

Monroe Circuit Court 1

STATE OF INDIANA)
)
COUNTY OF MONROE) SS: IN THE MONROE CIRCUIT COURT
 CAUSE NO. 53C01-1912-MI-002936

JUDIE BAKER and DAVID HOLDMAN,)
)
Plaintiffs,)
)
v.)
)
TERRI PORTER, in her capacity)
as Director of the City of Bloomington)
Planning and Transportation)
Department of the City of Bloomington,)
and JIM GERSTBAUER, in his capacity)
as the Building Commission of the)
Monroe County Building Department,)
)
Defendants.)

VERIFIED COMPLAINT FOR MANDATE

Plaintiffs, Judie Baker and David Holdman, by counsel, for their Complaint against Defendants, Terri Porter and Jim Gerstbauer, allege as follows:

1. This is an action for mandamus under Indiana Code 34-27-3-1 et seq.
2. Plaintiffs are residents of Monroe County, Indiana.
3. Defendant, Terri Porter, is the Director of the City of Bloomington Planning and Transportation Department, located in Monroe County, Indiana.
4. Jim Gerstbauer is the Building Commissioner for the Monroe County Building Department in Monroe County, Indiana.
5. Plaintiffs filed a Demolition Application, seeking a demolition permit from the Monroe County Building Department for the property located at 523 W. Seventh Street, Bloomington, Indiana, in Monroe County (the "Property"), on May 17, 2019.

6. The Property is located within the corporate boundaries of the City of Bloomington.
7. Properties within the City of Bloomington are subject to zoning review by the City of Bloomington.
8. After the City's zoning review is completed, the City issues a certificate of zoning compliance ("CZC"), allowing the permit to be issued by the Monroe County Building Department.
9. The City of Bloomington deemed the Property was subject to demolition delay, which allows the City to delay issuing a CZC for a period of 90 days.
10. After the 90 days expired, the City of Bloomington did not issue a CZC.
11. Pursuant to Bloomington Municipal Code 20.09.230(d)(2), after the 90 day period ends, the City is required to issue a CZC unless the Property was designated historic or was placed under interim protection: "After expiration of the waiting period provided for herein, which shall include early termination of the waiting period, a certificate of zoning compliance authorizing demolition shall be issued if owner has submitted a complete application and all other requirements of the Bloomington Municipal Code are met."
12. The Property was not designated historic or placed under interim protection.
13. Terri Porter must and is able as Planning Director to issue CZCs.
14. Terri Porter has refused to issue a CZC after demand by Plaintiffs.
15. By reason of Terri Porter's refusal to issue a CZC, Plaintiffs have been damaged.
16. Jim Gerstbauer must and is able as Building Commissioner to issue demolition

permits.

17. Jim Gerstbauer has refused to issue a demolition permit after demand by Plaintiffs.
18. By reason of Jim Gerstbauer's refusal to issue a building permit, Plaintiffs have been damaged.

WHEREFORE, Plaintiffs, Judie Baker and David Holdman, pray for judgment requiring the Defendant, Terri Porter, in her capacity as the Director of the City of Bloomington Planning and Transportation Department, to issue a certificate of zoning compliance on the Property, and requiring Defendant, Jim Gerstbauer, in his capacity as Building Commissioner for the Monroe County Building Department, to issue a demolition permit for the Property, and for all other appropriate relief.

Verification

I AFFIRM, UNDER THE PENALTIES FOR PERJURY, THAT THE ABOVE REPRESENTATIONS ARE TRUE.

Judie Baker

Judie Baker

David Holdman

David Holdman

Respectfully submitted,
FERGUSON LAW

/s/ David L. Ferguson

David L. Ferguson, No. 8111-53
Attorney for Plaintiffs