

https://www.keysnews.com/news/government/kcb-residents-file-temporary-injunction/article_e3cfa090-2f97-11ee-a6f2-87c235ffe881.html

FEATURED

KCB residents file temporary injunction

By RICHARD TAMBORRINO Special to The Citizen

Aug 1, 2023

Following the 3-2 Key Colony Beach City Commission vote on July 20 to award a City Hall rebuild to Hands on Builders, a group of residents has retained a local attorney to file a temporary injunction asking a judge to prohibit the city from taking any action until enough signatures are secured to request a referendum vote.

A group called Concerned in KCB, headed by long-standing resident Laurie Swanson, filed the injunction Thursday, July 27, against the city of Key Colony Beach. Filing No. 178350859 in the 16th Judicial Circuit in Monroe County is classified as a constitutional challenge regarding a statute or ordinance. It is a non-monetary declaration seeking injunctive relief.

Swanson and the group have retained the services of law firm Hershoff, Lupino and Yagel of Tavernier, and are represented by their attorney, Matthew Hutchinson, who filed the injunction. Concerned in KCB has paid the firm \$10,000 as a retainer, with more than 10 residents contributing toward this effort.

The petition states that “the city never meaningfully pursued an option to make permanent repairs to the existing building and, instead, focused exclusively on the construction of a new city hall building.” It goes on to state that KCB Code of Ordinances, Sec. 2-16(b), allows its residents “to approve or reject at the polls any

measure passed by the city commission or submitted by the city commission to a vote of the electors, such power being known as the referendum.”

According to the code, “If the referendum petition is signed by twenty-five (25) percent of the registered electors within the city, the filing of the referendum petition shall serve to suspend the effective date of the measure.”

The injunction also requires that a performance bond by any builder be required, and demands the city be prevented from retaliatory measures against the group because of its efforts.

Swanson is confident that the group, which has more than 220 names on its mailing list, many of which are interested in challenging this vote, will support the petition.

The city charter allows a vote to be formally challenged within 10 days. The group then has 45 days to return a petition to the city with the 185-200 registered voter signatures needed to meet the 25% threshold. If the injunction is granted by a judge, it would give the group sufficient time to file the petition for a special vote.

Hutchinson said by phone the injunction was filed and will be assigned to one of the judges seated in Key West. He expects a hearing to be set quickly. He stressed the goal is not to merely block the construction, but also to allow time for petition signatures to be gathered, paving the way for a referendum vote in a special election.

“We are covering the legal side of this and assisting the group with getting the referendum process going,” Hutchinson said. He added the judge may take testimony to understand what work has been done and whether contractor efforts to demolish City Hall are imminent.

There are concerns among many residents and two of the five commissioners about the decision to forge ahead with the City Hall rebuild. Questions have been raised as to why the commission proceeded after only two bids were received and one was eliminated because of a math error in the bid packet. Consequently, a contractor who hasn't handled a project of this scope was selected. Residents also fear the city will end up spending \$10 million or more despite the \$8.375 million bid due to costs they say are not included in the bid, such as landscaping and parking.

Concerned in KCB, characterized as a “kick the can” crew by supporters of the rebuild, has consistently maintained that the current City Hall, largely closed since Hurricane Irma, is repairable at a fraction of the cost. Swanson also said the contract with an inexperienced builder gives residents even more concern. And the fact there may be no performance bond included in the contract makes the project extremely difficult to accept.

“We need to let the voters decide. This petition is to require a referendum in a special election,” Swanson said.

Swanson and the group are in the process of preparing the petition. The petition process is clearly defined, requiring each signee to complete the petition identically, and the city has the right to exclude petitions that are not completed accurately. But Swanson and many of the group members are retirees and unfamiliar with this process, which means they could fall victim to a technicality given the narrow window they are operating within.

The injunction also includes language stating that the petitioner “is reasonably concerned that if the city is not temporarily enjoined from moving forward ... permanent and irreparable damage will be done to the existing city hall building, which would frustrate any meaningful consideration by the residents of Key Colony Beach to pursue a referendum and/or an initiative to solicit bids to repair

the existing city hall.”

Hutchinson was asked what would happen if a crew arrived on-site to begin demolition of the existing building before the case was heard. He said that “a judge will treat this case expeditiously, since the harm might be imminent,” but that “few construction projects move that fast.”

“The legal process provides the time so voters can be heard,” he said. “Group members feel like the voters will side with them, but it’s about votes.”

rtamborrino123@gmail.com

rtamborrino123@gmail.com