

IN THE SUPERIOR COURT OF FULTON COUNTY

STATE OF GEORGIA

GEORGIACARRY.ORG, INC.,)
TAI TOSON, EDWARD WARREN,)
JEFFREY HUONG, JOHN LYNCH,)
MICHAEL NYDEN, AND)
JAMES CHRENCIK,)

Plaintiffs)

v.)

FULTON COUNTY, GEORGIA,)
CITY OF ATLANTA, GEORGIA,)
CITY OF EAST POINT, GEORGIA,)
CITY OF ROSWELL, GEORGIA,)
CITY OF SANDY SPRINGS, GEORGIA,)
and CITY OF UNION CITY, GEORGIA,)

Defendants)

Civil Action File No.
2007CV138552

**DEFENDANT CITY OF ROSWELL, GEORGIA'S BRIEF IN OPPOSITION TO
MOTION FOR SUMMARY FILED BY PLAINTIFFS**

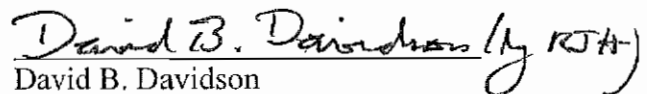
COMES NOW the City of Roswell, Georgia (hereinafter "Roswell"), one of the named defendants in the above-styled action and files its Brief In Opposition To Motion For Summary Judgment Filed By Plaintiffs and shows the Court as follows:

Plaintiffs are not entitled to summary judgment in this case because the issue presented is moot. Defendant Roswell has already fully briefed this issue in its Motion To Dismiss Complaint and Verified Amended Complaint For Mootness filed with the Court on January 30, 2008 and incorporates the arguments made there as though fully set out here. Roswell has provided the Court a certified copy of its new ordinance, which removes the language to which Plaintiffs objected in their Complaint and their Verified

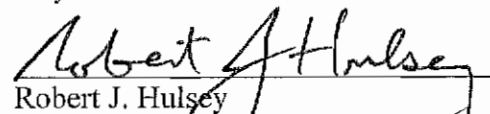
Amended Complaint. (See Amended Answer of Defendant City of Roswell, Georgia To Plaintiffs' Verified Amended Complaint filed with the Court on February 29, 2008).

Finally, Plaintiffs' Motion For Summary Judgment is lacking in that it relies solely upon its Complaint and Amended Complaint, without any affidavits to support their allegations that each plaintiff has standing. Plaintiffs argue that the allegations of a verified complaint are "tantamount to an affidavit." (Footnote 3, Page 3 of Brief In Support of Plaintiffs' Motion For Summary Judgment). However, Plaintiffs overlook the fact that Roswell has filed verified Answers to both the Complaint and the Amended Complaint, which state that it does not have knowledge sufficient to respond to allegations regarding standing, and therefore can neither admit nor deny the same. Of course, pursuant to O.C.G.A. § 9-11-8 (b), such responses are considered denials. Therefore, summary judgment is not appropriate based upon the record before the Court.

This 2nd day of April, 2008.

David B. Davidson (by RJA)

David B. Davidson
Georgia Bar No. 206527
City Attorney
City of Roswell

Robert J. Hulsey

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing DEFENDANT CITY OF ROSWELL, GEORGIA'S BRIEF IN OPPOSITION TO MOTION FOR SUMMARY FILED BY PLAINTIFFS has been served upon counsel for Plaintiffs and counsel for the co-defendants by mailing a copy of said Amended Answer, postage prepaid, by United States Postal Delivery service, addressed as follows:

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(Counsel for Plaintiffs)
9640 Coleman Road
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Larry Ramsey, Esq.,
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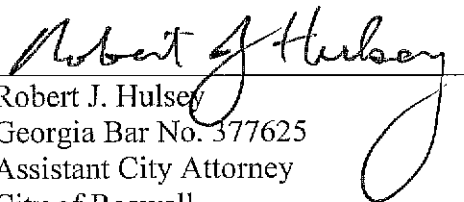
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This 2nd day of April, 2008.


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