IN THE CIRCUIT COURT OF COLE COUNTY, MISSOURI
19th JUDICIAL CIRCUIT

FOUR SEASONS LAKESITES PROPERTY OWNERS ASSOCIATION INC.,	)	
Plaintiff,	)	
v.	)	**Case No.:** 24AC-CC07532
STATE OF MISSOURI, et al.,	)	
Defendants.	)	

JUDGMENT
FINDINGS OF FACT AND CONCLUSIONS OF LAW

This action, which challenges House Bill 2062 ("HB 2062") on procedural grounds, came before this Court for trial on May 9, 2025. Plaintiff alleges that HB 2062 violates the Missouri Constitution's Single Subject, Clear Title, and Original Purpose provisions, as well as the Missouri and United States Contract Clauses. *See* Mo. Const. art. III, §§ 21, 23; U.S. Const. art. I, § 10, cl. 1. The Governor, Attorney General, and State of Missouri (collectively, "State Defendants") argue that Plaintiff's claims are barred by sovereign immunity or else that HB 2062 is lawful.

This matter was tried on stipulated facts and exhibits. Having fully considered the parties' pleadings, evidence, and written and oral arguments, the Court concludes that HB 2062 is unlawful. Accordingly, the Court will enter judgment in favor of Plaintiffs on all claims.

Procedure

On August 26, 2024, Plaintiff filed a petition for Declaratory Judgment and Injunctive Relief challenging HB 2062 on constitutional grounds. The State filed a motion to dismiss the petition on October 11, 2024, Plaintiff filed an Amended Petition on October 28, 2024, and the State filed a Motion to Dismiss the Amended Petition on November 21, 2024. This Court denied the State's Motion on February 24, 2025.

Attorneys Charles W. Hatfield and Carleigh Cavender from Stinson LLP represented Plaintiffs. Attorneys Victoria Lowell, Peter Donohue, and Reed Dempsey from the Attorney General's Office represented the State of Missouri, the Attorney General, and the Governor.

Findings of Fact

The Court draws its findings of fact from the parties' joint stipulation, the stipulated exhibits, and matters about which the Court may take judicial notice:

1. HB 2062 was read for the first time on January 3, 2024. Stip. Ex. I.[1]

2. As originally Introduced, HB 2062's was titled "An Act To amend chapter 535, RSMo, by adding thereto one new section relating to a moratorium on eviction proceedings." Stip. Ex. I.

[1] The Court takes judicial notice of the legislative history of HB 2062 and additionally refers to such history as is demonstrated through the Stipulated Trial Exhibits. *Schweich v. Nixon*, 408 S.W.3d 769, 778 (Mo. banc 2013). ("[A] Court may take judicial notice of a bill, just as it does of statutes or of the proceedings by which laws are enacted."); *see also Brown v. Morris*, 290 S.W.2d 160, 167–68 (1956) ("In Missouri, legislative journals are not only admissible in evidence but the courts may judicially notice the history of legislation as reflected by the record thereof in the legislative journals.").

3. As originally Introduced, HB 2062 contained a single provision, Section 535.012, which related to preventing counties, municipalities, or other political subdivisions from imposing or enforcing moratoriums on eviction proceedings. Essentially, the bill sought to prevent such entities from enforcing moratoriums on eviction proceedings "unless specifically authorized by state law." And nothing more. Stip. Ex. I.

4. On February 7, 2024, HB 2062 was taken up for perfection, the title was agreed to, and it was perfected by the House without amendment. Stip. Ex. J.

5. The Missouri House third read and passed HB 2062 on February 12, 2024, and it was reported to the Senate, where it was first read.

6. On March 7, 2024, HB 2062 was second read and referred to the Senate Committee on Emerging Issues. On April 22, 2024, the Senate Committee on Emerging Issues reported Do Pass on HB 2062.

7. On May 7, 2024, HB 2602 was placed on the Informal Calendar and taken up for a third reading. A Senate Substitute for HB 2062 was offered, adopted, and passed. Stip. Ex. K.

8. The Senate Substitute contained several amendments and changes not originally included in HB 2062 as Introduced or Perfected. Stip. Ex. K.

9. The Senate Substitute for HB 2062 repealed several laws, including Sections 140.010, 140.250. and 140.420, among many others, that were not repealed or otherwise mentioned in HB 2062 as Introduced or Perfected. *Compare*, Stip. Exs. I, J, K.

10. The Senate Substitute for HB 2062 additionally proposed to enact in lieu thereof fifty-four new sections relating to the use of real property, with penalty provisions. Stip. Ex. K. None of these 54 laws were proposed or referenced in HB 2062 as Introduced or Perfected.

11. The title of the Senate Substitute for HB 2062 was changed to state, "An Act To repeal" various sections and to enact "fifty-four new sections relating to the use of real property, with penalty provisions." Stip. Ex. K.

12. On May 8, 2024, the Senate Substitute for HB 2062 was reported to the House and referred to the House Committee on Fiscal Review. On May 9, 2024, the House Committee on Fiscal Review reported do pass on the Senate Substitute for HB 2062.

13. Defendant the State of Missouri via the Missouri Legislature enacted Truly Agreed and Finally Passed House Bill 2062 ("TAFP HB 2062").

14. On May 16, 2024, the House took up and adopted the Senate Substitute for HB 2062, with additional amendments, and finally passed it as TAFP HB 2062. Stip. Ex. H.

15. TAFP HB 2062 contained several provisions not originally contained in HB 2062 as Introduced or Perfected, including:

> a. The Missouri Small Business Act, which, among other things, mandates that political subdivisions imposing shutdown orders must waive business license fees of impacted businesses and reduce the real and personal property tax liability of impacted businesses;
>
> b. Section 67.288, a provision that defines "electric vehicle" and related terms and prohibits political subdivisions from adopting legislation requiring that churches or nonprofits provide charging stations in parking lots;

c. Sections 140.010 to 141.1020, provisions which, among other things: in certain circumstances, permit counties to establish a land bank agency on property that has been encumbered with state liens for unpaid taxes; set procedures and terms for the process and timing for the sale of land bank property; provide for limitations on funding for land bank agencies; establish definitions for terms relating to these matters; and repeal bills dealing with the collection of delinquent taxes in the City of St. Louis;

d. Section 141.1020, a provision providing that liens levied by public sewer districts upon a customer's property for unpaid sewer charges shall have priority above all liens except for those levied for state and county purposes;

e. The Historic, Rural Revitalization, and Regulatory Streamlining Act, which, among other things, provides definitions for terms pertaining to historic buildings, provides for tax credits for the rehabilitation of qualifying property;

f. Section 436.337, which prevents political subdivisions from requiring residential property owners to have home inspections conducted as a prerequisite to selling property;

g. Section 436.337, a provision providing that no deed restrictions, covenants, or other agreements running with the land could prohibit the ownership or pasturing of up to six chickens;

h. Sections 534.602, 534.604, and 569.200, which, among other things, allows property owners to file petitions to have persons unlawfully occupying property to be removed through ex parte orders; establishes procedures and definitions relating to such matters, including the process for filing petitions, the mandated timing of hearings, and civil protections for law enforcement officers enforcing ex parte orders for the removal of unlawful occupants, including immunity from civil liability for false arrest; and

i. Section 640.144, which repeals an annual requirement that community water systems must create a hydrant inspection program and replaces such requirement with scheduled hydrant testing. Stip. Ex. H.

16. The only common provision in HB 2062 as Introduced and Perfected and in TAFP HB 2062 was section 535.012, the provision relating to banning counties, municipalities, or other political subdivisions from enacting or enforcing moratoriums on eviction proceedings. *Compare*, Stip. Exs. I, J, H.

17. The title of TAFP HB 2062 is "An Act To repeal" various sections to enact "sixty-two new sections relating to the use of real property, with penalty provisions." Stip. Ex. H.

18. TAFP HB 2062 is 75 pages long. Stip. Ex. H. HB 2062 as Introduced consisted of three lines on a single page and proposed to amend a single provision. Stip. Ex. I.

19. The title of TAFP HB 2062 differs from the title appearing on HB 2062 as Introduced and Perfected.

20. Senator Mike Moon filed a constitutional objection to TAFP HB 2062.[2]

21. Defendant Mike Kehoe, the Governor of Missouri signed TAFP HB 2062 and it became law on August 28, 2024.

22. Defendant Andrew Bailey is the former Attorney General of Missouri but was Attorney General at time case was filed and heard.

23. HB 2062 contains the following provision § 442.404.5 (the "Chicken Provision") which states:

> No deed restrictions, covenants, or similar binding agreements running with the land shall prohibit or have the effect of prohibiting ownership or pasturing of up to six chickens on a lot that is two-tenths of an acre or larger, including prohibitions against a single chicken coop designed to accommodate up to six chickens.

24. Plaintiff Four Seasons Lakesites Property Owner's Association, Inc. ("Four Seasons") is a property owner's association ("POA") covering residential properties in

[2] At trial the Court took Judicial Notice of the Legislative Journal for the Sixty-Eighth Day of the Second Regular Session, Thursday, May 30, 2024. *See* Pl.'s Ex. 2; *see also Brown*, 290 S.W.2d at 167–68 ("In Missouri, legislative journals are not only admissible in evidence but the courts may judicially notice the history of legislation as reflected by the record thereof in the legislative journals."); *see also* Sen. Moon, Mike, *Constitutional Objection to HB 2062* (filed 5/30/2024) https://www.senate.mo.gov/24info/Journals/RDay6805301307-1318.pdf.

the Lake of the Ozarks. Four Seasons is a Missouri domestic nonprofit corporation in good standing and registered with the Missouri Secretary of State. Della F. Miller is the registered Agent for Four Seasons. Joint Stip. ¶ 1.

25. Four Seasons contains two major areas that contain all or most of the properties within the Four Seasons POA. These areas are called Horseshoe Bend and Shawnee Bend. Shawnee Bend is also known as Porto Cima. Joint Stip. ¶ 2.

26. Four Seasons has several lots in both its Horseshoe Bend and Shawnee Bend areas that are .2 of an acre or larger. Joint Stip. ¶ 3.

27. Four Seasons' POA member-owners pay dues to maintain their membership. Joint Stip. ¶ 4.

28. Since its founding, Four Seasons has implemented and properly recorded with the Camden County Recorder of Deeds various versions of a document containing the Restrictive Covenants to which properties that are within the Four Seasons POA are bound. Joint Stip. ¶ 5.

29. The most recent version of the document containing such restrictive covenants is titled the Fifth Amended and Restated Declaration of Restrictive Covenants and is stipulated Exhibit B. Joint Stip. ¶ 6.

30. Included in the Fifth Amended & Restated Declaration of Restrictive Covenants is a restrictive covenant forbidding member-owners from raising, pasturing, and owning of any number of chickens on lots of land within Four Seasons. Joint Stip. ¶ 7.

31. Four Seasons' POA has a Board of Directors. Joint Stip. ¶ 8.

32. Della Miller ("Miller") is the Managing Agent and Co-Owner of Missouri Association Management, LLC ("MAM"). MAM is an LLC that manages POAs and Homeowners Associations such as Four Seasons. Four Seasons has employed Miller and MAM to manage the Four Seasons POA. As part of her employment, Miller is tasked with managing the daily business operations of Four Seasons. Such operations include all matters related to the restrictive covenants contained within the Fifth Amended Declaration of Restrictive Covenants, including the covenant prohibiting the raising of chickens on property covered by Four Seasons' POA. Joint Stip. ¶ 9.

33. The vast majority of Four Seasons' properties, about 99%, are .2 of an acre or larger. Stip. Ex. A, Tr. 119:22–120:16.

34. There are at least 3,000 homes spread across Shawnee Bend/Porto Cima and Horseshoe Bend. Stip. Ex. A, Tr. 22:9.

35. Many of those homes are secondary or vacation homes. Stip. Ex. A, Tr. 21:14-15.

36. Four Seasons Boasts two recreational centers, an aquatic center, a community pool, a community center, and multiple boat launch ramps. Stip. Ex. X.

37. Four Seasons has prohibited the ownership, raising, and pasturing of chickens on its properties since at least the 1970s. Stip. Exs. E, D, C, B, Q.

38. In situations where Four Seasons' owner-members violated the restrictive covenants in the past, "the neighbors just wanted the chickens gone." Stip. Ex. A, Tr. 133:20.

39. Under HB 2062, it will cost Four Seasons time, money, and resources to police whether owner-members are following the reasonable restrictions Four Seasons has set. Stip. Ex. A, Tr. 127:16–129:2 ("we're going to have to go out there and count the chickens" . . . "it's going to be a nuisance, it's going to be they're not keeping up with the chicken coop or whatever"); *id.* 59:10-21 129:18–130:3 ("we start off with a warning . . . then it's . . . a fine. . . . And at some point if we just can't get compliance, then we get legal counsel to represent. So that's going to cost the Association money.").

40. Four Seasons has had owner-members attempt to keep chickens on their properties before, in violation of the restrictive covenant prohibiting the ownership of chickens. Stip. Ex. A, Tr. 54–55.

41. The only way Four Seasons would know if member-owners have chickens would be if association employees see it or if they hear a complaint. Stip. Ex. A, Tr. 114:1–5.

42. Four Seasons' employees have fielded calls concerning owning chickens following the passage of HB 2062. Stip. Ex. A, Tr. 57:3-21.

43. At least one owner-member told a Four Seasons employee that the owner-member desired to obtain chickens. Stip. Ex. A, Tr. 57:16-21.

<u>Conclusions of Law</u>

I. Sovereign Immunity Does Not Bar Plaintiff's Claims.

The Court finds that, under Missouri law, State Defendants may not use sovereign immunity as a shield from Plaintiff's claims because each State Defendants holds enforcement authority and Four Seasons seeks only prospective equitable relief, placing its suit squarely within a judicial carveout to sovereign immunity.

a. *Missouri law controls*

The State generally argues that no exception exists to sovereign immunity here and primarily rely on federal law in support of their argument. However, the concerns necessitating sovereign immunity from types of liability that draw from state coffers are not implicated where a petition raises only prospective, equitable claims against the State that seek only declaratory and injunctive relief and no money damages or request for compensation of any kind. *See Ramirez v. Missouri Prosecuting Attorneys'*, 694 S.W.3d 432 (Mo. banc 2024) (discussing justifications for sovereign immunity where equitable compensation is sought, *i.e.*, unjust enrichment claims). Indeed, the Court agrees with Plaintiff that such claims fall within a well-recognized judicial carve-out to sovereign immunity. *See State Conference of NAACP v. State*, 563 S.W.3d 138, 147 (Mo. App. W.D. 2018) (no sovereign immunity where plaintiff "sought prospective equitable relief in the form of a declaratory judgment and an injunction"); *see also Wyman v. Missouri Dept. of Mental Health*, 376 S.W.3d 16, 23 (Mo. App. W.D. 2012) (concluding sovereign immunity did not "bar a claim for injunctive relief which seeks to reverse a state agency's prior violation of its statutory obligations, or to prevent future violations", that the trial court erred in dismissing plaintiff's claim for injunctive relief on immunity grounds).

Because sovereign immunity does not extend to equitable declaratory and injunctive relief against officials who hold the authority to enforce the challenged provision, Four Seasons claims fall within an exception if it sues State officials with enforcement authority. *State Conference of NAACP*, 563 S.W.3d 138; *Wyman*, 376 S.W.3d 16.

b. The State Defendants Hold Enforcement Authority for the Chicken Provision

The State Defendants hold authority to enforce the challenged provision. The Missouri Constitution provides that "[t]he governor shall take care that the laws are distributed and faithfully executed, and shall be a conservator of the peace throughout the state." Art. IV Sec. 2. "[A] state officer has 'the capacity to bring suit to enforce [his] powers and duties under the Missouri Constitution.'" *Schweich v. Nixon*, 408 S.W.3d 769, 775 (Mo. banc 2013) (quoting *Kelly v. Hanson*, 931 S.W.2d 816, 818 (Mo. App. 1996)). Plainly, the Governor holds the full constitutional power to see that the laws of this State are executed. In carrying out this authority, he can instigate suit. The Governor has sued to protect and act on his other constitutional grants of authority. *See e.g., State v. St. Louis Cnty.*, 2025 WL 17162, at *2 (Mo. App. E.D. Jan. 2, 2025) (suing Saint Louis County Executive to preserve and act on Governor's constitutional authority to appoint replacement prosecutor). He can likewise sue to protect and enforce his constitutional duty to faithfully distribute and execute the laws of this State. *Schweich*, 408 S.W.3d 769, 775. The Governor may also direct the Attorney General to sue on his behalf.

The Attorney General likewise holds his own authority to advance the interests of the State. *State ex rel. Igoe v. Bradford*, 611 S.W.2d 343, 347 (Mo. App. W.D. 1980) ("[T]he attorney general is charged with the duty to enforce the rights of the state. It is for the attorney general to decide where and how to litigate issues involving public rights and duties and to prevent injury to the public welfare." quotation omitted)). The "'absence of a provision for specific powers for the attorney general in our constitution vests the office' both with any powers granted by statute and 'with all of the powers of the attorney general at common law.'" *Schweich* 408 S.W.3d at 777 n.9 (quoting *State ex rel Nixon v. Am. Tobacco Co., Inc.*, 34 S.W.3d 122, 134 (Mo. banc 2000)). The Attorney General acts "as an advocate for the State of Missouri and its citizens." *State ex rel. Am. Family Mut. Ins. Co. v. Clark*, 106 S.W.3d 483, 495 (Mo. banc 2003) (Wolff, J., concurring). "The Attorney General, both because of his statutory and common law powers, is a proper party to bring an action for the state which involves such rights and seeks enforcement of such duties, and which would prevent injury to the general welfare." *State ex rel. Taylor v. Wade*, 360 Mo. 895, 900, 231 S.W.2d 179, 182 (Mo. banc 1950) (holding the Attorney General was a proper party to sue for mandamus to compel a county court to prepare and publish a financial statement for the county).

The Attorney General also holds a statutory grant of authority to enforce the provisions of a given statute with § 27.060 RSMo, which provides:

> The attorney general **shall institute**, in the name and on the behalf of the state, all civil suits and other proceedings at law or in equity requisite or necessary to protect the rights and interests of the state, and enforce any and all rights, interests or claims against any and all persons, firms or corporations in whatever court or jurisdiction such action may be necessary; and he may also appear and interplead, answer or defend, in any proceeding or tribunal in which the state's interests are involved.

§ 27.060 (emphasis added). As the statute directs, the Attorney General is statutorily obligated to protect the rights and interests of the state against "any and all persons." *Id.*

Such obligations cover homeowner's associations that fail to follow statutory law in drafting their restrictive covenants. Indeed, citing § 27.060 as enabling authority, in 2022, the Attorney General sued rogue homeowner's associations for covenants that contravened Missouri statutory law. *See State v. Country Club Homes et al.*, Petition for Declaratory and Injunctive Relief, 2016-CV19666 (noting "[t]he attorney general has the authority to seek enforcement of the legislature's statutory purpose").[3]

Missouri state courts appear to concur that Attorney General may instigate such suits. *See Fogle v. State*, 295 S.W.3d 504, 510 (Mo. App. W.D. 2009) (finding the "Attorney General is, of course, generally authorized to seek enforcement of the General Assembly's statutory purposes" and, pursuant to section 27.060, could appeal to challenge the special conditions of a judgment issued for a man under the care and custody of the Department of Mental Health in a sexually violent predator commitment case); *Matter of Preston*, 898 S.W.2d 151, 153 (Mo. App. E.D. 1995) (holding the Attorney General had standing to appeal an order seeking inmate records under § 27.060 which "gives Attorney General the right to 'appear and interplead, answer or defend, in any proceeding or tribunal in which the state's interests are involved' [because] [t]he state has an interest in the interpretation of its statutes"); *State ex rel. Igoe*, 611 S.W.2d at 347 (noting that § 27.060 confers the Attorney General with the right to further the interests of the legislature and finding "It is for the attorney general to decide where and

[3] At trial the Court took judicial notice of a petition contained on casenet field by the Attorney General's Office in a different case. *See* Pl.'s Ex. 1; *see also* RSMo § 490.130.

how to litigate issues involving public rights and duties and to prevent injury to the public welfare").

Section 27.060, therefore, additionally provides the Attorney General with a statutory directive to preserve and advance the interests of the legislature, which includes the power to invoke section 27.060 to instigate suit against Four Seasons for violations of the Chicken Provision. The Court additionally finds that, in this case seeking only prospective injunctive relief and no monetary relief of any kind, Plaintiff can bring its claims against the State itself. *See e.g.*, *City of Maryland Heights v. State*, 638 S.W.3d 895 (Mo. banc 2022).

II. Four Seasons is Entitled to a Declaratory Judgment and Injunctive Relief.

Four Seasons seeks relief under the Declaratory Judgment Act. Section 527.010 provides that "The circuit courts of this state . . . shall have power to declare rights, status, and other legal relations whether or not further relief is or could be claimed." Section 527.020 RSMo provides that:

> Any person interested under a . . . written contract or other writings constituting a contract, or whose rights, status or other legal relations are affected by a statute . . . may have determined any question of construction or validity arising under the instrument, statute, ordinance, contract, or franchise and obtain a declaration of rights, status or other legal relations thereunder.

A party may seek a declaratory judgment where (1) there is a justiciable controversy (2) in which the petitioner has a real substantial interest for which a court can grant relief (3) that is ripe (4) and for which there is no adequate remedy at law. *City of*

St. Louis v. State, 643 S.W.3d 295, 300 (Mo. banc 2022) (quotation omitted). The legislature intended for the declaratory judgment statute to be a remedial law that affords litigants relief from uncertainty, and a court "must interpret it liberally." *Jones v. Carnahan*, 965 S.W.2d 209, 214 (Mo. App. W.D. 1998); *Comm. for Educ. Equal. v. State*, 878 S.W.2d 446, 452 (Mo. banc 1994) (the "declaratory judgment act is liberally construed to accomplish its preventive purpose").

a. Justiciable Controversy & Real and Substantial Interest

The State Defendants challenge that Four Seasons lacks standing because the sued officials lack enforcement authority and claim that, therefore, there is no controversy between Plaintiff and the State Defendants. "Standing requires that a party have a personal stake arising from a threatened or actual injury." *Schweich v. Nixon*, 408 S.W.3d at 774. There "is no litmus test for determining whether" a party has a legally protectable interest at stake. *Id.* at 775. Such an interest can be "pecuniary or personal" as long as its "directly at issue and subject to immediate or prospective consequential relief." *Id.* (quoting *Mo. Soybean Ass'n v. Mo. Clean Water Comm'n*, 102 S.W.3d 10, 25 (Mo. banc 2003)). The interest can be remote, as long as it relates to the remedy sought and the court can render a judgment that will decide the issues and provide relief to the petitioner. *Missouri State Med. Ass'n v. State*, 256 S.W.3d 85, 87 (Mo. banc 2008); *St. Louis Cnty. v. State*, 424 S.W.3d 450, 453 (Mo. banc 2014).

The Court finds a presently existing controversy between Four Seasons and the State Defendants because the State Defendants take the position that HB 2062 is lawful and binding while Four Seasons sues to invalidate it. As discussed above, they have the authority to enforce the Chicken Provision. *Missouri Health Care Ass'n*, 953 S.W.2d at 621 ("The state official empowered to enforce a law that is challenged through a declaratory judgment action has an interest [for purposes of standing] that would be affected by a court's declaration."). Moreover, Four Seasons sues to invalidate a bill, and the State Defendants have an interest in defending laws the legislature passed and the Governor signed.

Four Seasons clearly has an interest that it may sue to protect. The Chicken Provision purports to invalidate a restrictive covenant between Four Seasons and its member-owners. Four Seasons has further proffered credible evidence that the Chicken Provision will result in Four Seasons having to expend funds to ensure that its owner members follow Four Seasons' reasonable restrictions. Four Seasons additionally claims that HB 2062 is unconstitutional, and it holds standing for the injury of being subject to an unconstitutional law. *See e.g., City of St. Louis v. State*, 643 S.W.3d at 300 ("The interest of being free from the constraints of an unconstitutional law is an interest that is entitled to legal protection." (quotations omitted)). These injuries are direct, personal, and legally protectable.

A ruling favorable to Four Seasons will settle the controversy between the State and Four Seasons, because Four Seasons asks for HB 2062—and the Chicken Provision—to be declared unconstitutional and void.

b. Ripeness

The Court additionally finds this suit is ripe. Even before the Chicken Provision was enacted, Four Seasons saw violators attempt to raise chickens on land covered by

Four Seasons' POA. It stands to reason that, following the Chicken Provision's enactment invalidating Four Season's restrictive covenant prohibiting chickens, owner-members will attempt to do so again. Our Supreme Court has found suits ripe on less factual development, and Four Seasons' claims predominantly present questions that are legal, not factual. *Planned Parenthood of Kansas v. Nixon*, 220 S.W.3d 732, 739 (Mo. banc 2007) (quotation omitted) ("Cases presenting predominantly legal questions are particularly amenable to a conclusive determination in a pre-enforcement context, and generally require less factual development." (quotation omitted)); *City of St. Louis v. State*, 643 S.W.3d 295, 300 (ripe even though plaintiff "failed to identify any attempt by the state to enforce or threaten to enforce SAPA"); *Bldg. Owners & Managers Ass'n of Metro. St. Louis, Inc. v. City of St. Louis*, 341 S.W.3d 143, 149 (Mo. App. E.D. 2011) (finding claims ripe despite no enforcement of the challenged ordinance because each "present[ed] largely legal questions that need little factual development").

The Eastern District recently reiterated that, Missouri "jurisprudence is replete with examples of ripe pre-enforcement constitutional challenges to statutes and ordinances." *See Slip Op.*, *Claymon Development, LLC v. City of Wildwood*, No. ED112720 (June 24, 2024) ("[A] plaintiff can bring a pre-enforcement challenge to a [statute] when it directly impacts how the plaintiff does business and the facts needed to resolve the challenge are fully developed"). As the Western District has recognized, "a case is ripe when the issue can be resolved on the '*historical* facts' and 'no *future* factual developments or events will affect the analysis." *See id.* (quoting *Iseman v. Mo. Dep't of Corr.*, 660 S.W.3d 684, 690 (Mo. App. W.D. 2023). Four Seasons is not required to "await a negative result before challenging [HB 2062's] constitutionality in court." *Id.* (citations omitted).

The Court finds that Four Seasons' claims are ripe.

c. Adequate Remedy at Law

The Court finally finds that Four Seasons holds no adequate remedy at law. Four Seasons cannot wait to be sued. Under the pertinent statute of limitations, Four Seasons cannot bring a claim to invalidate any legislation later than the adjournment of the current legislative session. § 516.500, RSMo. For that reason, it does not hold an adequate remedy at law because, even assuming it could assert its claims in some future suit section 516.500 would bar it from doing so.

Further, "Plaintiff[ ] need not subject [itself] to multiple, individual suits to assert [its] constitutional challenges." *City of St. Louis v. State*, 643 S.W.3d at 301 (rejecting argument that there was an adequate remedy at law where party could raise its constitutional claims as a defense later). While it is true that an adequate remedy may be found where a party could raise its claims in a pending suit, *id.*, none exists, and because of the statute of limitations, Four Seasons cannot wait for one.

Therefore, in liberally construing the Declaratory Judgment Act, the Court finds Four Seasons may assert its claims.

III. HB 2062 Violates the Missouri Constitution's Clear Title, Single Subject, and Original Purpose Mandates

For the reasons below, the Court finds Four Seasons is entitled to relief on all claims. Plaintiff brings various claims about the passage of the bill. Some of them require a more complex analysis than others. The Court discusses each claim and its analysis in turn.

a. The Bill Violates Article III, Section 21's Prohibition on Changing a Bill's Original Purpose

The first step in legislating is the introduction of a bill. That bill, of course has some purpose when it is originally filed. "Article III, section 21 prohibits any bill from being 'so amended in its passage through either house as to change its original purpose.'" *Legends Bank v. State*, 361 S.W.3d 383, 386 (Mo. banc 2012) (quoting Mo. Const. art. III, sec. 21). This may be the simplest of Plaintiff's claims because it simply requires identification of that original purpose. Once that is done this constitutional provision prohibits the "introduction of a matter that is not germane to the object of the legislation or that is unrelated to its original subject." *Id.*

So, how does the Court determine the original purpose? "A bill's original purpose is measured at the time of the bill's introduction." *Calzone v. Interim Comm'r of Dep't of Elementary & Secondary Educ.*, 584 S.W.3d 310, 318 (Mo. banc 2019). A court looks at the bill's title and contents as introduced. *Legends Bank*, 361 S.W.3d 383, 386. "This Court will compare the purpose of the original bill as introduced with the bill as passed to determine whether it violates article III, section 21." *Id.* While a bill's title may change and the original title need not state the overarching purpose of the bill, *id.*, where the bill's later amendments are "not remotely within the original purpose of the bill" the legislature has engaged in impermissible logrolling and the bill will violate the original purpose mandate. *Missouri Ass'n of Club Executives v. State*, 208 S.W.3d 885, 888 (Mo. banc 2006).

HB 2062 as originally introduced contained one provision and was titled "An Act to amend chapter 535 RSMo, by adding thereto one new section relating to a moratorium on eviction proceedings." Stip. Ex. I. The bill itself contained three lines of text and stated, in its entirety,

"No county, municipality, or other political subdivision shall impose or enforce a moratorium on eviction proceedings unless specifically authorized by state law." Stip. Ex. I.

The Court can easily conclude, then, that the original purpose of the bill was exactly what it claimed to be-- imposing rules that govern a county, municipality, or other political subdivision's imposition of an eviction moratorium. Of course, that is a much narrower purpose than where the bill ended up, claiming to be related to the "use of real property" and including business licenses within the proposed idea of a real property right. This provision does not pertain to the use of real property at all, but rather to the scope of a county, municipality, or other political subdivision's authority to suspend the rights, privileges, and other actions of their populations. It is limited to moratoriums on eviction proceedings. So it would be proper to add language about how eviction proceedings should be conducted or what rights and privileges the parties might have in eviction proceedings. But the final bill far exceeds that original purpose.

The Court has taken judicial notice of the House Journal containing the objections by Senator Mike Moon to House Bill 2062, which aptly describes the original purpose issue: "[n]ot one single amendment added to the original bill was germane to the original purpose. What, pray tell, is the relationship between moratorium on eviction proceedings and the pasturing of chickens, hydrant testing, or public sewer liens?"[4] Senator Moon's objection, of course, has no legal effect on the Court's analysis, but it succinctly states the correct analysis and conclusion. Because the bill's final purpose strayed greatly from its original purpose, the Court finds HB 2062 violates the original purpose mandate.

b. The Bill Violates Article III, Section 23's Prohibition on Multiple Subjects

The next challenge has to do with a bill's final purpose. That analysis looks at the bill as finally passed rather than as it was introduced. Article III, section 23 provides, "No bill shall contain more than one subject which shall be clearly expressed in its title ..." "Article III, section 23, is mandatory, not directory." *Hammerschmidt v. Boone Cnty.*, 877 S.W.2d 98, 102 (Mo. banc 1994).

Single subject analysis is not quite as easy as the original purpose analysis, but it is not particularly difficult in this case. A bill contains a single subject only where all of its provisions are "germane, connected and congruous," to the core subject expressed in the bill's title. *State v. Mathews*, 44 Mo. 523, 527 (1869); *Hammerschmidt*, 877 S.W.2d at 102; *Westin Crown Plaza Hotel*, 664 S.W.2d at 6. (The test to determine if "a bill

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[4] Sen. Moon, Mike, *Constitutional Objection to HB 2062* (filed 5/30/2024) https://www.senate.mo.gov/24info/Journals/RDay6805301307-1318.pdf .

contains more than one subject is whether all provisions of the bill fairly relate to the same subject, have a natural connection therewith or are incidents or means to accomplish its purpose."). Whether a bill contains multiple subjects is measured by the bill as it is finally passed, looking "first to the title of the bill to determine its subject." *C.C. Dillon Co. v. City of Eureka*, 12 S.W.3d 322, 328–29 (Mo. banc 2000).

According to its title HB 2062 is a bill "relating to the use of real property, with penalty provisions." But not all provisions in the bill as passed relate to this subject. Clear examples of this arise in § 44.251 which contains the Protecting Missouri's Small Business Act. That Act—which by its own terms, is concerned with economic loss, *see* §§ 44.251.3(1)–(5)—states that, where a political subdivision imposes a lockdown, it must waive **business license fees** during the period of the lockdown or longer. *See* § 44.251.4(1)(a). That Act also provides that such political subdivision must reduce the real **and personal property** tax liability of any businesses shutdown pursuant to a lockdown order. § 44.251.4(1)(b). These provisions have no bearing whatsoever on the "use of real property," and HB 2062 violates the single subject mandate.

c. The Bill Violates Article III, Section 23's Prohibition on Unclear Titles in Legislation

Finally, Article III, Section 23 of the Missouri Constitution states: "No bill shall contain more than one subject which shall be clearly expressed in its title." "[O]ne of the purposes of requiring that a bill's title clearly express the subject of the bill is to keep individual members of the legislature and the public fairly apprised of the subject matter of pending laws." *St. Louis Health Care Network v. State*, 968 S.W.2d 145, 147 (Mo.

banc 1998); Mo. Const. Art. III, Sec. 23. A bill's title "need not give specific details of a bill, but need indicate only generally what the act contains." *Id.*

Most relevant here, a bill's title cannot "be so general that it tends to obscure the contents of the act." *Id.* Similarly, "the title cannot be so broad as to render the single subject mandate meaningless." *Id.* ("If the title of a bill is too broad or amorphous to identify a single subject within the meaning of article III, section 23, then the bill's title violates the mandate that bills contain a single subject clearly expressed in its title.").

If a bill's title "could describe most, if not all, legislation passed by the General Assembly. . . . [it likely] fails to give notice of the actual content or subject of the bill." *Home Builders Ass'n of Greater St. Louis v. State*, 75 S.W.3d 267, 271 (Mo. banc 2002). The Supreme Court of Missouri has found clear title violations for bill titles relating "to property ownership," *id.* at 270, and "certain incorporated and non-incorporated entities," 968 S.W.2d at 147. Though not a clear title case, the Supreme Court in *Carmack v. Director, Missouri Department of Agriculture*, employed a similar analysis to find that a bill titled "related to economic development" was so broad it violated the single subject mandate because "nearly every activity the state undertakes falls within the meaning of economic development." 945 S.W.2d 956, 960 (Mo. banc 1997); *see also City of St. Louis v. State*, 682 S.W.3d at 402.

The Missouri Supreme Court has already held that a title of "relating to property ownership" is unconstitutional because it was so amorphous it was "hard to imagine any statute which would not have some impact upon or arguable relation to ownership of either tangible or intangible property." *See Home Builders Ass'n of Greater St. Louis*, 75

S.W.3d 267 ("As this phrase is commonly interpreted, it gives the reader no guidance as to the contents of the act.").

The Court finds the Supreme Court's analysis in *Home Builders* useful here, when faced with a bill titled "relating to the use of real property." It is likewise difficult to conceive of a law that does not somehow relate to the "use of real property." After all, "ownership of real property" would seem to be a *narrower* topic than "use of real property," the latter applying in circumstances where there is no issue of ownership at all. Indeed, the whole of the tangible world is impacted by "the use of real property." HB 2062 does not differentiate between public or private real property, or commercial, industrial, residential, agricultural, mixed use, or special use real property. It is not limited by the people, animals, or entitles that may use "real property." HB 2062 plausibly could contain directives for and impact a myriad of issues such as inspections for schools, highway improvements, taxes, environmental remediation, land use controls, voting, medical care, political subdivisions, and animal husbandry. The actual issues the bill covers demonstrate this point:

- The Missouri Small Business Act, which requires that political subdivisions imposing shutdown orders must waive business license fees and reduce real and personal property tax liability of impacted businesses;
- § 67.288, which forbids political subdivisions from requiring charging stations for electric vehicles in church and nonprofit parking lots;
- §§ 140.010 to 141.020 relating to establishing land bank agencies and eliminating the collection of delinquent taxes in the City of St. Louis;
- § 141.202 relating to liens by public sewer districts;
- The Historic, Rural Revitalization, and Regulatory Streamlining Act relating to tax credits for historic buildings;
- § 436.337, relating to preventing political subdivisions from requiring inspections of residential property;

- § 442.404, which contains the chicken provision;
- §§ 534.602, 534.604, and 569.200 which pertain to evictions through ex parte orders;
- § 535.012 relating to prohibiting counties, municipalities, or other political subdivisions from imposing eviction moratoriums; and
- Section 640.144 which relate to water systems and hydrant inspection programs.

HB 2062's title "relating to the use of real property" could fairly describe all of the legislation passed in the General Assembly and is so broad and over-inclusive it is meaningless. It certainly fails to give the citizens of this State any notice as to its contents. And yet, at the same time, the title is under-inclusive, because it does not describe all that it does. The title lists the sections that are being repealed and then represents that it is enacting new sections "in lieu thereof." But a review of the bill shows that is *not* actually the case. For example, the original purpose of the bill—to add section 535.012—is not disclosed in any way in the title of the bill. There are other sections that are new law and are not "in lieu" of any sections listed.

Given all these reasons, the Court finds HB 2062 violates Article III, Section 23's mandate that legislation passed be clearly titled.

d. HB 2062 Must be Struck Down in its Entirety

"[I]n a case of an overinclusive title such as this, the entire bill will normally be found invalid because the title's lack of notice as to the subject matter included in the bill applies to the bill as a whole." *Home Builders Ass'n of Greater St. Louis*, 75 S.W.3d at 272. Because the Court here has found HB 2062 violates the clear title provision, it must strike down the whole of HB 2062. Even if the Court had not found a clear title violation, however, the Court would still invalidate all of HB 2062.

Where a court finds a bill contains multiple subjects or violates the original purpose mandate, the court must weigh whether it is possible to "sever that portion of the bill containing the additional subject(s) and permit the bill to stand with its primary, core subject intact." *Hammerschmidt*, 877 S.W.2d 98, 103. This Court is mindful of the directive that an "entire bill is unconstitutional unless the Court is convinced beyond reasonable doubt that one of the bill's multiple subjects is its original, controlling purpose and that the other subject is not." *Id.*

Further, "severance is only appropriate when [the] Court is convinced beyond a reasonable doubt that the legislature would have passed the bill without the additional provisions and that the provisions in question are not essential to the efficacy of the bill." *Mo. Roundtable for Life v. State*, 396 S.W.3d 348, 353 (Mo. banc 2013) (quotation marks omitted). "Both of these inquiries seek to assure the Court that, beyond a reasonable doubt, the bill would have become law—and would remain law—even absent the procedural violation." *City of De Soto v. Parson*, 625 S.W.3d 412, 418 (Mo. banc 2021).

This Court is not convinced beyond a reasonable doubt that any of the several unrelated provisions of HB 2062 would have passed unless the several unrelated provisions were bound together in one large omnibus bill. The Chicken Provision alone was in two other failed bills in the 2024 session before it passed. *See* House Bill 1514

(2024 Regular Session)[5]; *see also* Senate Bill 985 (2024 Regular Session).[6] The Court is again inclined to agree with Senator Moon that, "[a]s has become commonplace in the legislative process, especially during the last few weeks of the session, legislators have been convinced that in order for their bills to reach the Governor's desk, bills must joined together, often with unrelated topics, in order to get as many bills as possible passed."[7] Apparently, such was the case here. The various provisions of HB 2062 are not severable.

IV. HB 2062 Violates the Missouri and Federal Constitutions' Contracts Clause.

The Court additionally finds HB 2062 unconstitutionally impairs Four Seasons' restrictive covenants, in violation of federal and state constitutional law. Missouri courts interpret the state impairment of contract provision in the same manner as the federal constitutional provision. *See Educ. Emps. Credit Union v. Mut. Guar. Corp.*, 50 F.3d 1432, 1437 n.2 (8th Cir. 1995); *see also* U.S. Const. art. I, sec. 10, cl. 1 ("No state shall ... pass any ... law impairing the obligation of contracts."). Article I, section 13 of the Missouri Constitution guarantees "no ... law impairing the obligation of contracts ... can be enacted." To succeed on a claim alleging violation of article I, section 13, a plaintiff must show: (1) "a contractual relationship"; (2) "a change in law [that] impairs that

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[5] This bill can be located on the House's online archive at: https://house.mo.gov/Bill.aspx?bill=HB1514&year=2024&code=R .

[6] This bill can be located on the Senate's online archive at: https://www.senate.mo.gov/24info/BTS_Web/Bill.aspx?SessionType=R&BillID=109 .

[7] Sen. Moon, Mike, *Constitutional Objection to HB 2062* (filed 5/30/2024) https://www.senate.mo.gov/24info/Journals/RDay6805301307-1318.pdf .

contractual relationship"; and (3) that "the impairment is substantial." *Gen. Motors Corp. v. Romein*, 503 U.S. 181, 186, 112 S.Ct. 1105, 117 L.Ed.2d 328 (1992). The Court finds Four Seasons undoubtedly demonstrates all three requirements, and that HB 2062 impairs its restrictive covenant.

WHEREFORE, IT IS ORDERED, ADJUDGED AND DECREED:

1. HB 2062 violates the Missouri Constitution's Clear Title mandate in Article III, Section 23;
2. HB 2062 violates the Missouri Constitution's Single Subject prohibition in Article III, Section 23;
3. HB 2062 violates the Missouri Constitution's directive concerning a bill's original purpose in Article III, Section 21;
4. HB 2062 violates the Missouri and Federal Constitution's Contract Clause;
5. HB 2062 is invalidated in its entirety;
   and
6. Judgment is entered in favor of Plaintiffs and against Defendants on all counts.
7. All other pending motions or claims are denied as moot.

Date:______________________

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Brian K. Stumpe, Circuit Judge