

IN THE CIRCUIT COURT OF GREENE COUNTY, MISSOURI

CITY OF SPRINGFIELD, MISSOURI
A MUNICIPAL CORPORATION,
840 Boonville Ave.
Springfield, Missouri 65802

Plaintiff,

vs.

Case No.

JAMES ARNOTT, in his official capacity as
THE SHERIFF OF GREENE COUNTY,
MISSOURI,
Judicial Center
1010 Boonville Ave.
Springfield, Missouri 65802

and

ROBERT CIRTIN, ROSEANN BENTLEY,
and HAROLD BENGSCHE, in their official
capacity as GREENE COUNTY
COMMISSIONERS,
Greene County Commission,
933 N. Robberson
Springfield, Missouri 65802

Defendants.

**PETITION FOR DECLARATORY JUDGMENT AND PRELIMINARY AND
PERMANENT INJUNCTION AND SPECIFIC PERFORMANCE**

COMES NOW Plaintiff, City of Springfield, Missouri, and for its Petition against James
Arnott, Sheriff of Greene County, Missouri, (hereinafter “Sheriff”) and Greene County
Commissioners Robert Cirtin, Roseann Bentley, and Harold Bengsch, (hereinafter
“Commissioners”) hereby states as follows:

PARTIES, JURISDICTION, AND VENUE

1. Plaintiff City of Springfield is and at all times relevant hereto was a municipal corporation and a home rule charter city organized under the provisions of the Constitution of the State of Missouri, and in accordance with the Charter adopted by the people of Springfield, Missouri, at a special election on March 17, 1953.
2. Defendant Sheriff is the duly elected and acting Sheriff of Greene County, Missouri.
3. Defendant Commissioners are the duly elected County Commissioners of Greene County, Missouri, and have been joined as a party to this action pursuant to Missouri Supreme Court Rule 87.04.
4. Plaintiff has standing to maintain this action.
5. Jurisdiction and Venue for this action are appropriate in this Court.

STATEMENT OF FACTS

6. Plaintiff hereby realleges and incorporates by reference in their entirety each allegation set forth in paragraphs 1 through 5 set out hereinabove, inclusive.
7. On or about July 16, 1997, Plaintiff and Defendants entered into an Inter-governmental Agreement (hereinafter "the Agreement") pursuant to Section 70.220 RSMo for the purpose of constructing and operating a Consolidated County-Municipal Justice Center (hereafter referred to as "the City-County jail"). A copy of said Agreement is attached hereto as Exhibit A and incorporated herein by reference.
8. Section 70.230 RSMo states in pertinent part, "any municipality may exercise the power referred to in Section 70.220 by ordinance duly enacted or, if a county, then by order of the county commission duly made and entered... which shall provide the terms agreed upon by the contracting parties to such contract or cooperative action."

9. Section 70.220(4) RSMo states, "In the event an agreement for the distribution of tax revenues is entered into between a county of the first classification without a charter form of government and a constitutional charter city with a population of more than one hundred forty thousand that is located in said county prior to a vote to authorize the imposition of such tax, then all revenue received from such tax shall be distributed in accordance with said Agreement for so long as the tax remains in effect or until the Agreement is modified by mutual agreement of the parties."
10. Greene County, Missouri, was and is such a county as described in Section 70.220(4), RSMo, and set out in the preceding Paragraph 9 above.
11. The Plaintiff City of Springfield, Missouri, also was and is such a city as described in Section 70.220(4), RSMo, and set out in the preceding Paragraph 9 above.
12. On November 4, 1997, the citizens of Greene County approved the imposition of a law enforcement sales tax to fund, among several items, the City-County jail.
13. Pursuant to the Agreement, dated July 16, 1997, the parties agreed that the jail would accept and house, with limited exceptions, all Springfield Municipal prisoners and that the funding for housing the Springfield Municipal prisoners would consist solely of the proceeds collected from the tax approved by Greene County voters on November 4, 1997.
14. Following passage of the aforesaid law enforcement sales tax, the City-County jail was constructed and completed.
15. Prior to the completion of the City-County jail, the Plaintiff City of Springfield maintained its own municipal detention facility, and also housed prisoners in the Greene

County Jail pursuant to agreements with the Greene County Sheriff, calling for a daily per-prisoner charge.

16. In accordance with the terms of the Agreement, the City-County jail was and is operated by the Greene County Sheriff, and accepted City of Springfield sentenced prisoners and pretrial detainees without charge until April 3, 2015.
17. The duty of the Defendant Sheriff and Commissioners to accept and house municipal prisoners is independent of and is not conditioned upon the total number of prisoners accepted by the Sheriff and housed in the City-County jail.
18. In or around 2000, Greene County and the Sheriff entered into an agreement with the federal government wherein the City-County jail would dedicate 35 beds for housing federal prisoners.
19. The Plaintiff City was not a party to that aforesaid agreement with the federal government.
20. Despite the Defendants agreeing with the federal government to only house up to 35 federal prisoners, the City-County jail has routinely housed over 100 federal prisoners.
21. Plaintiff states that there is no amendment to the 1997 Agreement allowing the housing of either federal inmates or prisoners from any jurisdiction outside of Greene County, to the exclusion of prisoners from the City of Springfield.
22. The Defendant Sheriff has in the past and currently houses prisoners in his custody in facilities outside the City-County jail.
23. The Defendant Sheriff pays the housing costs for such prisoners kept in custody outside the City-County jail from his budget and law enforcement sales tax revenues received.

24. On or about August 31, 2009, Defendant Arnott contacted City Manager Greg Burris indicating his intent to begin to charge the City a per diem rate of \$45.00 per day for each Springfield Municipal prisoner held in the City-County jail.
25. This action was in clear violation of the Agreement, which provides that the "jail" shall be operated from the proceeds of the law enforcement sales tax.
26. After negotiation between the parties, the City and Sheriff reached an agreement on or about September 30, 2009, a copy of which is attached hereto as Exhibit B.
27. Although limited in time, the Memoranda restates the obligation of the Sheriff to accept without charge Springfield Municipal prisoners in the City-County jail.
28. Said Memoranda verifies the intention and belief of the City and the Sheriff that the 1997 Agreement still controls the rights and duties of the parties with respect to the City-County jail.
29. On April 1, 2015, the Defendant Sheriff Arnott delivered a letter to Springfield Chief of Police Paul Williams, declaring his intent to cease receiving any municipal prisoners in the City-County jail, including any City of Springfield Municipal prisoners, commencing April 3, 2015, at 5:00 p.m. A copy of this letter is attached to this Petition as Exhibit C and is incorporated by reference herein.
30. On April 2, 2015, Springfield Mayor Bob Stephens responded by letter to the aforesaid April 1 correspondence, to Defendant Sheriff and the Defendant Commissioners, proposing that Sheriff Arnott continue to accept Springfield Municipal prisoners while the parties attempt to work out the jail capacity issues alleged by Defendant Sheriff Arnott. A copy of this letter is attached to this Petition as Exhibit D and is incorporated by reference herein.

31. On April 2, 2015, Defendant Sheriff Arnott responded by letter to Mayor Stephens, refusing the Mayor's request that he continue to accept municipal prisoners after April 3, 2015. A copy of this letter is attached to this Petition as Exhibit E and is incorporated by reference herein.
32. At 5:00 p.m. on April 3, 2015, the Defendant Sheriff Arnott ceased accepting any Springfield Municipal prisoners at the City-County jail facility.
33. At the time the Defendant Sheriff ceased accepting municipal prisoners, the Defendant Sheriff did not know the actual prisoner occupancy capacity of the City-County jail facility.
34. No new Springfield Municipal prisoners were accepted at the City-County jail from April 3, 2015, until the events described below.
35. Since April 3, 2015, the Defendant, Sheriff Arnott, has accepted increasing numbers of federal prisoners in the City-County jail, at times as many as 130 federal prisoners.
36. Plaintiff has repeatedly demanded that the Sheriff perform as required under the 1997 Agreement, to accept "all municipal ... prisoners" and the Sheriff has refused to accept same instead choosing to house federal prisoners.
37. On July 8, 2010, at approximately 3 p.m., the Sheriff announced he would open up 5 beds for municipal prisoners. By 8 p.m. that evening, the Sheriff had closed the jail.
38. On the morning of July 9, the Sheriff contacted Springfield, Missouri, Chief of Police indicating he would be moving prisoners out of the jail, freeing up to 50 beds, however the jail was closed again by 6 a.m. on July 10, 2015, after accepting only 5 prisoners from the Springfield Police Department in a five hour period.

39. On the afternoon of July 10, 2015, the Sheriff announced he would pay for up to 25 beds, in Henry County, Missouri, for municipal prisoners. However, transportation to and from there would be at the time and expense of the booking municipality.

COUNT I – DECLARATORY JUDGMENT

40. Plaintiff hereby realleges and incorporates by reference in their entirety each allegation set forth in paragraphs 1 through 39 set out hereinabove, inclusive.

41. A controversy exists between the parties as follows:

- a. Plaintiff, Sheriff and Commissioners entered into the Agreement, dated July 16, 1997, wherein each party accepted duties with regard to the City-County jail.
- b. In the Agreement, the parties agreed that the jail would accept and house all Springfield Municipal prisoners and that the funding for housing the Springfield Municipal prisoners would consist solely of the proceeds collected from the tax approved by Greene County voters on November 4, 1997.
- c. The City-County jail facility is described in the Agreement as “a consolidated county-municipal justice center”.
- d. On April 3, 2015, the Sheriff ceased accepting City of Springfield Municipal prisoners at the City-County jail.
- e. The Sheriff does not have authority to unilaterally modify the Agreement entered into by the Plaintiff, Sheriff and Commissioners.
- f. Section 70.220(4) of the Revised Missouri Statutes states, "In the event an agreement for the distribution of tax revenues is entered into between a county of the first classification without a charter form of government and a constitutional charter city with a population of more than one hundred forty thousand that is

located in said county prior to a vote to authorize the imposition of such tax, then all revenue received from such tax shall be distributed in accordance with said Agreement for so long as the tax remains in effect or until the Agreement is modified by mutual agreement of the parties."

- g. The Agreement at issue was entered into by the Plaintiff, Sheriff and Commissioners on or about July 16, 1997. The law enforcement sales tax was approved by the people on or about November 4, 1997.
- h. There has been no modification of the Agreement by mutual agreement of the parties, and the terms of the same have been upheld by all parties to this lawsuit since its inception in 1997, until April 3, 2015.
- i. Section 479.180, RSMo, cited by the Defendant Sheriff Arnott in his correspondence of April 2, 2015, as legal justification for his refusal to accept municipal prisoners, does not apply to the consolidated City-County jail facility agreed to by the parties in the Inter-governmental Agreement.
- j. Defendant Sheriff has no legal authority to refuse to accept Springfield Municipal prisoners meeting the conditions set out in the Agreement.
- k. The Defendant Sheriff is obligated under the terms of the Agreement to accept all Springfield Municipal prisoners meeting the eligibility requirements contained in the Agreement.
- l. The obligations of the Defendant Sheriff and Commissioners to accept all Springfield Municipal prisoners under the Agreement are not severable from the provisions of the Agreement dividing the tax proceeds of the law enforcement tax among the respective parties.

42. The Defendant Sheriff, by refusing to accept Springfield Municipal prisoners as described hereinabove, has committed a breach of the Agreement.
43. This breach of the Agreement by the Defendant Sheriff is substantial and ongoing.
44. By reason of the foregoing, a declaratory judgment is authorized under Missouri Supreme Court Rule 87.02, and is both necessary and proper in order to set forth and determine the rights, obligations and liabilities that exist among the parties to this matter.
45. The proper construction of the terms of the Agreement is to require the Defendant Sheriff and Commissioners to accept all Springfield Municipal prisoners into custody meeting the eligibility terms of the Agreement.
46. Alternatively, to construe the provisions of the Agreement and the law enforcement tax to allow the Sheriff to receive sales tax money to accept and house the Springfield Municipal prisoners, and then to allow Defendant Sheriff Arnott to refuse to accept the Springfield Municipal prisoners, would constitute an invalid and unconstitutional use of designated law enforcement sales tax revenue.

WHEREFORE, Plaintiffs respectfully request the Court enter judgment determining the rights and obligations of the parties herein pursuant to, and as directed by the vote of the people in the passing of the law enforcement tax of 1997, the Agreement, and the past practice and procedure of the relationship between the law enforcement agencies of the City and the County, and awarding the Plaintiff their costs herein incurred and for such other and further relief as may be deemed appropriate under the circumstances.

COUNT II – PRELIMINARY AND PERMANENT INJUNCTION

47. Plaintiff hereby realleges and incorporates by reference in their entirety each allegation set forth in paragraphs 1 through 46 set out hereinabove, inclusive.

48. Plaintiff as a Municipality charged with protection of its citizens, is faced with immediate and irreparable injury, loss or damage in the absence of relief from this Court, as the City following the construction of the City-County jail closed its own municipal facility in accord with the 1997 Agreement.
49. On April 3, 2015, the Defendant Sheriff committed a breach of the said Agreement by refusing to accept any Springfield Municipal prisoners.
50. That pursuant to the terms of the Agreement, Defendant Sheriff cannot unilaterally modify the terms of the Agreement or refuse to accept Springfield Municipal prisoners.
51. Due to the inability of the City to find or obtain suitable housing for Springfield Municipal prisoners, the Plaintiff has been forced to allow Springfield Municipal prisoners to return to the street all to the detriment of the community.
52. Although the Agreement for the Sheriff to house Springfield Municipal prisoners at the jail has been honored since its inception, the Plaintiff is without an adequate remedy or available alternative to the jail, should the Sheriff be permitted to unilaterally modify the existing Agreement, as it closed its municipal jail in conjunction with the law enforcement sales tax and associated Agreement.
53. Plaintiff's remedy at law, for contractual breach, is inadequate and equitable relief should be granted, as during the pendency of the litigation the Sheriff will be in breach of the Agreement which leaves the City without a place to house their prisoners and would potentially leave the citizens of Springfield paying twice to house prisoners whose housing has already been paid for by the law enforcement sales tax, and accounted for in the Agreement.

WHEREFORE, the Plaintiff prays this Court to enter its order declaring the rights and obligations of the parties pursuant to the Agreement and underlying law enforcement sales tax, and for injunctive orders herein to enjoin the Sheriff and the Commissioners from unilaterally modifying the provisions of the Agreement, in contradiction to the law enforcement sales tax passed by the people. Plaintiff further requests that the court enter an order requiring the Sheriff to carry out his duty to provide housing for all Springfield Municipal prisoners pursuant to the Agreement and during the course of this litigation, for its costs herein incurred and for such other relief as the Court may deem just and appropriate under the circumstances.

COUNT III

54. Plaintiff restates and realleges each and every allegation contained in paragraphs 1 through 53.
55. As a result of the Agreement reached in 1997, and the subsequent construction of the City-County Jail the City of Springfield closed its municipal jail.
56. Defendant Sheriff Arnott has breached the Agreement signed by the respective governing bodies and approved by the voters in his complete refusal to accept any prisoners brought to the jail by the Springfield Police without payment, or under such terms and conditions that are contrary to the 1997 Agreement.
57. The City is without an adequate remedy at law for damages, and has changed its position to its detriment by closing its detention facility.
58. The City cannot reopen its facility as doing so would require appropriation, construction delays, interim expenses for the housing of prisoners, none of which should be incurred but for the refusal to perform under the 1997 Agreement by the Sheriff.

WHEREFORE the City moves this court to order specific performance of the 1997 Inter-governmental Agreement and require the Sheriff to accept, without charge, all prisoners delivered by the Springfield Police Department.

Respectfully submitted,

/s/Dan Wichmer

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