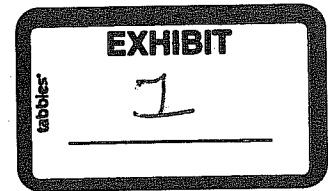


DISTRICT COURT, DENVER COUNTY  
STATE OF COLORADO

1437 Bannock Street  
Denver, Colorado 80202



FRIENDS OF DENVER PARKS, INC., a  
Colorado non-profit corporation;  
and STEVE WALDSTEIN, an  
individual; ZELDA HAWKINS, an  
individual; MEMBERS OF THE  
PETITIONERS COMMITTEE TO REPEAL  
DENVER ORDINANCE 170, consisting  
of JOHN CASE, JUDITH M. CASE,  
RENEE LEWIS, DAVID HILL and  
SHAWN SMITH,

Plaintiffs,

v.

CITY & COUNTY OF DENVER, a  
municipal corporation; and  
SCHOOL DISTRICT NO. 1 IN THE  
CITY AND COUNTY OF DENVER, a  
public entity; and DEBRA  
JOHNSON, in her capacity as  
clerk and recorder of the City  
and County of Denver.

Defendants.

COPY

On behalf of Plaintiffs:  
JOHN CASE, ESQ., Atty Reg # 2431  
BENSON & CASE, LLP  
1660 So. Albion Street, Suite 1100  
Denver, Colorado 80222  
Phone Number: 303-757-8300  
Facsimile: 303-753-0444  
E-mail: case@bensonscase.com

Case No.  
2013CV032444  
Courtroom: 376

VIDEOTAPED 30(b)(6) DEPOSITION OF  
CITY AND COUNTY OF DENVER  
through  
LAURA J. DANNEMILLER  
March 18, 2014



1 determine if Hampden Heights North Park was a 01:08PM  
 2 designated park? 01:08PM  
 3 **A. I recall looking at a map like this but it 01:08PM**  
 4 **wasn't used because this doesn't delineate between 01:09PM**  
 5 **designated or non-designated parks. 01:09PM**  
 6 **Q. So how does a member of the public determine 01:09PM**  
 7 whether or not a park on your list and your maps is 01:09PM  
 8 really a designated park that can't be sold? Is there 01:09PM  
 9 some way that Joe citizen can find that out? 01:09PM  
 10 **A. I think that the -- if you were looking for, 01:09PM**  
 11 **you know, a true legal determination, that you would 01:09PM**  
 12 **make a request to the legal department of the City to 01:09PM**  
 13 **provide documentation whether it was designated or not. 01:09PM**  
 14 Beyond that, I think there is not anything 01:09PM  
 15 that I think really indicates whether it's designated 01:09PM  
 16 or non-designated. 01:09PM  
 17 I think had we been providing maps that said 01:09PM  
 18 this is designated and it wasn't designated, that's one 01:10PM  
 19 thing but, in general, the maps are provided for the 01:10PM  
 20 purpose of knowing where the parcels are in terms of 01:10PM  
 21 locating accessible space, not to provide legal 01:10PM  
 22 documents to say whether this is a designated or 01:10PM  
 23 non-designated park. 01:10PM  
 24 **Q. Well, do you believe that the public has an 01:10PM**  
 interest in knowing whether or not a park is designated 01:10PM

1 and whether it can be sold without a vote of the 01:10PM  
 2 people? 01:10PM  
 3 **A. Do I believe the public has an interest in 01:10PM**  
 4 **that? 01:10PM**  
 5 **Q. Yes. 01:10PM**  
 6 **A. I would say now there's more of an interest 01:10PM**  
 7 **but there had never been an activity prior to that 01:10PM**  
 8 **had -- thank you so much -- that had been given so much 01:10PM**  
 9 **interest. 01:10PM**  
 10 **Q. Well, this was the first time in the history 01:10PM**  
 11 **of the Denver Parks Department that it had ever 01:10PM**  
 12 **de-designated a natural area. True? 01:10PM**  
 13 **A. That's not a legal status or whether it's a 01:10PM**  
 14 **designated park or a non-designated park. I think 01:10PM**  
 15 **we're kind of confusing topics. 01:11PM**  
 16 **Q. This was the first time that you know of that 01:11PM**  
 17 **the City has traded park land to Denver Public Schools. 01:11PM**  
 18 **True? 01:11PM**  
 19 **A. Yes. 01:11PM**  
 20 **Q. And that's why the public got so excited about 01:11PM**  
 21 **it. It never happened before. True? 01:11PM**  
 22 **A. There was, I think, a general, yes, concern 01:11PM**  
 23 **about the trading of the park. It's not the first time 01:11PM**  
 24 **that undesignated park land has ever been traded or 01:11PM**  
 25 **purchased. 01:11PM**

1 **Q. And what you're telling us is that citizens 01:11PM**  
 2 cannot believe the maps and the lists that your 01:11PM  
 3 department publishes to the public because these don't 01:11PM  
 4 tell us whether the parks are designated or not 01:11PM  
 5 designated. True? 01:11PM  
 6 **A. I didn't say that. 01:11PM**  
 7 **Q. Well, how could a citizen trust these lists if 01:11PM**  
 8 they don't show whether the park is really legally 01:12PM  
 9 protected? 01:12PM  
 10 **A. There's nothing on there that says this is a 01:12PM**  
 11 **legal document that shows whether the parks are 01:12PM**  
 12 **protected or not. They are serving different purposes 01:12PM**  
 13 **to provide -- I explained what the purpose of the map 01:12PM**  
 14 **was. It wasn't to convey legal status of a park. It 01:12PM**  
 15 **was to convey where the parks were located for 01:12PM**  
 16 **accessibility purposes. 01:12PM**  
 17 **Q. Now, did you consult Charter Section 2.4.5? 01:12PM**  
 18 **A. Yes. 01:12PM**  
 19 **Q. And did you do that before you wrote your 01:12PM**  
 20 **de-designation letter? 01:12PM**  
 21 **A. Yes. 01:12PM**  
 22 **Q. And what's your understanding of 2.4.5? 01:12PM**  
 23 **A. That land that was in ownership by the Parks 01:12PM**  
 24 **and Recreation Department, or some form of that prior 01:12PM**  
 25 **to 1955, or land that is designated subsequent by an 01:12PM**

1 **ordinance as a park, cannot be sold without a vote of 01:12PM**  
 2 **the people. 01:12PM**  
 3 **Q. Did you ever watch the City Council vote at 01:12PM**  
 4 **which 2.4.5 was adopted? 01:13PM**  
 5 **A. No. 01:13PM**  
 6 **Q. Let me show it to you. 01:13PM**  
 7 **MR. CASE: Play that. 01:13PM**  
 8 **MR. BROADWELL: Is this an exhibit? 01:13PM**  
 9 **MR. CASE: Yes, it's 23. 23-1. We got sound? 01:13PM**  
 10 **MR. FRANCESCHI: I need to turn up the sound 01:13PM**  
 11 **on my computer. Take just a moment. 01:13PM**  
 12 **(Video was played.) 01:15PM**  
 13 **Q. (By Mr. Case) Is today the first time that 01:15PM**  
 14 **you've seen that council proceeding? 01:15PM**  
 15 **A. Yes. 01:15PM**  
 16 **Q. Let me show you Exhibit Number 23. That video 01:15PM**  
 17 **was 23-1. This is 23 that I'm showing you. And just 01:15PM**  
 18 **replay the video and then I want to ask you if 01:16PM**  
 19 **Exhibit 23 is an accurate transcript of that meeting. 01:16PM**  
 20 **(Exhibit 23 was marked for identification.) 01:16PM**  
 21 **(Video was played.) 01:17PM**  
 22 **Q. So do you agree that Deposition Exhibit 23 is 01:17PM**  
 23 **an accurate transcript of the council vote that we just 01:17PM**  
 24 **observed on the video? 01:17PM**  
 25 **A. Yes. 01:17PM**

**CHARTER PROVISIONS REGARDING PARKS BEFORE 1996**

**1904 – Charter Section 101**

Section 101. No portion of Congress Park, or any other park now belonging to or hereafter acquired by the city and county, shall be sold or leased at any time.

**1955 - Charter section A4.5**

No Park to be Sold or Leased. No portion of any Park now belonging to or hereafter acquired by the City and County shall be sold or leased at any time; provided, however, that no land hereafter acquired by the City and County shall be deemed to be a park unless specifically designated a park by ordinance. (Charter amendment May 17, 1955)

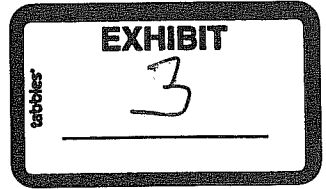
**1983 - Charter section A.4.5**

Sale and Lease of Parks. No portion of any designated park belonging to the City shall be sold. No portion of any designated park or recreational facility may be leased, except for concession leases and leases to charitable or not-for-profit organizations or other governmental jurisdictions. All such leases and any sub-leases shall require the approval of Council as provided for in Chapter B of this Charter. All designated parks existing at the time this provision is enacted shall continue to be designated as parks. No land now owned or hereafter acquired by the City and County shall be deemed a park unless specifically designated a park by ordinance. (Charter amendment may 17, 1983)

### **Charter section 2.4.5**

Sale and leasing of parks. Without the approval of a majority of those registered electors voting in an election held by the City and County of Denver, no park or portion of any park belonging to the City as of December 31, 1955, shall be sold or leased at any time, and no land acquired by the City after December 31, 1955, that is designated a park by ordinance shall be sold or leased at any time, provided, however, that property in parks may be leased for park purposes to concessionaires, to charitable or nonprofit organizations, or to governmental jurisdictions. All such leases shall require the approval of Council as provided for in Article III of this Charter. No land acquired by the City after December 31, 1955, shall be deemed a park unless specifically designated a park by ordinance.

*(Charter amended August 19, 1996)*



BY AUTHORITY

ORDINANCE NO. 296  
SERIES OF 1955

COUNCILMAN'S BILL NO. 219  
INTRODUCED BY COUNCILMEN  
Dalland  
Harrington  
Blum

A B I L E

FOR AN ORDINANCE AUTHORIZING THE MANAGER OF IMPROVEMENTS AND PARKS, WITH THE APPROVAL OF THE MAYOR, TO GRANT AND CONVEY TO THE DEPARTMENT OF HIGHWAYS OF THE STATE OF COLORADO CERTAIN RIGHTS OF WAY AND EASEMENTS OVER TRACTS OR PARCELS OF LAND IN ARAPAHOE COUNTY, COLORADO, IN CONNECTION WITH DEPARTMENT OF HIGHWAYS PROJECT NO. S 0055(2).

BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF DENVER:

Section 1. That to improve, and aid in the construction and maintenance of, public roads outside the limits of the City and County of Denver, for the purpose of establishing and improving the system of roads connecting the City and County of Denver and its parks and parkways outside such limits, the Manager of Improvements and Parks, with the approval of the Mayor, shall have power and he is hereby authorized to grant and convey to the Department of Highways of the State of Colorado, for the location, relocation, construction, reconstruction, improvement and maintenance of a portion of State Highway No. 70 rights of way over, along, upon, and across the following described portions, tracts, or parcels of real property:

A. A tract or parcel of land No. 2 Rev. 2 of Department of Highways' Project No. S 0055(2) containing 3.829 acres, more or less, in the SE $\frac{1}{4}$  of the SE $\frac{1}{4}$  of Section 27, Township 4 S., Range 67 W., of the 6th Principal Meridian, in Arapahoe County, Colorado said tract or parcel being more particularly described as follows:

Beginning at the SE corner of Section 27, T. 4S., R. 67W.;

1. Thence N.  $0^{\circ} 16' 30''$  W., along the east line of Sec. 27, a distance of 1196.5 feet to the centerline of Parker Road, State Highway #83;
2. Thence N.  $43^{\circ} 41'$  W., along the center line of Parker Road State Highway #83, a distance of 172.1 feet, to the north line of the SE $\frac{1}{4}$  of the SE $\frac{1}{4}$  of Sec. 27;
3. Thence west along the north line of the SE $\frac{1}{4}$  of the SE $\frac{1}{4}$  of Sec. 27 a distance of 37.5 feet;
4. Thence S.  $41^{\circ} 35'$  W., along the northwest property line, a distance of 104.1 feet;
5. Thence S.  $23^{\circ} 38' 30''$  E., a distance of 287.7 feet;
6. Thence S.  $01^{\circ} 12'$  W., a distance of 700.0 feet;
7. Thence S.  $10^{\circ} 06' 30''$  E., a distance of 102.0 feet;
8. Thence S.  $01^{\circ} 12'$  W. a distance of 176.1 feet to the south line of Sec. 27;
9. Thence S.  $88^{\circ} 25'$  E., along the south line of Sec. 27, a distance of 116.2 feet more or less, to the point of beginning.

The above described tract contains 3.859 acres, more or less, of which 0.239 acres are in the right of way of the present road;

B. A tract or parcel of land No. 5 of Department of Highways' Project No. S 0055(2) containing 10.718 acres, more or less, in the E $\frac{1}{2}$  of NE $\frac{1}{4}$  and E $\frac{1}{2}$  of SE $\frac{1}{4}$  of Section 34, Township 4 South, Range 67 West of the Sixth Principal Meridian, in Arapahoe County, Colorado, said tract or parcel being more particularly described as follows:

Beginning at a point on the east line of Section 34, T. 4S., R. 67W., from which point the SE corner of said Section 34 bears S.  $00^{\circ} 25' 30''$  W, a distance of 1358.9 feet;

1. Thence N.  $00^{\circ} 25' 30''$  E. along the east line of Section 34 a distance of 2602.9 feet to the north property line;
2. Thence N.  $88^{\circ} 46' 30''$  W. along the north property line a distance of 149.0 feet;
3. Thence S.  $01^{\circ} 12'$  W. a distance of 2602.7 feet;
4. Thence S.  $7^{\circ} 20'$  E. a distance of 101.1 feet;
5. Thence S.  $01^{\circ} 12'$  W. a distance of 46.1 feet to the south property line;

6. Thence S.  $28^{\circ} 07' 30''$  E. along the south property line a distance of 234.0 feet;

7. Thence along the arc of a curve to the left with a radius of 1206.0 feet a distance of 114.4 feet (the chord of which arc bears N.  $03^{\circ} 55'$  E a distance of 114.3 feet);

8. Thence N.  $01^{\circ} 12'$  E. a distance of 135.9 feet;

9. Thence N.  $27^{\circ} 22'$  E. a distance of 111.4 feet, more or less, to the point of beginning.

The above described tract contains 10.718 acres, more or less;

C. A tract or parcel of land No. 7 of Department of Highways' Project No. S 0055(2) containing 3.056 acres, more or less, in the E $\frac{1}{2}$  and NW $\frac{1}{4}$  of Section 3, Township 5 South, Range 67 West, of the Sixth Principal Meridian, in Arapahoe County, Colorado, said tract or parcel being more particularly described as follows:

Beginning at a point on the north line of Section 3. T. 5S., R. 67W., from which point the NE corner of said Section 3 bears S.  $89^{\circ} 51'$  E. a distance of 877.0 feet;

1. Thence N.  $89^{\circ} 51'$  W. along the north line of Section 3 a distance of 2365.1 feet to the west property line;

2. Thence S.  $36^{\circ} 57'$  E. along the west property line a distance of 75.2 feet;

3. Thence S.  $89^{\circ} 51'$  E. a distance of 1944.1 feet;

4. Thence along the arc of a curve to the left with a radius of 1206.0 feet a distance of 382.0 feet (the chord of which arc bears N.  $81^{\circ} 04' 30''$  E. a distance of 380.4 feet), more or less, to the point of beginning.

The above described tract contains 3.056 acres, more or less, of which 0.115 acres are in the right of way of the present road;

and

D. A tract or parcel of land No. 6-A of Department of Highways' Project No. S 0055(2), containing 6.907 acres, more or less, in the SE corner of the SE $\frac{1}{4}$  of Sec. 34, T. 4S., R. 67W., of the 6th P.M., in Arapahoe County, Colorado, said tract or parcel being more particularly described as follows:

Beginning at the SE corner of Sec. 34, T. 4S., R. 67W.;

1. Thence N.  $0^{\circ} 25' 30''$  E., along the east line of Sec. 34, a distance of 900.6 feet, to the NE property line;



2. Thence N. 28° 07' 30" W., along the NE property line, a distance of 124.0 feet;

3. Thence along the arc of a curve to the right with a radius of 1206.0 feet a distance of 1375.9 feet (the chord of which arc bears S. 39° 19' W., a distance of 1302.5 feet) to the south line of Sec. 34;

4. Thence S. 89° 51' E., along the south line of Sec. 34, a distance of 877.0 feet, more or less, to the point of beginning.

The above described tract contains 6.907 acres, more or less;

Section 2. The Council finds this Ordinance is necessary for the immediate preservation of the public health and public safety, and determines that it shall take effect immediately upon its final passage and publication.

PASSED by the Council September 6 1955

E. J. Reid - President  
APPROVED: Will Fluhorn - Mayor 7/Sept 1955

ATTEST: PAUL V. HODGES, JR. - Clerk and Recorder,  
Ex-Officio Clerk of the  
City and County of Denver

By: George M. ... - Deputy City Clerk

PUBLISHED IN The Daily Journal Sept 3 1955 and Sept 10 1955

APPROVED: John C. Banks - City Attorney

APPROVED: [Signature] - Manager of Improvements  
and Parks



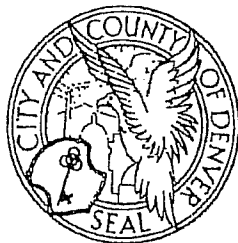
CITY AND COUNTY OF DENVER  
STATE OF COLORADO

# Certification

I, **Debra Johnson**, Clerk and Recorder,  
Ex-Officio Clerk of the City and County of Denver,  
do hereby certify that the attached is a true and correct copy of

Ordinance No. 296, Series of 1955

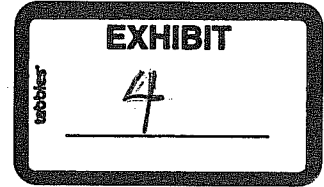
I hereunto have set my hand  
and affixed the Seal of the  
City and County of Denver,  
State of Colorado.  
This 10th day of June,  
A.D. 2013



Clerk and Recorder, Ex-Officio  
Clerk of the City and County of Denver

  
Deputy  
**CATHERINE J. DESMET**


Friends of Denver Parks et al. vs. City and County of Denver et al.  
Denver District Court Case No.: 2013CV032444



State of Colorado                    )  
  ) ss  
County of Denver                    )

1. My name is John Bennett. I am over the age of 18 years and competent to testify in all respects. This affidavit is based on my personal knowledge.
2. I was employed by the City and County of Denver from August 17, 1970 until I retired in 2005. For 22 years of my 35 year career in city government, I worked for City Council. I served as Executive Director of City Council for 17 years, from January 16, 1988 until January 31, 2005. My duties as Executive Director included supervising the staff that administered the Council (they did payroll, prepared agendas, processed bills), and supervising the staff that assisted Council committees. My duties as Executive Director also included analyzing budgets, and I drafted and researched legislation.
3. At the Denver City Council meeting August 19, 1996 I read the introduction to Council Bill 677. This was an ordinance that referred to Denver voters a proposed amendment to section A4.5 of the Denver City Charter. My job was to explain to council members what the intent of the Charter amendment was. I knew what the intent of the Charter amendment was from attending city council committee meetings and speaking with assistant city attorney Don Wilson, who drafted the Charter amendment.
4. The intent of the Charter Amendment was exactly what I told city council in the transcript attached as Appendix 1. First, the amendment confirmed that parks used as parks prior to 1955 are designated parks. The amendment was necessary to clear up confusion that resulted from a decision of the District Court of Grand County, which is attached as Appendix 2. The amendment also provided for designation of parks after 1955 by ordinance. Finally, the amendment provided that once a park is designated, it cannot be sold without a vote of the electors.

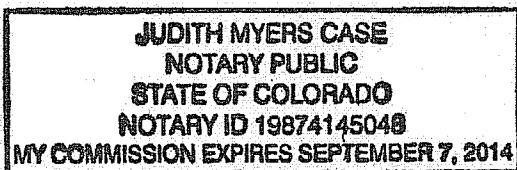
Further, Affiant sayeth not.

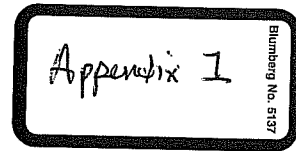
  
John Bennett

The foregoing Affidavit was acknowledged before me March 30, 2014  
2014 by John Bennett, known personally to me.

  
Notary Public

My commission expires:





Denver City Council Meeting: 8/19/1996

(Discussion regarding C.B. 677 Series of 1996 Amending Section A 4.5)

**John Bennett, Staff Director City Council:** Madam President, Council Bill 677 refers a charter amendment to the voters at the November 5<sup>th</sup> election. The amendment confirms that parks used as parks prior to 1955 are designated parks.

The amendment clears up confusion those results from a Grand County Court interpretation of current charter language on parks.

It confirms that parks designated as parks after 199... (Correction) 1955 are still designated as parks. It provides further that designation of pa... (Correction) it provides for further designation of parks in the future. If this amendment is passed, then, once a park is designated it cannot be sold without a vote of the electors.

**President:** Thank you, John. The public hearing is open. We have no one signed up for the public hearing. At this point in time, are there questions of staff about this amendment? Seeing none, the public hearing is closed. Are there comments from members of Council? Seeing none, a roll call on Council Bill 677:

**Clerk:**

Barnes-Gelt: Aye  
Casey: Aye  
Davis: Aye  
Flobeck: Aye  
Foster: Aye  
Gallagher: Aye  
Haynes: Aye  
Kimmelman: Aye  
Martinez: Aye  
Ortega: Aye  
Thomas: Aye  
Madam President: Aye

Twelve Aye's.

**President:** Twelve Aye's. Council Bill 677 is adopted

DENVER CITY  
ATTORNEY'S OFFICE

19577  
O-35  
P. 290

DISTRICT COURT, GRAND COUNTY, COLORADO

Dec 6 9 58 AM '95

Case No. 94CV156

SUMMARY JUDGMENT

Appendix 2  
Exhibit No. 5137

WINTER PARK RECREATIONAL ASSOCIATION,

Plaintiff,

v.

CITY AND COUNTY OF DENVER,

Defendant.

THIS MATTER is before the Court to rule on cross motions for summary judgment. Having reviewed the parties' motions and Joint Stipulation of Facts, and being advised of the record in this case, the Court grants Plaintiff's Motion for Summary Judgment for the reasons stated below.

Plaintiff commenced this action under C.R.C.P. 57 to obtain a declaration that real property belonging to Defendant described in the Complaint as the City Land, and which is the subject of a sale agreement between the parties, is not a park that Defendant is prohibited from selling under Section A4.5 of the City Charter of the City and County of Denver, which states: "[n]o portion of any designated park belonging to the city shall be sold." Section A4.5 also states: "All designated parks existing at the time this provision is enacted shall continue to be designated as parks. No land now owned or hereafter acquired by the city and county shall be deemed a park unless specifically designated a park by ordinance."

Under the plain language of the City Charter, land owned by Defendant is a park only if so designated by ordinance either before or after the effective date of Section A4.5, and only the sale of land so designated is prohibited. There is no dispute that the City Land has never been designated a park by ordinance. Therefore, the City Land is not a designated park that Defendant is barred from selling under Section A4.5. Because there are no genuine issues of material fact, the entry of summary judgment declaring that the City Land is not a designated park under A4.5 is proper. Ginter v. Palmer & Co., 585 P.2d 583 (Colo. 1978).


Post-it Fax Note	7671	Date	12/12/95	# of Pages	2
To	Don Wilson	From	Maria Kayser		
City	PLEASE	Co.			
Phone #	CALL ME	Phone #			
Fax #		Fax #			

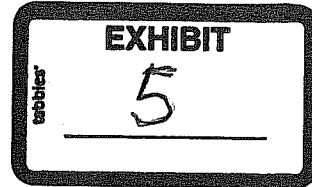
NOW, THEREFORE, it is

ORDERED that Plaintiff's Motion for Summary Judgment is granted, and summary judgment shall enter declaring the City Land is not a designated park that Defendant is prohibited from selling under Section A4.5 of the City Charter of the City and County of Denver.

DATED this 6th day of December, 1995.

BY THE COURT:

  
Joel S. Thompson  
District Court Judge



1 BY AUTHORITY

2 ORDINANCE NO. 704

COUNCIL BILL NO. 677

3 SERIES OF 1996

COMMITTEE OF REFERENCE:

4 INTERGOVERNMENTAL RELATIONS  
5 AND ELECTIONS ISSUES

6 A B I L L

7 FOR AN ORDINANCE SUBMITTING TO A VOTE OF THE QUALIFIED AND  
8 REGISTERED ELECTORS OF THE CITY AND COUNTY OF DENVER AT THE SAME  
9 TIME AS AND IN CONJUNCTION WITH THE ELECTION TO BE HELD ON NOVEMBER  
10 5, 1996, A PROPOSED AMENDMENT TO THE CHARTER OF THE CITY AND COUNTY  
11 OF DENVER AMENDING SECTION A4.5 THEREOF REGARDING THE SALE AND  
12 LEASING OF PARKS.  
13

14 BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF DENVER:

15 **Section 1.** There is submitted to the properly registered electors of the City and  
16 County of Denver, at the same time as and in conjunction with the election to be held in  
17 the City and County of Denver on November 5, 1996, for their approval or rejection, a  
18 proposed amendment to the Charter of the City and County of Denver, as follows:

19 Effective upon adoption and publication of this amendment and its filing with the  
20 Secretary of State pursuant to the Constitution and laws of the State of Colorado, Section  
21 A4.5, Article IV, Chapter A, of the Charter of the City and County of Denver be and the  
22 same is hereby amended to read as follows:

23 **A4.5. Sale and leasing of parks.** Without the approval of a majority of those  
24 registered electors voting in an election held by the City and County of Denver, no  
25 park or portion of any park belonging to the city as of December 31, 1955, shall be  
26 sold or leased at any time, and no land acquired by the city after December 31;

1 1955, that is designated a park by ordinance shall be sold or leased at any time,  
2 provided, however, that property in parks may be leased for park purposes to  
3 concessionaires, to charitable or nonprofit organizations, or to governmental  
4 jurisdictions. All such leases shall require the approval of council as provided for  
5 in Chapter B of this charter. No land acquired by the city after December 31, 1955,  
6 shall be deemed a park unless specifically designated a park by ordinance.

7 **Section 2.** The voting machines and paper ballot for said election shall carry the  
8 following designation, which shall be the submission clause:

9 \_\_\_\_\_

10 **AMENDMENT NO. \_\_\_\_\_**

11 to the Charter of the City and County of Denver to require the approval of a majority of the  
12 registered electors voting in an election conducted by the City to authorize the sale or  
13 leasing of parks, with the exception of leases for park purposes approved by City Council  
14 to concessionaires, to charitable or nonprofit corporations or to governmental entities.

15 YES \_\_\_\_\_ NO \_\_\_\_\_

16 \_\_\_\_\_

17 **Section 3.** Each elector voting at the election and desirous of voting for or against  
18 the amendment shall indicate the elector's choice by depressing the appropriate counter  
19 of the voting machine which indicates the word "YES" or the word "NO", or by appropriate  
20 marking upon paper ballots when used.

21 **Section 4.** The proper officials of the City and County of Denver as are charged  
22 with duties relating to the election shall, before the election, issue such calls, make such



1 certifications, and publications, give such notices, make such appointments, and do all  
2 such other acts and things in connection with the submission of this Charter amendment  
3 to the registered electors of the City and County of Denver at the election as are required  
4 by the Constitution and laws of the State of Colorado and the Charter and ordinances of  
5 the City and County of Denver.

6 **Section 5.** The ballots cast at such election shall be canvassed and the results  
7 ascertained, determined, and certified in accordance with the requirements of the  
8 Constitution and laws of the State of Colorado and the Charter and ordinances of the City  
9 and County of Denver.

10 **Section 6.** If any section, paragraph, clause, or other portion of this ordinance is  
11 for any reason held to be invalid or unenforceable, the invalidity or unenforceability shall  
12 not affect any of the remaining portions of this ordinance.

13 PASSED BY THE COUNCIL August 19 1996

14 Orlby Reynolds - PRESIDENT

15  
16  
17 APPROVED: Walter S. White - MAYOR AUGUST 21 1996

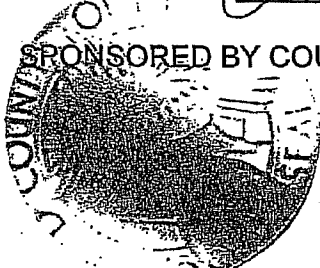
18  
19 ATTEST: Eric Reedquist - CLERK AND RECORDER,  
20 EX-OFFICIO CLERK OF THE  
21 CITY AND COUNTY OF DENVER

22  
23 PUBLISHED IN THE DENVER POST August 16 1996 August 23 1996

24  
25  
26  
27 PREPARED BY: DONALD E. WILSON, ASSISTANT CITY ATTORNEY 8/7/96

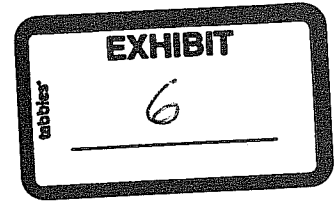
28  
29 REVIEWED BY: Donald E. Wilson - CITY ATTORNEY 8/8 1996

30  
31 SPONSORED BY COUNCIL MEMBER(S) \_\_\_\_\_



DISTRICT COURT, COUNTY OF GRAND, COLORADO

Case No. 94CV156



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AFFIDAVIT OF NEIL SPERANDEO

---

WINTER PARK RECREATIONAL ASSOCIATION,

Plaintiff,

v.

CITY AND COUNTY OF DENVER,

Defendant.

---

I, Neil Sperandeo, being of lawful age and duly sworn, hereby state as follows:

1. My name is Neil Sperandeo and I am employed by the City and County of Denver as the Director of Long Range Planning for the Department of Parks and Recreation.

2. I oversee all regulatory and planning functions for the Department which are not funded on a project-specific basis.

3. I have extensive knowledge of the City's park system.

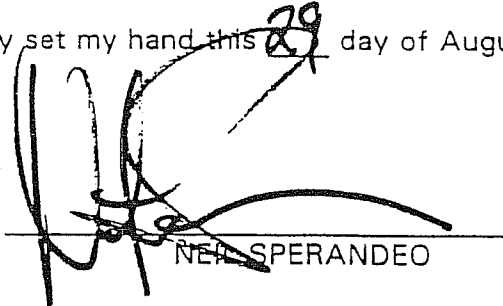
4. A majority of the City's parks were acquired prior to 1955, including Washington Park, City Park, Cheeseman Park, and the Mountain Parks.

5. It is my interpretation and understanding of the Denver Charter that parks existing prior to 1955 are designated parks, and that there was no requirement that they be designated by ordinance. The Department has consistently enforced this interpretation, which is in accord with the 1955 and 1983 Charter amendments to §A4.5.

6. The City Land has always been considered by the Department to be a park within the Mountain Parks system. It is presently included in the inventory of the Mountain Parks, and appears as such on Mountain Parks maps.

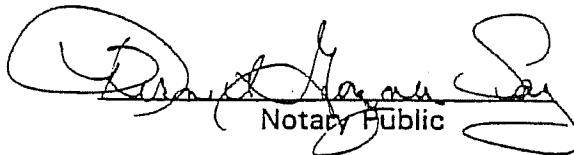
7. The Denver parks system consists of 206 parks encompassing 4,000 acres. There are an additional 14,000 acres in the Denver Mountain Parks system. To execute ordinances for all parks existing before 1955 would require an inordinate expenditure of money, time and effort on behalf of the Department. In addition, a reading of the Charter requiring such ordinances would significantly impair the status of these parks prior to the time ordinances could be executed.

IN WITNESS WHEREOF, I hereby set my hand this 29 day of August, 1995.

  
\_\_\_\_\_  
NEIL SPERANDEO

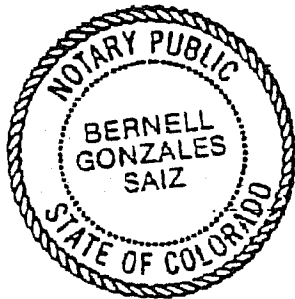
STATE OF COLORADO                    )  
  ) ss  
CITY AND COUNTY OF DENVER    )

Subscribed and sworn to before me by Neil Sperandeo this 29<sup>th</sup> day of August, 1995.

  
\_\_\_\_\_  
Notary Public

My Commission Expires Oct. 28, 1996

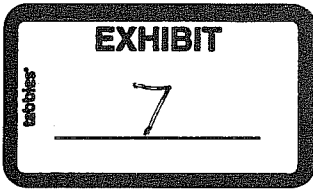
My commission expires: \_\_\_\_\_



## John Case

---

**From:** Wheeler, Patrick A. - Department of Law <Patrick.Wheeler@denvergov.org>  
**Sent:** Wednesday, March 19, 2014 3:17 PM  
**To:** John Case; Broadwell, David W. - Department of Law; Behr, Mitch T. - City Attorney Office; jerome\_deherrera@dpsk12.org; 'Ferrer, Molly' (MOLLY\_FERRER@dpsk12.org); 'Hickman, Michael' (MICHAEL\_HICKMAN@dpsk12.org)  
**Cc:** Karen E. Corner; Russ Jones  
**Subject:** RE: Friends of Denver Parks v. City and DPS - Letters from John Case to David Broadwell



John:

David Broadwell is currently away from the office. In the interest of time, I will respond to your two letters you sent him by email today. Since your first email is directed towards my involvement in the Grand County litigation and the 1996 Charter Amendment, I can best speak to this.

I was not the attorney who handled the Grand County litigation although I undoubtedly reviewed and commented on the briefing in that action. With respect to your item (1), I don't believe that I prepared the affidavit although I may have talked with Neil Sperandeo about its content. I don't have any specific memory in this regard. With respect to your item (2), I am certain that I did not advise John Bennett nor prepared any text for John Bennett to read at City Council on 8-19-1996. With respect to your item (3), I did assist my supervisors with researching and drafting the content of Council Bill 667, Ordinance No. 704, Series of 1996, but as noted on the bill for ordinance, I did not prepare the ordinance. As for your item (4), I probably was present at the City Council meeting on August 19, 1996, although I don't have any specific memory of that meeting.

With respect to your problem opening maps on the Game Plan as it appears on the denvergov.org website, I suggest you try right clicking any map contained in the Game Plan and then clicking "marquee zoom". Adobe Reader will zoom in on the map showing the detail of the map. I will check with Parks and Recreation to see if it has an electronic copy that can be copied in pdf format on a disc. I don't believe it has been revised since it was adopted in 2003; however, I will check on that.



Patrick A. Wheeler | Assistant City Attorney  
City Attorney's Office | City and County of Denver  
720-865-8753 Direct | 720-913-3275 Office  
patrick.wheeler@denvergov.org

---

**From:** John Case [mailto:case@bensonscase.com]  
**Sent:** Wednesday, March 19, 2014 2:28 PM  
**To:** Broadwell, David W. - Department of Law; Wheeler, Patrick A. - Department of Law; Behr, Mitch T. - City Attorney Office; jerome\_deherrera@dpsk12.org; 'Ferrer, Molly' (MOLLY\_FERRER@dpsk12.org); 'Hickman, Michael' (MICHAEL\_HICKMAN@dpsk12.org)  
**Cc:** Karen E. Corner; Russ Jones; John Case  
**Subject:** Friends of Denver Parks v. City and DPS - Letters from John Case to David Broadwell

Dear colleagues,

Attached please find copies of letter requests David Broadwell.

1 DISTRICT COURT, DENVER COUNTY  
STATE OF COLORADO

2 1437 Bannock Street  
3 Denver, Colorado 80202

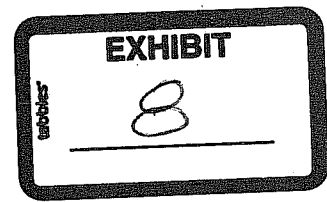
4 FRIENDS OF DENVER PARKS, INC., a  
5 Colorado non-profit corporation;  
6 and STEVE WALDSTEIN, an  
7 individual; ZELDA HAWKINS, an  
8 individual; MEMBERS OF THE  
9 PETITIONERS COMMITTEE TO REPEAL  
DENVER ORDINANCE 170, consisting  
of JOHN CASE, JUDITH M. CASE,  
RENEE LEWIS, DAVID HILL and  
SHAWN SMITH,

10 Plaintiffs,

11 v.

12 CITY & COUNTY OF DENVER, a  
13 municipal corporation; and  
14 SCHOOL DISTRICT NO. 1 IN THE  
15 CITY AND COUNTY OF DENVER, a  
16 public entity; and DEBRA  
JOHNSON, in her capacity as  
clerk and recorder of the City  
and County of Denver.

17 Defendants.



COPY

18 On behalf of Plaintiffs:  
19 JOHN CASE, ESQ., Atty Reg # 2431  
20 BENSON & CASE, LLP  
21 1660 So. Albion Street, Suite 1100  
Denver, Colorado 80222  
Phone Number: 303-757-8300  
Facsimile: 303-753-0444  
E-mail: case@bensoncase.com

Case No.  
2013CV032444  
Courtroom: 376

22 VIDEOTAPED 30(b)(6) DEPOSITION OF  
23 CITY AND COUNTY OF DENVER  
24 through  
GREGORY SCOTT NEITZKE  
25 March 18, 2014

29

1 follow-ups. 11:03AM  
 2 EXAMINATION 11:03AM  
 3 BY MR. BROADWELL: 11:03AM  
 4 Q. One, Mr. Neitzke, early in your testimony just 11:03AM  
 5 now when Mr. Case was asking you about -- I don't 11:03AM  
 6 remember which one it was, but a post '55 parks list 11:03AM  
 7 maintained by the Department, and my question is going 11:03AM  
 8 to go to either list or maps that you have in your 11:03AM  
 9 archives after 1955. 11:03AM  
 10 You indicated that those lists would have 11:03AM  
 11 included designated parks but might have included other 11:03AM  
 12 facilities as well. But would you explain that a 11:03AM  
 13 little bit more about any post 1955 list or map that 11:03AM  
 14 would show the parks system of the City and County of 11:04AM  
 15 Denver, how the properties depicted and the properties 11:04AM  
 16 listed would have been a combination of both designated 11:04AM  
 17 and other properties managed by the Department? What 11:04AM  
 18 does that mean? 11:04AM  
 19 A. Those lists would have composed those 11:04AM  
 20 properties that fell under the maintenance purview of 11:04AM  
 21 the Parks Department. So it could have included 11:04AM  
 22 designated parks, parks that are not designated and 11:04AM  
 23 other properties that we lease from other entities. 11:04AM  
 24 Q. And, in fact, recently -- are you involved at 11:04AM  
 25 all in the current effort to take a bunch of old 11:04AM

30

1 properties that have been managed by Parks and formally 11:04AM  
 2 now designate them as parks? 11:04AM  
 3 A. Yes, I am. 11:04AM  
 4 Q. What is your involvement in that current 11:04AM  
 5 ongoing process? 11:04AM  
 6 A. I do the property research, evaluate the 11:04AM  
 7 deeds, compile the legal descriptions for them, review 11:04AM  
 8 title commitments, any documentation related to those 11:05AM  
 9 properties, and then consult the City attorney 11:05AM  
 10 regarding the appropriate designation or inability to 11:05AM  
 11 designate. 11:05AM  
 12 Q. And did you perform those tasks in association 11:05AM  
 13 with the action that occurred the same night the City 11:05AM  
 14 Council approved the conveyance of this property to 11:05AM  
 15 DPS, they also dedicated a -- formally designated the 11:05AM  
 16 remainder of parcel 31 in addition to Hentzell Park? 11:05AM  
 17 Were you involved in that? 11:05AM  
 18 A. Yes. 11:05AM  
 19 Q. And you performed the chores you just talked 11:05AM  
 20 about right there -- 11:05AM  
 21 A. Correct. 11:05AM  
 22 Q. -- in relation to that particular designation? 11:05AM  
 23 A. Correct. 11:05AM  
 24 Q. And then a final detail question. 11:05AM  
 25 You were also asked about bridle paths, bike

31

1 trails and so forth. As long as you worked with the 11:05AM  
 2 Parks Department, you know that Cherry Creek Corridor 11:05AM  
 3 has been used for recreation trails; is that right. 11:05AM  
 4 A. Yes. 11:05AM  
 5 Q. Do those recreation trails go through the 11:05AM  
 6 school site, the 10.7 acres -- 11:05AM  
 7 A. No. 11:05AM  
 8 Q. -- that are being conveyed to DPS? 11:05AM  
 9 A. No. 11:05AM  
 10 MR. BROADWELL: Thank you. Okay. That's all. 11:06AM  
 11 MR. CASE: I have a few more follow-up 11:06AM  
 12 questions. 11:06AM  
 13 EXAMINATION 11:06AM  
 14 BY MR. CASE: 11:06AM  
 15 Q. Let me show you Exhibit 32. Have you ever 11:06AM  
 16 seen that document before today? 11:06AM  
 17 (Exhibit 32 was marked for identification.) 11:06AM  
 18 A. I saw this one yesterday. 11:06AM  
 19 Q. So did you look at the lists of parks that are 11:06AM  
 20 attached to it? 11:06AM  
 21 A. Yes. 11:06AM  
 22 Q. All right. So let's just start with 11:06AM  
 23 appendix 1. This is a page from the parks list for 11:06AM  
 24 June of 1978. Do you recognize this as part of that 11:07AM  
 25 parks list? 11:07AM

32

1 A. Yes, sir. 11:07AM  
 2 Q. And does it show an unnamed park at Havana and 11:07AM  
 3 Cornell? See the highlighted circle? 11:07AM  
 4 A. Yes, it does. Yep. 11:07AM  
 5 Q. And 27.6 acres? 11:07AM  
 6 A. Yes. 11:07AM  
 7 Q. And that's parcel 31, isn't it, after you 11:07AM  
 8 subtract out the 10 acres for the CDOT easement? 11:07AM  
 9 A. It would seem so, yes. 11:07AM  
 10 Q. So here parcel 31 in 1978 is listed on the 11:07AM  
 11 City's list of parks. True? 11:07AM  
 12 A. On this list, yes. 11:07AM  
 13 Q. Could you look at appendix 2, please. This is 11:07AM  
 14 a parks list published by the Parks Department when 11:07AM  
 15 Mr. Ciancio was the Manager of Parks and Recreation. 11:08AM  
 16 True? 11:08AM  
 17 A. True. 11:08AM  
 18 Q. So this would have been published in 1978 or 11:08AM  
 19 1979 during the McNichols -- when Mr. McNichols was 11:08AM  
 20 mayor of Denver? 11:08AM  
 21 A. I'm not sure when he was manager (sic) but 11:08AM  
 22 that seems about right. 11:08AM  
 23 Q. Right. And is the unnamed park at Havana and 11:08AM  
 24 Cherry Creek, is that on this list also? 11:08AM  
 25 A. Yes, it is. 11:08AM

1 Q. And that would be parcel 31, wouldn't it? 11:08AM  
 2 A. **It would seem so, yes.** 11:08AM  
 3 Q. And this -- on page 2 of the appendix 2 it 11:08AM  
 4 says there are 202 parks in the Denver Parks system. 11:08AM  
 5 Do you see that? 11:09AM  
 6 A. **Yes, I do.** 11:09AM  
 7 Q. And parcel 31 would be one of those 202 parks, 11:09AM  
 8 wouldn't it? 11:09AM  
 9 A. **It appears so, yes.** 11:09AM  
 10 Q. And then when we look at the map on page 2, it 11:09AM  
 11 includes parcel 31. True? 11:09AM  
 12 A. **True.** 11:09AM  
 13 Q. When you look at appendix number 3, this is a 11:09AM  
 14 parks list from 1991. True? 11:09AM  
 15 A. **True.** 11:09AM  
 16 Q. And they're showing parcel 31 as an unnamed 11:09AM  
 17 park at Cornell and Havana. True? 11:09AM  
 18 A. **True.** 11:09AM  
 19 Q. So parcel 31 is on this list in 1991 of Denver 11:09AM  
 20 parks. True? 11:09AM  
 21 A. **True.** 11:09AM  
 22 Q. And this is part of the official records of 11:09AM  
 23 the Department of Parks and Recreation; isn't it? 11:09AM  
 24 A. **True.** 11:09AM  
 25 Q. Could you look at appendix 4, please. 11:09AM

1 Appendix 4 is a page from the parks list that was 11:10AM  
 2 published April 17, 1998. Do you see that? 11:10AM  
 3 A. **Yep.** 11:10AM  
 4 Q. This is part of an official list of Denver 11:10AM  
 5 parks. True? 11:10AM  
 6 A. **True.** 11:10AM  
 7 Q. And this shows that Hampden Heights North open 11:10AM  
 8 space located at Dartmouth and Havana is on the list of 11:10AM  
 9 city parks. True? 11:10AM  
 10 A. **It's on this list, yes.** 11:10AM  
 11 Q. Now, there's a mistake on this list; isn't 11:10AM  
 12 there? 11:10AM  
 13 A. **From -- what do you mean?** 11:10AM  
 14 Q. It shows that parcel 31 was acquired in 1981. 11:10AM  
 15 A. **True.** 11:10AM  
 16 Q. That's a mistake, isn't it? 11:10AM  
 17 A. **I would say so, yes.** 11:10AM  
 18 Q. It should say 1936. True? 11:10AM  
 19 A. **When the City first acquired it, it would be** 11:10AM  
 20 **1936.** 11:11AM  
 21 Q. Could you look at appendix 5, please. Let me 11:11AM  
 22 go back to appendix 4. I'm sorry. Do you know who 11:11AM  
 23 actually physically prepared appendix number 4? 11:11AM  
 24 A. **No, I don't.** 11:11AM  
 25 Q. Who would have been responsible for seeing 11:11AM

1 that it was done correctly? 11:11AM  
 2 A. **I believe it would have been the deputy** 11:11AM  
 3 **manager.** 11:11AM  
 4 Q. Who was it in 1998? 11:11AM  
 5 A. **I think it was Charles Robertson.** 11:11AM  
 6 Q. And he still works for the Parks Department? 11:11AM  
 7 A. **No.** 11:11AM  
 8 Q. I'm sorry. All right. Now, can we turn to 11:11AM  
 9 appendix 5. Appendix 5 is a page from the Parks 11:11AM  
 10 Department list published October 8, 1998. True? 11:11AM  
 11 A. **True.** 11:12AM  
 12 Q. And it includes Hampden Heights Open Space 11:12AM  
 13 North. True? 11:12AM  
 14 A. **True.** 11:12AM  
 15 Q. Lists the location at Dartmouth and Havana. 11:12AM  
 16 True? 11:12AM  
 17 A. **True.** 11:12AM  
 18 Q. So it's referring to parcel 31 again. True? 11:12AM  
 19 A. **That same area.** 11:12AM  
 20 Q. Yes. Showing it as a park. True? 11:12AM  
 21 A. **It's on the list, yes.** 11:12AM  
 22 Q. All right. And, again, we see this mistake 11:12AM  
 23 repeated that it was acquired in 1981. 11:12AM  
 24 A. **True.** 11:12AM  
 25 Q. Right. It should say 1936. True? 11:12AM

1 A. **True.** 11:12AM  
 2 Q. And if it was -- if it had said 1936, people 11:12AM  
 3 would be alerted to the fact that it's a pre-1955 park. 11:12AM  
 4 True? 11:12AM  
 5 A. **No.** 11:12AM  
 6 Q. Could you look at appendix 6, please. 11:12AM  
 7 Appendix 6 is a page from the parks list that was 11:12AM  
 8 printed October 11 of 2000. True? 11:12AM  
 9 A. **True.** 11:12AM  
 10 Q. And it shows Hampden Heights North Open Space 11:12AM  
 11 as a park. True? 11:12AM  
 12 A. **It's on the list, yes.** 11:13AM  
 13 Q. All right. And it gives it a parcel number 11:13AM  
 14 634. True? 11:13AM  
 15 A. **True.** 11:13AM  
 16 Q. And, again, this is referring to parcel 31, 11:13AM  
 17 which is now being called Hampden Heights North. True? 11:13AM  
 18 A. **True.** 11:13AM  
 19 Q. All right. Look at appendix 7. Appendix 7 is 11:13AM  
 20 from a document called location codes 2003. Do you 11:13AM  
 21 recognize this as part of an official document that was 11:13AM  
 22 produced from the records of the Department of Parks 11:13AM  
 23 and Recreation? 11:13AM  
 24 A. **Yes.** 11:13AM  
 25 Q. And does it show parcel 634 Hampden Heights 11:13AM

1 North as being on the list of parks? 11:13AM  
 2 **A. It shows it on the list, yes.** 11:13AM  
 3 **Q. Could you look at appendix 8, please.** 11:13AM  
 4 Appendix 8 is the southeast maintenance district map 11:13AM  
 5 and parks list published in 2004. True? 11:14AM  
 6 **A. True.** 11:14AM  
 7 **Q. And that shows Hampden Heights North Open** 11:14AM  
 8 **Space as a park, doesn't it?** 11:14AM  
 9 **A. On this map, yes, it would be shown in green** 11:14AM  
 10 **as a park.** 11:14AM  
 11 **Q. Right. And it's on the parks list, parcel** 11:14AM  
 12 **634. True?** 11:14AM  
 13 **A. True.** 11:14AM  
 14 **Q. So here again, parcel 31 is shown as a park on** 11:14AM  
 15 **an official city list. True?** 11:14AM  
 16 **A. It's shown as management under the parks** 11:14AM  
 17 **division, yes.** 11:14AM  
 18 **Q. Can you look at appendix 9, please. This is** 11:14AM  
 19 **from the -- a list of Denver parks published in 2011.** 11:14AM  
 20 **True?** 11:14AM  
 21 **A. Yes.** 11:14AM  
 22 **Q. And, once again, it includes parcel 31. Now** 11:14AM  
 23 **it's listed as parcel 634. True?** 11:15AM  
 24 **A. True.** 11:15AM  
 25 **Q. And this is the same land that's referred to** 11:15AM

1 in appendix 9 as we see in green on appendix 8. True? 11:15AM  
 2 **A. True.** 11:15AM  
 3 **Q. Then could you look at appendix 10, please.** 11:15AM  
 4 Appendix 10 is part of a -- can you tell me what it's 11:15AM  
 5 from? The City provided it to me. I'm not sure where 11:15AM  
 6 the document originated. 11:15AM  
 7 **A. I think this is from our GIS group.** 11:15AM  
 8 **Q. GIS group?** 11:15AM  
 9 **A. Right.** 11:15AM  
 10 **Q. What's that?** 11:15AM  
 11 **A. Geographic Information System. It's the** 11:15AM  
 12 **City's mapping system.** 11:15AM  
 13 **Q. Okay. And does this show Hampden Heights** 11:15AM  
 14 **North as a park?** 11:15AM  
 15 **A. It shows Hampden Heights North on the map,** 11:15AM  
 16 **yes, it does.** 11:16AM  
 17 **Q. Could you look at Exhibit (sic) 11, please.** 11:16AM  
 18 **Is this another document from -- I'm sorry.** 11:16AM  
 19 **Appendix 11. Is this another document from the GIS** 11:16AM  
 20 **group?** 11:16AM  
 21 **A. Yes, it is.** 11:16AM  
 22 **Q. And it also shows Hampden Heights North as a** 11:16AM  
 23 **park?** 11:16AM  
 24 **A. It shows it on the map under the general park** 11:16AM  
 25 **system, yes.** 11:16AM

1 **Q. Let me show you Exhibit 21. Have you seen** 11:16AM  
 2 **that document before today?** 11:17AM  
 3 **(Exhibit 21 was marked for identification.)** 11:17AM  
 4 **A. No, I haven't.** 11:17AM  
 5 **Q. Well, this is an affidavit signed by Neil** 11:17AM  
 6 **Sperandeo on August 29, 1995. Could you take a few** 11:17AM  
 7 **minutes to read it, please. You've read it?** 11:17AM  
 8 **A. Uh-huh.** 11:18AM  
 9 **Q. Okay. So would you look at paragraph 4. Can** 11:18AM  
 10 **you read out loud what Mr. Sperandeo said here under** 11:18AM  
 11 **oath?** 11:18AM  
 12 **A. "The majority of the city parks were acquired** 11:18AM  
 13 **prior to 1955, including Washington Park, City Park,** 11:18AM  
 14 **Cheeseman Park, and the mountain parks."** 11:18AM  
 15 **Q. Is that a true statement?** 11:18AM  
 16 **A. I don't know about majority but the rest of it** 11:18AM  
 17 **is true.** 11:18AM  
 18 **Q. So a lot of Denver parks were acquired prior** 11:18AM  
 19 **to '55. True?** 11:18AM  
 20 **A. A number of them were, yes.** 11:18AM  
 21 **Q. All right. Would you read paragraph 5 out** 11:18AM  
 22 **loud, please.** 11:19AM  
 23 **A. "It is my interpretation and understanding of** 11:19AM  
 24 **the Denver Charter that parks existing prior to 1955** 11:19AM  
 25 **are designated parks and that there was no requirement** 11:19AM

1 **that they be designated by ordinance. The Department** 11:19AM  
 2 **has consistently enforced this interpretation, which is** 11:19AM  
 3 **in accord with the 1955 and the 1983 Charter amendments** 11:19AM  
 4 **to A4.5."** 11:19AM  
 5 **Q. Okay. Is that a true statement?** 11:19AM  
 6 **A. I can't speak to that because it's his** 11:19AM  
 7 **interpretation and understanding.** 11:19AM  
 8 **Q. All right. Is that your understanding?** 11:19AM  
 9 **A. In a general sense, yes.** 11:19AM  
 10 **Q. So there was no requirement that parks be** 11:19AM  
 11 **designated by ordinance prior to 1955? True?** 11:19AM  
 12 **A. True.** 11:19AM  
 13 **Q. It was a question of whether the public used** 11:19AM  
 14 **the land as parks and whether the City intended the** 11:20AM  
 15 **land to be used as a park. True?** 11:20AM  
 16 **A. True.** 11:20AM  
 17 **Q. And other than looking at documents, you've** 11:20AM  
 18 **made no attempt to determine the City's intent with** 11:20AM  
 19 **respect to parcel 31 by interviewing people. True?** 11:20AM  
 20 **A. I did not interview parks employees to get** 11:20AM  
 21 **their opinion on whether it was a park or not.** 11:20AM  
 22 **Q. Could you look at paragraph 7, please, on** 11:20AM  
 23 **page 2. Just read the first sentence out loud.** 11:20AM  
 24 **A. "Denver parks system consists of 206 parks** 11:20AM  
 25 **encompassing 4,000 acres."** 11:20AM



1 DISTRICT COURT, DENVER COUNTY  
2 STATE OF COLORADO

3 1437 Bannock Street  
4 Denver, Colorado 80202

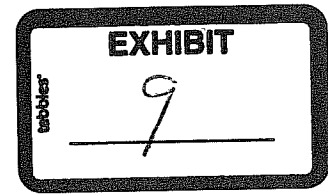
5 FRIENDS OF DENVER PARKS, INC., a  
6 Colorado non-profit corporation;  
7 and STEVE WALDSTEIN, an  
8 individual; ZELDA HAWKINS, an  
9 individual; MEMBERS OF THE  
10 PETITIONERS COMMITTEE TO REPEAL  
11 DENVER ORDINANCE 170, consisting  
12 of JOHN CASE, JUDITH M. CASE,  
13 RENEE LEWIS, DAVID HILL and  
14 SHAWN SMITH,

15 Plaintiffs,

16 v.

17 CITY & COUNTY OF DENVER, a  
18 municipal corporation; and  
19 SCHOOL DISTRICT NO. 1 IN THE  
20 CITY AND COUNTY OF DENVER, a  
21 public entity; and DEBRA  
22 JOHNSON, in her capacity as  
23 clerk and recorder of the City  
24 and County of Denver.

25 Defendants.



COPY

On behalf of Plaintiffs:  
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Case No.  
2013CV032444  
Courtroom: 376

25 VIDEOTAPED 30(b)(6) DEPOSITION OF  
CITY AND COUNTY OF DENVER  
through  
TINA AXELRAD  
March 18, 2014

13

1 adopted and approved, incorporated herein and made a 09:15AM

2 part hereof and collectively shall constitute the 09:15AM

3 official zoning map of the City and County of Denver, 09:15AM

4 hereinafter Official Map." 09:15AM

5 Q. What does that mean exactly? 09:15AM

6 A. It means that this -- there was a map that 09:15AM

7 applied zone districts that were in the text of the 09:16AM

8 new -- of the code being brought together with the map 09:16AM

9 and applied them to all land areas in the city of 09:16AM

10 Denver and that shows you what land is zoned what. 09:16AM

11 Q. And could you read the first sentence of 09:16AM

12 paragraph (b) please. 09:16AM

13 A. "All land located within the City and County 09:16AM

14 of Denver shown on the Official Map as being zoned to a 09:16AM

15 zone district in the Denver Zoning Code, is hereby 09:16AM

16 rezoned as designated on the Official Map." 09:16AM

17 Q. All right. So what is hereby rezoned? What's 09:16AM

18 your understanding of what that means? 09:16AM

19 A. All land area prior to this ordinance had a 09:16AM

20 zoning designation on it under the previous code and 09:16AM

21 with this action, all land area got changed or rezoned 09:16AM

22 to a different zone district under the new Denver 09:16AM

23 Zoning Code. 09:17AM

24 Q. All right. And that was all -- it says as 09:17AM

25 designated on the Official Map. 09:17AM

14

1 A. As shown on the Official Map. 09:17AM

2 Q. The term here is "designated." True? 09:17AM

3 A. That is the term used, yes. 09:17AM

4 Q. Right. And you understand what designated 09:17AM

5 means. 09:17AM

6 A. I would have to look at a dictionary. I have 09:17AM

7 a general understanding of what the word means. 09:17AM

8 Q. Right. It's not a -- it's a common term that 09:17AM

9 people use; right? 09:17AM

10 A. I think it was used in its common usage -- 09:17AM

11 Q. Right. 09:17AM

12 A. -- dictionary term. 09:17AM

13 Q. And then if we look at page 4 at the top, the 09:17AM

14 Denver Zoning Code and the Official Map and this 09:17AM

15 Ordinance 333, Series 2010, all became effective 09:17AM

16 June 25, 2010; is that true? 09:17AM

17 A. Correct. 09:17AM

18 Q. So I wanted to show you now a map. I'm 09:17AM

19 showing you Exhibit 2. Do you have it in front of you? 09:18AM

20 (Exhibit 2 was marked for identification.) 09:18AM

21 A. Yes, I do. 09:18AM

22 Q. All right. And is Hampden Heights North Park 09:18AM

23 shown on that map? 09:18AM

24 A. I don't see any label with that name, so I do 09:18AM

25 not know. 09:18AM

15

1 Q. May I show you Exhibit 3. Let me represent to 09:18AM

2 you this is a map that we pulled off the City's 09:18AM

3 official zoning map on March 1, 2014. And when you 09:18AM

4 click on a particular location, it pulls up the zoning 09:19AM

5 description, the ordinance, and shows you where it is. 09:19AM

6 (Exhibit 3 was marked for identification.) 09:19AM

7 A. Yes, I see that. 09:19AM

8 Q. All right. Now, do you see the name Hampden 09:19AM

9 Heights North Park on Exhibit 3? 09:19AM

10 A. I do. 09:19AM

11 Q. And is that same land area shown on Exhibit 2? 09:19AM

12 A. It appears to be. Exhibit 2 is a portion of 09:19AM

13 what is shown on Exhibit 3 in terms of the green area. 09:19AM

14 Q. Right. So -- 09:19AM

15 A. Uh-huh. 09:19AM

16 Q. -- is it correct that Hampden Heights North 09:19AM

17 Park is zoned OS-A? 09:19AM

18 A. Yes, it is. 09:19AM

19 Q. Okay. And then to find out what OS-A means, 09:19AM

20 we look to the zoning code; is that true? 09:19AM

21 A. That's correct. 09:19AM

22 Q. Let me hand you Exhibit 4. Is Exhibit 4 the 09:20AM

23 section of the zoning code that tells us what OS-A 09:20AM

24 means? 09:20AM

25 (Exhibit 4 was marked for identification.) 09:20AM

16

1 A. Exhibit 4 looks to me to be the purpose 09:20AM

2 statements for the open space districts established by 09:20AM

3 the code, including OS-A. 09:20AM

4 Q. All right. Would you read out loud, please, 09:20AM

5 what OS-A means. 09:20AM

6 A. I will read what it says here which is the 09:20AM

7 purpose of the open space public parks district. And 09:20AM

8 so in paragraph A it says, "The OS-A district is 09:20AM

9 intended to protect and preserve public parks owned, 09:20AM

10 operated or leased by the City and managed by the 09:20AM

11 City's Department of Parks and Recreation, (DPR), for 09:20AM

12 park purposes." 09:20AM

13 Q. All right. Now, if we look back at Exhibits 2 09:20AM

14 and 3, Hampden Heights Park -- North Park is zoned 09:20AM

15 OS-A. True? 09:21AM

16 A. That is correct. 09:21AM

17 Q. And you know that to be land that is owned by 09:21AM

18 the City and County of Denver. True? 09:21AM

19 A. I do know that now, yes. 09:21AM

20 Q. And it was managed at the time by the City's 09:21AM

21 Department of Parks and Recreation. True? 09:21AM

22 A. I don't have first-hand knowledge of that. 09:21AM

23 Q. All right. But you know that to be true from 09:21AM

24 talking to others, don't you? 09:21AM

25 A. I -- 09:21AM

1 MR. BROADWELL: Calls for hearsay, objection. 09:21AM  
 2 Go ahead. 09:21AM  
 3 A. I can only presume by the fact that it's zoned 09:21AM  
 4 OS-A that it had some link in terms of management 09:21AM  
 5 ownership or lease by the Department of Parks and 09:21AM  
 6 Recreation. 09:21AM  
 7 Q. (By Mr. Case) All right. So before coming 09:21AM  
 8 here today, did you make any investigation to determine 09:21AM  
 9 if Hampden Heights North Park, which is the subject of 09:21AM  
 10 this lawsuit, was being managed by the City's 09:21AM  
 11 Department of Parks and Recreation when the zoning code 09:21AM  
 12 was adopted in 2010? 09:22AM  
 13 A. Me personally, no. 09:22AM  
 14 Q. Did anyone that you know make that 09:22AM  
 15 investigation? 09:22AM  
 16 A. Yes. 09:22AM  
 17 Q. Who? 09:22AM  
 18 A. Our team of planners and GIS and Parks 09:22AM  
 19 Department employees worked together to determine which 09:22AM  
 20 lands should be zoned OS-A. 09:22AM  
 21 Q. All right. And what -- what did they 09:22AM  
 22 indicate? Did they indicate that Hampden Heights North 09:22AM  
 23 Park was, at the time of the adoption of this 09:22AM  
 24 ordinance, being managed by the Department of Parks and 09:22AM  
 25 Recreation? 09:22AM

1 A. I don't know. 09:22AM  
 2 Q. So before coming here today, you made no 09:22AM  
 3 attempt to find that out? 09:22AM  
 4 A. No. 09:22AM  
 5 Q. And you knew you were going to be testifying 09:22AM  
 6 about the park that's in dispute in this case. True? 09:22AM  
 7 A. True. 09:22AM  
 8 Q. So why didn't you bother to find out that 09:22AM  
 9 critical piece of information? 09:22AM  
 10 A. All I know is it's zoned OS-A, so I know at 09:22AM  
 11 the time in 2010 it was presented to us by Parks that 09:22AM  
 12 it was either owned, operated or leased by DPR. I 09:23AM  
 13 don't know which one it was. 09:23AM  
 14 Q. Let's just assume for -- as a hypothetical, 09:23AM  
 15 because other witnesses are going to testify that this 09:23AM  
 16 is true, that Hampden Heights North Park was owned by 09:23AM  
 17 the City and managed by the Department of Parks and 09:23AM  
 18 Recreation for park purposes on June 25, 2010. All 09:23AM  
 19 right. Will you accept that as true? 09:23AM  
 20 A. I will accept your presumption and answer 09:23AM  
 21 accordingly. 09:23AM  
 22 Q. All right. So if that's all true, then 09:23AM  
 23 Hampden Heights North Park is a city park under the 09:23AM  
 24 zoning code. True? 09:23AM  
 25 A. Do you mean the defined term city park? 09:23AM

1 Q. Yes. 09:23AM  
 2 A. As defined in the Denver Zoning Code, Article 09:23AM  
 3 11. 09:23AM  
 4 Q. Yes. Yes. 09:23AM  
 5 A. Yes, I will agree. 09:23AM  
 6 Q. And the zoning code was adopted by Ordinance 09:23AM  
 7 333, Series 2010; right? 09:24AM  
 8 A. Yes. 09:24AM  
 9 Q. So the zoning code is part of that ordinance. 09:24AM  
 10 True? 09:24AM  
 11 A. Yes. 09:24AM  
 12 MR. CASE: That's all I have for this witness. 09:24AM  
 13 MR. BROADWELL: I have a couple of follow-up 09:24AM  
 14 questions, if I may. 09:24AM  
 15 EXAMINATION 09:24AM  
 16 BY MR. BROADWELL: 09:24AM  
 17 Q. Ms. Axelrad, at the beginning of your 09:24AM  
 18 testimony, you indicated that since 2010, the adoption 09:24AM  
 19 of the zoning code, there have been a couple of 09:24AM  
 20 examples elsewhere in the city of property being 09:24AM  
 21 rezoned out of the OS-A district; is that correct? 09:24AM  
 22 A. That's correct. 09:24AM  
 23 Q. In situations where that's occurred, was the 09:24AM  
 24 rezoning from OS-A to another category accompanied by 09:24AM  
 25 voter approval? 09:24AM

1 A. No. 09:24AM  
 2 Q. And just for the record, give a couple of 09:24AM  
 3 examples of what new zoning district those properties 09:25AM  
 4 were assigned to and -- like the circumstance under 09:25AM  
 5 which properties were changed out of OS-A to something 09:25AM  
 6 different. 09:25AM  
 7 A. One example is the Children's Museum of Denver 09:25AM  
 8 and what's labeled Crescent Gate Park along the South 09:25AM  
 9 Platte River. A portion of land zoned OS-A that was 09:25AM  
 10 included in Crescent Gate Park was rezoned to CMX5, 09:25AM  
 11 which is a commercial mixed use owned district to 09:25AM  
 12 accommodate expansion of the Children's Museum. 09:25AM  
 13 In our other case we have in downtown Denver, 09:25AM  
 14 the May D & F Tower was -- that sits in the middle of 09:25AM  
 15 Skyline Park was mistakenly zoned OS-A and was removed 09:25AM  
 16 and rezoned in 2011 to the downtown -- a downtown 09:25AM  
 17 zoning district. 09:25AM  
 18 Q. Okay. Thank you. 09:25AM  
 19 And in preparation for your testimony today, 09:26AM  
 20 did you generally familiarize yourself with the issues 09:26AM  
 21 in this case in terms of what the parties were fighting 09:26AM  
 22 about? 09:26AM  
 23 A. Yes, I did. 09:26AM  
 24 Q. And in the course of doing that, did you learn 09:26AM  
 25 that basically it's a dispute over the applicability of 09:26AM