

**IN THE CIRCUIT COURT OF PHELPS COUNTY, MISSOURI**

**Citizens for the Preservation of  
Buehler Park, et al.**

**vs.**

**CV305-0352CC**

**City of Rolla, et al**

**COURT'S RULINGS ON QUESTIONS OF LAW**

09/14/06 - Comes now the Court and enters the following rulings on issues of law presented in this case. Matter was submitted on 08/04/06 on Stipulation of Facts. Facts are not in dispute. Two questions of law were presented and parties briefed the court on those issues. The first issue was concerning standing. Court finds that Plaintiffs have standing to file and prosecute this case. Taxpayers have a right to challenge any illegal expenditures of public funds. The actions of Defendant, City of Rolla, were not illegal insofar as they violate any statutes, regulations, et cetera but did result in the direct expenditures of public funds generated through taxation or a pecuniary loss attributed to the challenged actions themselves. That confers standing. As to the second issue, this Court is not a superlegislature whose purpose is to determine the wisdom of selling the land known as Buehler Park. The only question presented is directed to the legality of selling the land known as Buehler Park. The Court finds that the City can do so. The language in the 1958 deed from the Rolla Chamber of Commerce or its predecessor did not dedicate the property to public use forever but instead conveyed the property to Rolla for the use of "park purposes only and none other," meaning that, if the city ceases to use the property in question as a park, the grantor Chamber may re-enter and claim its interest in the property. At the point of that transfer and before 04/14/97, Rolla held the property subject to a defeasible fee retained by the Rolla Chamber of Commerce and not in trust subject to a dedication to public use. Any interest retained by the Rolla Chamber of Commerce prior to its 04/14/97 Corporation Quit Claim Deed, exhibit 19, was relinquished and transferred to Rolla by that said instrument. Therefore, Rolla may use or transfer the real estate in question for any purpose, and the relief prayed by Plaintiffs is therefore denied. Costs taxed to Plaintiffs. Either party may prepare and file a formal judgment consistent with the findings in this memo.

---

Tracy L. Storie, Judge