

IN THE CHANCERY COURT FOR WILSON COUNTY, TENNESSEE,
FIFTEENTH JUDICIAL DISTRICT
AT HARTSVILLE
(Hon. Charles K. Smith, Chancellor, presiding)

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CHANCERY COURT
BARBARA WEBB, CLERK & MASTER

THOMAS F. KOVACH, *pro se*

Plaintiff

v.

PHIL BREDESEN, Governor,
ANDREA CONTE, First Lady,
TENNESSEE RESIDENCE
FOUNDATION, and the
STATE OF TENNESSEE

Defendants

07530

COMPLAINT

Come now Thomas F. Kovach, hereinafter Plaintiff, and files this Complaint.

Jurisdiction: Plaintiff is a resident of Wilson County, and a person injured by the unconstitutional and capricious acts of the Defendant(s). Said acts being committed at the State level, any citizen of Tennessee would have standing to bring such a Complaint. Plaintiff is a former resident of the Oak Hill, where the Governor's Mansion (referred to by the First Lady as the "Executive Residence") is located. Plaintiff especially invokes Article I, Section 2, of the Constitution of the State of Tennessee, which condemns the doctrine of non-resistance to arbitrary government power. The situation described in this Complaint is a classic example of the word "arbitrary".

FIRST ARGUMENT

The very existence of the Tennessee Residence Foundation is illegal. It was established in 1999 at the request of the Office of the First Lady (under the administration of the previous governor, Don Sundquist). But, no such Office exists in TCA 4-3-101, "Administrative departments and divisions — Creation". The taxpayers of the State of Tennessee are supporting an illegal Office of the First Lady, which has its own Web site on the State's domain server on the Internet. Because the request for the establishment of the Foundation came from an illegal Office, the Foundation itself is also illegal. In its creation of the Tennessee Residence Foundation, the General Assembly bypassed Article XI, Section 8, of the State Constitution, which requires that no corporation be established by the state for the benefit of a private individual or family. Only one family resides in the Governor's Mansion at any given point in history.

Because the Tennessee Residence Foundation is an illegal entity, any request that it might make for State funds is thereby also illegal. Although it is recognized that the State has a legitimate interest in maintaining and preserving a dignified residence for governors and their families (within close commuting distance to the Capitol and to necessary facilities such as the Tennessee Emergency Management Agency), it has now become obvious that the Tennessee Residence Foundation is an entity that can be used to illegally shuffle state funds into *fiat* projects that have little or no foundation in reasonable State interests. The First Lady has, with the assistance of the State Architect, turned a simple \$350,000 maintenance and renovation project into a controversial \$19-million boondoggle that will put State facilities into direct competition with private enterprises. (Said enterprises are meeting and dining facilities in the Nashville area.)

The State has no legitimate interest in building a new, custom-designed ballroom and dining facility, when it already owns such facilities within walking distance of the Capitol Building. (Examples include the War Memorial Auditorium, the upper deck of the War Memorial Plaza, the Tennessee Performing Arts Center, and the Penthouse of the Tennessee Tower.) There is no compelling State necessity for the governor to have such a facility attached directly to his residence. With no reasonable State interest, and having been created illegally, the Tennessee Residence Foundation (TRF) should be disbanded. And, because Defendant TRF has been the primary collector and controller of funds for the Governor's Mansion renovation projects, said funds should be turned over to an independent commission for oversight. Said commission should be established within the municipal jurisdiction in which the Governor's Mansion is located. That jurisdiction is the City of Oak Hill, which has the zoning and code enforcement jurisdiction over Governor's Mansion property. (Further, the residents of the City of Oak Hill have a long-standing interest in maintaining the peaceful and dignified nature of their community. That interest will inspire residents of good standing to operate such an independent commission in a proper manner.) Thus, the Tennessee Residence Foundation should be disbanded, and should be replaced with a new independent Governor's Mansion Commission under the City of Oak Hill.

SECOND ARGUMENT

The proposed "Conservation Hall" project (a name change from the original "Conservatory Hall") is, itself, illegal. By admission of Governor Bredesen and State Architect Mike Fitts, the facility is specifically designed to be large enough to seat all of the members of the Tennessee General Assembly simultaneously. That stated purpose is

in direct violation of both the letter and the spirit of the State Constitution (esp. Article I, Sections 1 and 2; Article XI, Sections 8 and 9;) and the statutes known as the Open Meetings Law (TCA 8-44-102, *et al.*)

In published news reports, Governor Bredesen and other officials have stated that part of the overall renovation project for the Governor's Mansion includes significant increases in physical security. Those increases include new perimeter guard stations for additional State Troopers during times when the proposed underground "Conservation Hall" is in use. The facility has no provisions in its design for public attendance of said meetings of the General Assembly or any other governing body. Thus, there is a strong appearance that the Defendants are engaged in the illegal appropriation of taxpayer funds for the purpose of circumventing the rights of those very taxpayers. For this reason, the construction of any underground meeting facility at the Governor's Mansion property should be immediately and permanently prohibited. In the alternative, said construction should be temporarily restrained until new plans can be drawn, and said plans be approved by the proposed new Oak Hill Governor's Mansion Commission.

THIRD ARGUMENT

The planned construction of the "Conservation Hall" facility is illegal, because it violates numerous local code restrictions of the City of Oak Hill. Although this Plaintiff no longer resides in Oak Hill, the principle of using state tax funding to build an illegal facility affects every citizen of the State of Tennessee. And, the principle of home rule must be upheld. The Office of the Attorney General has issued an opinion that the State may go ahead with blasting (which is scheduled to begin on or about the 27th of December — conveniently, while the General Assembly is on holiday break between

sessions), regardless of any objections by the City of Oak Hill and/or its residents. On the 20th of December, the Oak Hill Planning Commission held a public meeting on the topic of the so-called "Bredesen's Bunker". Public opinion was approximately 98 percent opposed to the project. The commission voted to disapprove the plans. But, because of the opinion issued by Deputy Attorney General Kevin Steiling (dated the 27th of November, sent to Oak Hill City Attorney Robert J. Notestine III), claims that the State Building Commission may overrule the local planning commission. This citizen disagrees. For example, if a group of local citizens can stop the Federal government from building a nuclear waste dump in a particular location, how can another group of local citizens be overruled by the State government?

The local residents have legitimate concerns about maintaining the historic ambience of their community. The terrain there is rocky and rolling. Curtiswood Lane, upon which the Governor's Mansion is located, is a winding street with steep ditches on both sides. The blasting that the plans would require would necessitate an entire fleet of multi-axle dump trucks hauling away rock and debris for a long period of time before the actual construction could even begin. Once blasting begins, the face of the neighborhood will be forever scarred. Further, blasting in such terrain could create an underground pressure wave that could send sewage and drain water backing up into the homes of nearby residents. According to documented comments by State Architect Mike Fitts at the recent public meeting, none of these aspects were included in site studies by the planners. There is also the problem of fire safety if the facility is completed as planned. The restaurant-size kitchen is located between the dining hall and the exit stairs. The kitchen is equipped with an automatic Halon fire-suppression system. Once the system

activates, all occupants would have thirty seconds to evacuate before the Halon gas is released. Halon depletes oxygen to suppress fires. Anyone left inside once the Halon is released would suffocate. The existing blueprints show no provisions for sealing the kitchen door, to prevent Halon leakage. There is no way that hundreds of occupants could get through the narrow hallway, turn four corners, and ascend two flights of curved stairs before the Halon is released. There is only one door out of the kitchen. If panicked diners rush through the hallway, the kitchen door will be blocked. Occupants of the kitchen will have no escape — either from the flames or from the suffocating gas. This is a local code-enforcement issue of Titanic proportions. Yet, the State wants to bypass it.

SUMMARY OF RELIEF SOUGHT

1. A permanent injunction against the construction of any underground dining, meeting, or entertainment facility at the Governor's Mansion property.
2. In the alternative, a temporary injunction against the current proposed project until revised plans can be approved by a new Oak Hill Governor's Mansion Commission.
3. Disbanding of the Tennessee Residence Foundation, with all money and control over its former functions to be transferred to said new Oak Hill Governor's Mansion Commission. The commission would consist only of Oak Hill residents, except for the First Lady, the State Architect, and the State Historian.
4. Award of costs and fees to the Plaintiff.

Respectfully submitted,

Thomas F. Kovach
Plaintiff, *pro se*