if this communication or any attachment contains any tax advice, the advice is not intended to be used, and cannot be used, for the purpose of (i) avoiding tax-related penalties or (ii) promoting, marketing, or recommending any transaction, plan, or arrangement. A taxpayer may rely on professional advice to avoid tax-related penalties only if the advice is reflected in a comprehensive tax opinion that conforms to stringent requirements. Please contact us if you have any questions about this requirement, or would like to discuss preparation of an opinion that conforms to these IRS rules.

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IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MULTNOMAH

ROXANNE ROSS, an individual; CHERYL R. BOWEN, an individual; FRANK MARTIN, an individual; FRANK GRANDE, an individual; and BRIAN GRATTAN, an individual,

Plaintiffs,

v.

MULTNOMAH COUNTY, OREGON,

Defendant.

Case No. 1307-10002

MOTION TO APPEAR AMICUS

The City of Troutdale requests leave to file a brief and supporting declaration amicus curiae. This request pertains to the adoption of an ordinance by the City last night (July 8, 2014) that became effective immediately. The City believes the adoption of the ordinance will have bearing on the issues before this court in the proceeding.

Dated this 9th day of July, 2014.

JORDAN RAMIS PC
Attorneys for City of Troutdale

By: 
Edward H. Trompke, OSB # 843653
ed.trompke@jordanramis.com

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on the date shown below, I served a true and correct copy of the
3 foregoing MOTION TO APPEAR AMICUS on:

4 Bruce R. McCain
5 Bruce R McCain LLC
6 PO Box 30705
7 Portland OR 97294-3705
8 Facsimile:
9 E-mail: bruce@brucemccain.com
10 Attorney for Plaintiffs Roxanne Ross, Cheryl R. Bowen, Frank Martin,
11 Frank Grande, and Brian Grattan

12 Ellen F. Rosenblum
13 State of Oregon Department of Justice
14 1162 Court St NE
15 Salem OR 97301-4096
16 Facsimile:
17 E-mail:

18 Jenny Madkour
19 Office of the Multnomah County Attorney
20 501 SE Hawthorne Blvd Ste 500
21 Portland OR 97214
22 Facsimile: 503-988-3377
23 E-mail: jenny.m.madkour@multco.us
24 Attorney for Defendant Multnomah County

- 25 by first class mail, postage prepaid.
 by facsimile transmission.
 by facsimile transmission and first class mail, postage prepaid.
 by electronic transmission.
 by electronic transmission and first class mail, postage prepaid. (Except the State of
Oregon – by Mail only)

DATED: July 9, 2014.


Edward H. Trompke, OSB # 843653
Attorney for City of Troutdale

1
2
3
4 IN THE CIRCUIT COURT OF THE STATE OF OREGON
5 FOR THE COUNTY OF MULTNOMAH

6 ROXANNE ROSS, an individual; CHERYL R.
7 BOWEN, an individual; FRANK MARTIN, an
8 individual; FRANK GRANDE, an individual;
and BRIAN GRATTAN, an individual,

9 Plaintiffs,

10 v.

11 MULTNOMAH COUNTY, OREGON,

12 Defendant.

Case No. 1307-10002

CITY OF TROUTDALE'S AMICUS
BRIEF

13 The City of Troutdale requests that the court take judicial notice of the attached
14 Ordinance 823, which was enacted during the evening of July 8, 2014, and became effective
15 immediately. The City believes the intention and effect of Ordinance 823 are clear, and that the
16 ordinance clarifies the position and intention of the City of Troutdale with respect to the pending
17 litigation in this case. In order to deliver this motion promptly to the court, this brief is filed with
18 no further explanation.

19 Dated this 9th day of July, 2014.

20 JORDAN RAMIS PC
21 Attorneys for City of Troutdale

22 By: 
23 Edward H. Trompke, OSB # 843653
24 ed.trompke@jordanramis.com
25

ORDINANCE NO. 825

AN ORDINANCE ADOPTING A NEW CHAPTER OF THE TROUTDALE MUNICIPAL CODE CHAPTER 1.06, "HOME RULE AUTHORITY" AND EXERCISING THE HOME RULE AUTHORITY OF THE CITY OF TROUTDALE UNDER THE OREGON CONSTITUTION, AND DECLARING AN EMERGENCY.

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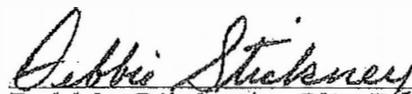
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**YEAS: 7
NAYS: 0
ABSTAINED: 0**



Doug Daoust, Mayor

Date 7/8/2014



Debbie Stickney, City Recorder
Adopted: July 8, 2014

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on the date shown below, I served a true and correct copy of the
3 foregoing CITY OF TROUTDALE'S AMICUS BRIEF on:

4 Bruce R. McCain
5 Bruce R McCain LLC
6 PO Box 30705
7 Portland OR 97294-3705
8 Facsimile:
9 E-mail: bruce@brucemccain.com
10 Attorney for Plaintiffs Roxanne Ross, Cheryl R. Bowen, Frank Martin,
11 Frank Grande, and Brian Grattan

12 Ellen F. Rosenblum
13 State of Oregon Department of Justice
14 1162 Court St NE
15 Salem OR 97301-4096
16 Facsimile:
17 E-mail:

18 Jenny Madkour
19 Office of the Multnomah County Attorney
20 501 SE Hawthorne Blvd Ste 500
21 Portland OR 97214
22 Facsimile: 503-988-3377
23 E-mail: jenny.m.madkour@multco.us
24 Attorney for Defendant Multnomah County

- 25 by first class mail, postage prepaid.
 by facsimile transmission.
 by facsimile transmission and first class mail, postage prepaid.
 by electronic transmission.
 by electronic transmission and first class mail, postage prepaid. (Except the State of
Oregon – by Mail only)

DATED: July 9, 2014.


Edward H. Trompke, OSB # 843653
Attorney for City of Troutdale

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NAYS: 0
ABSTAINED: 0**



Doug Daoust, Mayor

Date 7/8/2014



Debbie Stickney, City Recorder
Adopted: July 8, 2014

EXHIBIT 1
PAGE 2 OF 2

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on the date shown below, I served a true and correct copy of the
3 foregoing DECLARATION OF EDWARD H. TROMPKE on:

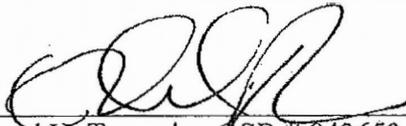
4 Bruce R. McCain
5 Bruce R McCain LLC
6 PO Box 30705
7 Portland OR 97294-3705
8 Facsimile:
9 E-mail: bruce@brucemccain.com
10 Attorney for Plaintiffs Roxanne Ross, Cheryl R. Bowen, Frank Martin,
11 Frank Grande, and Brian Grattan

12 Ellen F. Rosenblum
13 State of Oregon Department of Justice
14 1162 Court St NE
15 Salem OR 97301-4096
16 Facsimile:
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18 Jenny Madkour
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22 Facsimile: 503-988-3377
23 E-mail: jenny.m.madkour@multco.us
24 Attorney for Defendant Multnomah County

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- by facsimile transmission.
- by facsimile transmission and first class mail, postage prepaid.
- by electronic transmission.
- by electronic transmission and first class mail, postage prepaid. (Except the State of
Oregon – by Mail only)

DATED: July 9, 2014.


Edward H. Trompke, OSB # 843653
Attorney for City of Troutdale