

**IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT
SANGAMON COUNTY, ILLINOIS**

LARRY BOMKE, RICH BRAUER, RAYMOND)
POE, TIMOTHY J. DAVLIN, THE GREATER)
SPRINGFIELD CHAMBER OF COMMERCE,)
TEAMSTERS LOCAL 916, AFSCME)
COUNCIL 31, CAPITAL AREA ASSOCIATION)
OF REALTORS)

Plaintiffs,)

vs.)

No.)

GOVERNOR ROD R. BLAGOJEVICH,)
TREASURER ALEXI GIANNOULIAS,)
COMPTROLLER DANIEL W. HYNES, and)
Illinois Department of Transportation)
Secretary MILTON R. SEES,)

Defendants.)

COMPLAINT

NOW COME Plaintiffs, LARRY BOMKE, RICH BRAUER, RAYMOND POE, TIMOTHY J. DAVLIN, THE GREATER SPRINGFIELD CHAMBER OF COMMERCE, TEAMSTERS LOCAL 916, AFSCME COUNCIL 31, and CAPITAL AREA ASSOCIATION OF REALTORS by their attorneys, and for their Complaint against Defendants, GOVERNOR ROD R. BLAGOJEVICH, TREASURER ALEXI GIANNOULIAS, COMPTROLLER DANIEL W. HYNES, and ILLINOIS DEPARTMENT OF TRANSPORTATION SECRETARY MILTON R. SEES, state as follows:

1. Plaintiff Larry K. Bomke is the duly elected Senator from the 50th District of Illinois. He is the Minority Spokesman on the Senate Transportation Committee. He is a citizen and taxpayer of the state of Illinois.

2. Plaintiff Rich Brauer is the duly elected Representative from the 100th District in Illinois. He serves on the House Transportation and Motor Vehicles Committee, the minority spokesman of the Drivers Education and Safety Committee, and served as a member of the Commission on Government Forecasting and Accountability (COGFA) during the July 31, 2008, hearings held by that Commission on the proposed re-location of the IDOT Division of Traffic Safety to Harrisburg, Illinois. He is a citizen and taxpayer of the State of Illinois.
3. Plaintiff Raymond Poe is the duly elected Representative from the 99th District in Illinois. He serves on the State Government Administration committee, and is also a member of COGFA. He is a citizen and taxpayer of the State of Illinois.
4. Timothy J. Davlin is the duly elected Mayor of the City of Springfield. He is a citizen and taxpayer of the State of Illinois.
5. The Greater Springfield Chamber of Commerce represents many businesses, employees and taxpayers in the City of Springfield and Sangamon County, Illinois.
6. Teamsters Local 916 represents several employees in the Traffic Safety Division of IDOT. The members of Local 916 are citizens and taxpayers of this State.
7. Plaintiff Council 31 of the American Federation of State County and Municipal Employees (Council 31 or AFSCME) is a labor union that represents approximately 40,000 state employees. In particular, the Union represents approximately 60 members who work for the Illinois Department of Transportation (IDOT) at a facility located at 3215 Executive Drive in Springfield, Illinois. It is the exclusive bargaining representative of those employees for the purposes of determining their wages, hours and other terms and conditions of employment

8. Capital Area Association of Realtors represent several members engaged in the practice of real estate. The members of the Capital Area Association of Realtors are citizens and taxpayers of this State.
9. Defendants are Governor Rod R. Blagojevich, Treasurer Alexi Giannoulias, Comptroller Daniel W. Hynes and IDOT Secretary Milton R. Sees, all in their official capacities as officials of the State of Illinois. The Treasurer and Comptroller are made parties because of the duties imposed on those offices by Article 5, sections 17 and 18 of the Constitution of the State of Illinois.
9. The Governor has announced that it is his decision to move the IDOT division of Traffic Safety from Springfield to Harrisburg, to be located in a building to be purchased by the State of Illinois.
10. Under the State Facilities Closure Act, an agency called the Commission on Government Forecasting and Accountability (COGFA) has the responsibility for reviewing proposed relocations and closing of state offices and facilities. COGFA has reviewed the proposed relocation of facilities in this case and has determined that the negative effects of the relocation will outweigh any positive ones. It has voted unanimously to recommend against the relocation of the work.
11. The plans of Defendants Blagojevich and Sees, as presented to the public and COGFA, are dependent on the purchase of real estate in Harrisburg, for the purpose of housing the Division of Traffic Safety.

12. Purchase of the building in Harrisburg may not be accomplished without the approval the Attorney General of Illinois, as certified to and filed with the Secretary of State of Illinois. (30 ILCS 545/2), the Public Contract Fraud Act, which provides as follows:

§ 2. Spending money without obtaining title to land; approval of title by Attorney General.

(a) Except as otherwise provided in Section 2 of the Superconducting Super Collider Act [FN1] or for projects constructed under the Bikeway Act, [FN2] any person or persons, commissioner or commissioners, or other officer or officers, entrusted with the construction or repair of any public work or improvement, as set forth in Section 1, who shall expend or cause to be expended upon such public work or improvement, the whole or any part of the moneys appropriated therefor, or who shall commence work, or in any way authorize work to be commenced, thereon, without first having obtained a title, by purchase, donation, condemnation or otherwise, to all lands needed for such public work or improvement, running to the People of the State of Illinois; such title to be approved by the Attorney General, and his approval certified by the Secretary of State and placed on record in his office, shall be deemed guilty of a Class A misdemeanor.

(b) Approval of title by the Attorney General for all lands needed for a public work or improvement shall not be required as established under subsection (a) of this Section and the State comptroller may draw warrant in payment of consideration for all such lands without requiring approval of title by the Attorney General if consideration to be paid does not exceed \$10,000 and the title acquired for such lands is for:

(1) a fee simple title or easement acquired by the State for highway right-of-way; or (2) an acquisition of rights or easements of access, crossing, light, air or view to, from or over a freeway vested in abutting property; or

(3) a fee simple title or easement used to place utility lines and connect a permanent public work or improvement owned by the State to main utility lines; or

(4) for the purpose of flood relief or other water resource projects.

(c) This Section does not apply to any otherwise lawful expenditures for the construction, completion, remodeling, maintenance and equipment of buildings and other facilities made in connection with and upon premises owned by the Illinois Building Authority, nor shall this Section apply to improvements to real

estate leased by any State agency as defined in the Illinois State Auditing Act, [FN3] provided the leasehold improvements were contracted for by an agency with leasing authority and in compliance with the rules and regulations promulgated by such agency for that purpose.

30 ILCS 545/2

13. Defendants Blagojevich, Giannoulas, Hynes, and Sees should be enjoined from disbursing any public funds on the purchase or renovation of the real estate in Harrisburg, at least until such time as the Attorney General has accomplished the acts required in §2 of the Public Contract Fraud Act, above.
14. There are other substantial issues with respect to the purchase of the real estate in Harrisburg, including but not limited to the location of the real estate in an area in proximity to a flood plain or flood zone, and the proposed use of public dollars from the Motor Fuel Tax fund to purchase the existing building in Harrisburg and the failure to locate this office in a central business or historic district, all in violation of state law. This court should further enjoin the purchase of any real estate in Harrisburg, pending determination of those issues.
15. Plaintiffs have no adequate remedy at law. Without injunctive relief from this court, state funds will be expended outside the scope of activity permitted by law, and those funds, once expended, can not be re-captured. (*Granberg v. Didrickson* 279 Ill.App.3d 886, 889, 665 N.E.2d 398, 400, 216 Ill.Dec. 338, 340 (Ill.App. 1 Dist.,1996).
16. The Governor has announced that the purchase of the Harrisburg property is a 'done deal', regardless of the decision by COGFA, and without injunctive relief, the Governor and IDOT will purchase that property.

17. Plaintiffs, like all taxpayers have the clearly ascertainable right to have public dollars spent according to law. Public funds are held in trust on behalf of all taxpayers. Plaintiffs seek injunctive relief from this court to enforce that fundamental trust.
18. Breach of that trust by the illegal expenditure of public funds constitutes irreparable harm in the eyes of the law.
19. Section 2 of the Public Contract Fraud Act is abundantly clear. Approval of the Attorney General is required prior to the acquisition of real estate. Absent proof of compliance with that Act, Plaintiffs are likely to succeed on the merits of this claim.
20. The Office of the Secretary of State, Index Department, has no record of the approval of the Attorney General as required by law. On information and belief, Plaintiffs aver that the Attorney General has not executed any such approval.
21. Plaintiffs will suffer more harm than Defendants in the absence of injunctive relief. Defendants, as well as the State of Illinois as a whole, will suffer absolutely no harm. Public funds will be protected, the responsibilities of the Division of Traffic Safety will continue uninterrupted, and union contracts and employees are not impacted. In the absence of injunctive relief, Plaintiffs will suffer great harm. All Plaintiffs, as taxpayers, will suffer the wrongful expenditure of public funds. The union plaintiffs will suffer the disruption of the working lives and careers of their members, and the employees of the Division will suffer disruption of personal and professional lives. The Governor has promised that any one who would no re-locate would be given a state job in Springfield, without loss of pay or benefits. During the public hearings, IDOT promised a list of

available state jobs would be provided to Local 916, but no such list has been forthcoming. In fact, Local 916 has been informed there is no such list.

WHEREFORE, Plaintiffs pray that this Court enter temporary, preliminary and permanent injunctive relief, barring the Defendants from the expenditure of any public funds on the purchase or renovation of any property without the approval the Attorney General, as required by law.

LARRY BOMKE, RICH BRAUER, RAYMOND
POE, TIMOTHY J. DAVLIN, THE GREATER
SPRINGFIELD CHAMBER OF COMMERCE,
TEAMSTERS LOCAL 916, and AFSCME
COUNCIL 31, Plaintiffs

By: _____

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STATE OF ILLINOIS)
)
COUNTY OF SANGAMON) SS

NOW COMES Larry Bomke being first duly sworn upon oath, deposes and states that he has read the foregoing instrument, and that the statements contained therein are true and correct to the best of his knowledge and belief.

LARRY BOMKE

SUBSCRIBED and SWORN to before, me a notary public, this _____ day of August, 2008.

Notary Public

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