

IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI
AT KANSAS CITY

STATE OF MISSOURI ex rel. KANSAS CITY)
BOARD OF POLICE COMMISSIONERS,)
acting through a majority of its members,)
NATHAN GARRETT, CATHY DEAN,)
MARK TOLBERT and DON WAGNER,)
in their official capacities,)

Relators and Plaintiffs,)

v.)

MAYOR QUINTON LUCAS,)
HEATHER HALL, KEVIN O'NEILL,)
TERESA LOAR, DAN FOWLER,)
BRANDON ELLINGTON, MELISSA)
ROBINSON, KATHERYN SHIELDS,)
ERIC BUNCH, LEE BARNES, JR., RYANA)
PARKS-SHAW, ANDREA BOUGH, KEVIN)
MCMANUS, together the City Council of)
Kansas City, Missouri, in their official)
capacities,)

Case No.: _____

and)

BRIAN PLATT, City Manager for Kansas City,)
Missouri, in his official capacity,)

and)

TAMMY QUEEN, Director of Finance for)
Kansas City, Missouri, in her official capacity,)

and)

THE CITY OF KANSAS CITY, MISSOURI,)

*Serve: 414 E. 12th Street)
Kansas City, MO 64106)*

Respondents and Defendants.)

**PETITION FOR WRIT OF MANDAMUS, DECLARATORY JUDGMENT, AND
INJUNCTIVE RELIEF**

The Kansas City Board of Police Commissioners, acting through a majority of its members, Cathy Dean, Nathan Garrett, Mark Tolbert, and Don Wagner (the “Board”), brings this action for the State of Missouri against Kansas City Mayor Quinton Lucas, other municipal officials in Kansas City, and the City of Kansas City, Missouri. The Board seeks a preliminary and permanent order in mandamus, as well as declaratory judgment and injunctive relief, in response to the City’s recent defunding of the Kansas City, Missouri Police Department and efforts to hinder and obstruct the Board’s management and control of the police department’s budget, in violation of state law.

ALLEGATIONS ABOUT THE PARTIES, JURISDICTION, AND VENUE

1. Relator and Plaintiff the Kansas City Board of Police Commissioners is established under RSMo §§ 84.350 *et seq.* The Board acts in this matter through a majority of its members, Cathy Dean, Nathan Garrett, Mark Tolbert, and Don Wagner, who serve as relators and plaintiffs in their official capacities and who are authorized to commence this action in the name of the State of Missouri pursuant to RSMo § 84.860.

2. Respondent and Defendant Quinton Lucas (the “Mayor” or “Mayor Lucas”) is the Mayor of Kansas City, Missouri, named here in his official capacity.

3. Respondents and Defendants Heather Hall, Kevin O’Neill, Teresa Loar, Dan Fowler, Brandon Ellington, Melissa Robinson, Katheryn Shields, Eric Bunch, Lee Barnes, Jr., Ryana Parks-Shaw, Andrea Bough, and Kevin McManus (the “City Council”) are members of the City Council for Kansas City, Missouri, named here in their official capacities.

4. Respondent and Defendant Brian Platt (the “City Manager”) is the City Manager for Kansas City, Missouri, named here in his official capacity.

5. Respondent and Defendant Tammy Queen (the “Director of Finance”) is the Director of Finance for Kansas City, Missouri, named here in her official capacity.

6. Respondent and Defendant the City of Kansas City, Missouri (the “City”) is a constitutional charter city of the State of Missouri situated in Jackson, Clay, Platte, and Cass counties.

7. This Court has personal jurisdiction over respondents and defendants because they are Missouri residents, municipal officials for a city in Missouri, and/or a constitutional charter city located in Missouri.

8. Venue lies in this Court under RSMo § 508.050(1) because the City is a co-defendant and has more than four hundred thousand inhabitants and is partly situated in Jackson County.

ALLEGATIONS COMMON TO ALL COUNTS

Missouri law gives the Board exclusive management and control over the police department’s budget and prohibits re-classification of budgeted funds without Board approval

9. The Kansas City, Missouri Police Department (the “police department”) is an agent of the state, not a municipal entity. The police department exists under state laws set forth in Chapter 84 of the Revised Statutes of Missouri.

10. Section 84.460 of those statutes grants “exclusive management and control” of the police department not to the Mayor or City Council but to a five-person board made up of the Mayor and four gubernatorial appointees.

11. State law also controls the funding and budget process for the police department.

12. Under section 84.730, the Board must, by January 15 of each year, prepare a budget estimating the money it will need for the next fiscal year and itemizing the purposes of expenditure by organization units, activity, functions, and character classes. The City is then “required to appropriate the total amount so certified,” except that the City need not appropriate more than one-fifth its general revenue.

13. Once the City makes its appropriation, section 84.740 requires the Board to adopt a final budget for the police department by May 1, which shall itemize the purposes of expenditure by organization units, activity, functions, and character classes. When the Board adopts and certifies its budget, that budget “*shall be the authorization of expenditures for the purposes set forth therein*” and “*[n]o transfer from one character classification of expenditure in the board budget to another character classification shall be made without the approval of said board.*” RSMo § 84.740 (emphasis added).

14. After adopting its budget, the Board may requisition City funds in accordance with the adopted budget. RSMo § 84.780.

15. Missouri law restricts the City’s ability to appropriate or disburse money other than through the process set out in Chapter 84. Under section 84.770, “[t]he power of [the] mayor and [the City Council] to appropriate and disburse money for the police force organized and employed under sections 84.350 to 84.860 shall be exercised as in these sections directed *and not otherwise.*” (Emphasis added).

16. Those who disburse money in violation of sections 84.350 to 84.860, or who fail or neglect to perform duties imposed upon them in those statutes, are liable for penalties specified in section 84.860.

The Board adopts its FY 2021-22 budget in accordance with RSMo §§ 84.350 to 84.860

17. On or about October 27, 2020, the Board, acting under its authority in RSMo § 84.730, approved and submitted to the City a budget estimating the sum of money necessary for the police department for fiscal year 2021-22 and requesting corresponding appropriations from

the City. *See* Index of Exhibits at I3, I6-21.¹ This estimated budget itemized the purposes of expenditure by organization units, activity, functions, and character classes in considerable detail and was in the form and detail similar to past budgets of the police department and of departments of the City government. *See generally* I8-250.

18. On or about October 27, 2020, The Board approved its budget request by a 4-0 vote, with the Mayor abstaining. I3.

19. On or about March 25, 2021, in the Committee Substitute for Ordinance No. 210159, the City, acting through the Mayor, City Council, and Director of Finance adopted its Annual Budget for fiscal year 2021-22, in which the City appropriated \$223,987,546 to the police department, under the Board's requisitioning authority. I258-276.

20. On or about April 27, 2021, the Board, acting under its authority in RSMo § 84.740 and in reliance on the City's appropriation, adopted the police department's budget for fiscal year 2021-22, recognizing \$223,987,546 in appropriations from the city's general fund. *See* I281, I289-304.

21. The Board's fiscal year 2021-22 budget, as adopted, itemizes the purposes of expenditure by organization units, activity, functions, and character classes in considerable detail and is in the form and detail similar to past police department budgets and to departments of the City government. *See* I8-250, I289-304.

22. The fiscal year 2021-22 budget was adopted by a unanimous vote of the Board's members, *including* the Mayor. I281.

¹ Exhibits to this petition are included in an Index of Exhibits required under Rule 94.03 and filed contemporaneously with this petition. The petition cites exhibits in the form "I#" corresponding to page numbers in the Index of Exhibits.

23. Once adopted by the Board, the fiscal year 2021-22 budget became, under RSMo § 84.740, the authorization of expenditures for the purposes set forth in the budget.

24. Under RSMo § 84.740, no transfer from one character classification of expenditure in the Board's fiscal year 2021-22 budget to another character classification can be made without approval of the Board.

Respondents violate Missouri law by re-classifying budgeted funds without Board approval and disbursing money in violation of RSMo §§ 84.350 to 84.860

25. On or about May 20, 2021, less than one month after the Board unanimously adopted the police department's fiscal year 2021-22 budget, Kansas City Chief of Police Richard Smith received a voicemail from Mayor Lucas informing him the Mayor was introducing two ordinances later that day. I307-308. Mayor Lucas said the ordinances would reduce the police department's budget to 20% of general revenue while creating an additional budget that would include a \$3,000,000 increase for a recruiting class. *Id.*

26. Prior to this voicemail, no one from the Mayor's office or the City Council advised Chief Smith or any member of the Board or the police department about creating an additional budget for the police department or about cutting the police department's regular budget. I308.

27. Later the same day, invoking a rarely used procedural move to introduce and pass ordinances on the same day without committee consideration the City Council passed Ordinance Nos. 210466 and 210468, which are included within Exhibit 3 in the accompanying Index of Exhibits. I252-257.

28. Ordinance No. 210466 cuts the police department's fiscal year 2021-22 budget by \$42,282,444 and reduces accounts that had been funded to reflect character classifications in the Board's fiscal year 2021-22 budget adopted in April:

Section 1. That the budget, adopted in Committee Substitute for Ordinance No. 210159, is hereby amended for the Fiscal Year 2021-22, with the reductions as shown on the following:

KCPDU-22-1000-211005-B	Office of Community Complaints	\$ 6,992.00
KCPDU-22-1000-211010-B	Office of Police Chief	639,652.00
KCPDU-22-1000-211015-B	Risk Management	8,769,568.00
KCPDU-22-1000-211016-B	Homeland Security Division	230,000.00
KCPDU-22-1000-211050-B	Purchasing	1,781,884.00

KCPDU-22-1000-211050-C	Purchasing	1,802,626.00
KCPDU-22-1000-211072-C	Building Operations	200,000.00
KCPDU-22-1000-211072-B	Building Operations	1,670,203.00
KCPDU-22-1000-211072-B	Fleet Operations	249,603.00
KCPDU-22-1000-211072-C	Fleet Operations	1,415,293.00
KCPDU-22-1000-211224-C	Communications Support Unit	362,912.00
KCPDU-22-1000-211224-B	Communications Support Unit	937,019.00
KCPDU-22-1000-211460-C	Human Resource Division	15,000.00
KCPDU-22-1000-211460-B	Human Resource Division	490,000.00
KCPDU-22-1000-211460-B	Patrol Bureau Office	267,750.00
KCPDU-22-1000-212593-B	Helicopter Unit	272,513.00
KCPDU-22-1000-212593-C	Helicopter Unit	331,800.00
KCPDU-22-1000-212610-B	Investigations Bureau Office	18,000.00
KCPDU-22-1000-212683-B	Crime Lab	392,950.00
KCPDU-22-1000-212683-C	Crime Lab	443,700.00
KCPDU-22-1000-212530-A	Metro Patrol Division	8,263,975.00
KCPDU-22-1000-212520-A	Central Patrol Division	9,701,137.00
KCPDU-22-1000-212540-A	East Patrol Division	4,019,867.00
	TOTAL	\$42,282,444.00

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I252-253.

29. Ordinance No. 210466 also suggests the Board cannot transfer other funds in its fiscal year 2021-22 budget to replenish accounts the City defunded. The ordinance “invites the Board to submit a revised budget should it desire to see reallocation or transfer of its remaining appropriation.” I253.

30. Ordinance No. 2021466 then transfers the character classification of the \$42,282,444 in stripped funding to “Community Services and Prevention” and disburses those funds into an Unappropriated Fund Balance of the General Fund, under the City Manager’s requisitioning authority:

Section 4. That the revenue in the following account of the General Fund is reduced in the following additional amount:		
KCPDU-22-1000-210000-599900	Transfer from KCMBU	\$42,282,444.00
Section 5. That the following account is hereby appropriated from the Unappropriated Fund Balance of the General Fund:		
KCMBU-22-1000-101016-B	Community Services and Prevention	\$42,282,444.00
Section 6. That the City Manager is designated as requisitioning authority for Account No. 22-1000-101016.		

I253.

31. Although Ordinance No. 2021466 says the police department remains funded above 20% of the City’s general revenue after the cuts, the Board has been unable to confirm the City’s calculations. The Board therefore reserves the right to amend its petition to include claims that the City has funded the police department below “one-fifth of the general revenue fund” in violation of RSMo § 84.730.

32. Ordinance No. 2021466 directs the Director of Finance to make the necessary accounting and budgetary transactions to reflect and record the operations of the City associated with the usage of the newly characterized Community Services and Prevention funds. I254.

33. Ordinance No. 2021466 purports to be immediately effective under section 503(a)(3)(C) of the City Charter. I254.

34. On information and belief, Ordinance No. 2021466 was introduced and passed without a fiscal note, in violation of the City’s Administrative Code.

Respondents hinder and obstruct the Board’s control of the police department’s budget by requiring to Board to “contract” with the City for return of the \$42,282,444 and dictating funding priorities to the Board

35. In the companion ordinance passed the same day, Ordinance No. 2010468, the Mayor and City Council dictated what would happen to the money they stripped from the police department’s budget. That ordinance authorized the City Manager to execute an agreement with

the Board “not to exceed” \$45,282,444, the amount cut from the police department’s budget plus an additional \$3,000,000 from the general fund to pay for a new recruiting class. I255-257. The ordinance directs the City Manager to execute contracts with the Board for certain undefined “community engagement, outreach, intervention, and other public services.” I256.

36. Like the other ordinance, Ordinance No. 210468 purports to be immediately effective under section 503(a)(3)(C) of the City Charter for Kansas City, Missouri. I256.

37. On information and belief, Ordinance No. 2021468 was introduced and passed without a fiscal note, in violation of the City’s Administrative Code.

38. Together, Ordinance Nos. 2021466 and 210468 reduce the police department’s budget by \$42,282,444, change the character classifications of those funds from the classifications in the Board’s fiscal year 2021-22 budget, and give the City control over how the \$42,282,444 is spent.

39. In effect, Ordinance No. 210468 requires the Board to contract with the City for the return of the money that Ordinance No. 210466 stripped, but only according to funding priorities set by the City: “community engagement, outreach, prevention, intervention, and other public services.” I256.

40. Neither Ordinance No. 210466 nor Ordinance No. 210468 provides for the return of the \$42,282,444 if the Board does not contract with the City or if the Board declines to spend the money as the City dictates.

41. The \$42,282,444 stripped from the police department’s budget was not because of any deficit or financial shortfall facing the City and, on information and belief, no similar cuts were made to departments of the City government.

42. Indeed, in several public statements Mayor Lucas confirmed the ordinances are meant not to save money but to shift control of the police department's budget from the Board to the Mayor and City Council. When one journalist remarked, for example, that the plan "shifts CONTROL over money from the state-appointed Board of Police Commissioners to the city," Mayor Lucas responded "Correct."²

43. Consistent with this plan to shift control of the police department's budget to the City, City Manager Bryan Platt sent a letter to Kansas City Chief of Police Richard Smith one day after the City passed Ordinance Nos. 2021466 and 210468 to discuss re-allocating the money if "we can work together to identify innovative and effective ways to disperse these funds" I305.

44. To date, the Board has not contracted for return of the \$42,282,444 because the Board believes the City's actions violate state law, are appropriations and disbursements other than those authorized in RSMo §§ 84.350 to 84.860, are transfers of character classifications prohibited under RSMo § 84.740, and intrude on the Board's exclusive management and control of the police department. While the Board commits and spends millions of dollars every fiscal year on community interaction, outreach, engagement and other priorities, the City cannot lawfully mandate the expenditure of funds as it dictates and in violation of state law. The Board has a solemn obligation to ensure lawful operation of the police department and is compelled to protect its own autonomy as set out in Chapter 84.

Respondents' actions severely impact the police department's operations and exacerbate inequalities in policing

45. Ordinance 210466 strips nearly \$22 million—over half the money cut from the Department's budget—from the three patrol divisions in the heart of Kansas City. I308-309. The

² <https://www.facebook.com/quinton.lucas/posts/4144771258915452>

Central, Metro and East patrol divisions are Kansas City's urban patrol divisions and account not only for the vast majority of calls for service, but their residents also suffer from the majority of violent crime (74.6%) and property crimes (67.1%). I308. Yet Ordinance 210466 cuts 100% of the personnel costs for the Central and Metro divisions and almost half the personnel cost from East Patrol. I309.

46. The Department is compelled by both ordinances to make immediate and severe changes to staffing, deployment, purchasing, payroll and other operations of the Department. I309, I314. At the time of the first post-passage reconciliation between the City and the Department (June 10, 2021), there will be no funds in the accounts listed in Ordinance 210466 from which the Department can draw to fund the approved expenditures. I309, I314. At that point, drastic cuts to staffing and services will be required. I309, I314.

COUNT I – MANDAMUS

47. The Board re-states and incorporates by reference the preceding paragraphs as if set forth fully here.

48. Missouri law, including RSMo § 84.860, grants the Board the power by action at law in the name of the state to bring claims against those who hinder or obstruct the organization or maintenance of the Board, disburse money in violation of RSMo §§ 84.350 to 84.860, or fail or neglect to perform the duties imposed upon them in those statutes.

49. The Board has an existing, clear, and unconditional legal right in that, once the fiscal year 2021-22 budget was duly adopted by the Board, that budget became the authorization of expenditures for the purposes set forth therein and no transfer from one character classification of expenditure in the Board budget to another character classification was permitted without Board approval.

50. The Board has an existing, clear, and unconditional legal right in that Missouri law grants it exclusive management and control over the police department, including over the police department's budget.

51. Respondents have a corresponding, present, imperative, and unconditional duty to appropriate and disburse funds in accordance with sections 84.350 to 84.860 and not otherwise.

52. Respondents have a corresponding, present, imperative, and unconditional duty not to transfer funds from one character classification of expenditure in the Board's fiscal year 2021-22 budget to another character classification without Board approval.

53. Respondents have a corresponding, present, imperative, and unconditional duty not to hinder or obstruct the organization or maintenance of the Board or interfere with the Board's exclusive management and control of the police department.

54. The Mayor, City Council, and the City defaulted on their duties and violated RSMo §§ 84.350 to 84.860 by passing ordinances that appropriate and disburse to an unallocated "Community Services and Prevention" fund \$42,282,444 in funding that was originally appropriated to the police department and allocated for specific purposes in the Board's duly adopted budget for fiscal year 2021-22.

55. The Mayor, City Council, and the City defaulted on their duties and violated RSMo §§ 84.350 to 84.860 by passing ordinances that transfer \$42,282,444 in funding from one character classification of expenditure in the Board's fiscal year 2021-22 budget to another character classification without Board approval.

56. The Mayor, City Council, and City defaulted on their duties and violated RSMo §§ 84.350 to 84.860 by passing ordinances that appropriate and disburse funds other than as set out

in sections 84.350 to 84.860 and that obstruct and hinder the Board's exclusive management and control of the police department.

57. The City Manager and Director of Finance defaulted on their duties and violated RSMo §§ 84.350 to 84.860, or imminently will default on their duties and violate RSMo §§ 84.350 to 84.860, in carrying out their execution responsibilities under Ordinances Nos. 2021466 and 210468, including by appropriating and disbursing funds other than as set out in sections 84.350 to 84.860 and by transferring funds from one character classification of expenditure in the Board's fiscal year 2021-22 budget to another character classification without Board approval.

WHEREFORE, the Board, through a majority of its members, Cathy Dean, Nathan Garrett, Mark Tolbert and Don Wagner, seek from this Court judgment in the Board's favor and preliminary and permanent orders in mandamus (1) requiring respondents and defendants to reverse the re-appropriation and re-classification of funds reflected in Ordinance Nos. 2021466 and 210468, (2) requiring respondents and defendants to return to the Board's requisitioning authority the \$42,282,444 originally appropriated to the police department and included in the Board's fiscal year 2021-22 budget, and (3) for such other relief the Court deems just and proper, including without limitation penalties that may be mandated under RSMo § 84.860.

COUNT II – DECLARATORY JUDGMENT

58. The Board re-states and incorporates by reference the preceding paragraphs as if set forth fully here.

59. Alternatively, there is a real, substantial, and presently existing controversy between the Board and respondents and defendants over:

- a. Whether Ordinance Nos. 2021466 and 210468 conflict with RSMo §§ 84.350 to 84.860 and are therefore void;
- b. Whether respondents and defendants may cut police department funding after the Board adopts its budget in reliance on the City's appropriation and

after that budget becomes the authorization of expenditures for the purposes set forth therein;

- c. Whether respondents and defendants may re-classify police department funding after the Board adopts its budget and without Board approval;
- d. Whether respondents and defendants may dictate funding priorities for the police department on amounts the City funds above one-fifth its general revenue;
- e. Whether respondents and defendants must reverse the re-appropriation and re-classification of police department funding in Ordinance Nos. 2021466 and 210468;
- f. Whether respondents and defendants must return the \$42,282,444 to the Board's requisitioning authority; and
- g. Whether Ordinance Nos. 2021466 and 210468 are void for having been introduced and passed without a fiscal note, in violation of the City's Administrative Code.

60. The Board has a legally protectable interest at stake in the controversy.

61. The controversy is ripe for judicial determination.

62. The Board does not have an adequate remedy at law.

63. Under Rule 55.10, the claim and relief sought in this Count is in the alternative or in addition to the relief sought in Count I.

WHEREFORE, the Board, through a majority of its members, Cathy Dean, Nathan Garrett, Mark Tolbert and Don Wagner, seek from this Court judgment in the Board's favor and for a declaration that (1) Ordinance Nos. 2021466 and 210468 conflict with RSMo §§ 84.350 to 84.860 and are therefore void, (2) respondents and defendants are prohibited from cutting police department funding after the Board adopts its budget in reliance on the City's appropriation and after that budget becomes the authorization of expenditures for the purposes set forth therein, (3) respondents and defendants are prohibited from re-classifying police department funding after the Board adopts its budget and without Board approval, (4) respondents and defendants are prohibited

from dictating funding priorities for the police department on amounts the City funds above one-fifth its general revenue, (5) respondents and defendants must reverse the re-appropriation and re-classification of funding in Ordinance Nos. 2021466 and 210468, (6) respondents and defendants must return the \$42,282,444 to the Board's requisitioning authority, and (7) Ordinance Nos. 2021466 and 210468 are void for having been introduced and passed without a fiscal note, in violation of the City's Administrative Code —along with such other relief the Court deems just and proper.

COUNT III – INJUNCTIVE RELIEF

64. The Board re-states and incorporates by reference the preceding paragraphs as if set forth fully here.

65. By re-appropriating and disbursing to an unallocated fund \$42,282,444 in funding originally appropriated to the police department and classified for specific purposes in the police department's fiscal year 2021-22 budget, respondents and defendants have caused, are causing, and will continue to cause irreparable harm to the operations of the police department and to the Board's exclusive management and control of the police department's budget.

66. Among other things, severe cuts in staffing, operations and purchasing will be necessary, including – as directed by the ordinances – the elimination of all personnel costs from Central and Metro Patrol Divisions and nearly half from East Patrol. See Affidavit of Smith, Affidavit of Reiter.

67. The Board is likely to prevail in its claims against respondents and defendants and injunctive relief will serve the public interest and will not cause undue hardship.

68. The Board does not have an adequate remedy at law.

69. Under Rule 55.10, the claim and relief sought in this Count is in the alternative or in addition to the relief sought in Count I.

WHEREFORE, the Board, through a majority of its members, Cathy Dean, Nathan Garrett, Mark Tolbert and Don Wagner, seek from this Court a temporary restraining order and preliminary and permanent injunctions requiring respondents and defendants to reverse the re-appropriation and re-classification of funds reflected in Ordinance Nos. 2021466 and 210468 and to return to the Board's requisitioning authority the \$42,282,444 originally appropriated to the police department and included in the Board's fiscal year 2021-22 budget— along with such other relief the Court deems just and proper.

Dated: May 28, 2021

SPENCER FANE LLP

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