

IN THE CIRCUIT COURT OF PHELPS COUNTY, MISSOURI
DIVISION NO. 2

CITIZENS FOR THE PRESERVATION)
OF BUEHLER PARK, et al.,)
)
Plaintiffs,)
) Cause No. CV305- 0352CC
v.)
)
CITY OF ROLLA, MISSOURI, et al.,)
)
Defendants.)

PLAINTIFFS' POST-TRIAL BRIEF

STATEMENT OF FACTS

This case concerns the dedication of a parcel of land for a park and the preservation of an important part of Rolla's heritage.

In 1958 the civic leaders of the City of Rolla intended to (and did) set aside land for a public park to be known as "Buehler Park." Exs. 1, 7. The civic leaders of the City now in office intend to set aside "Buehler Park" for use as a restaurant district consisting of a "Lions Choice," a "Rib Crib," and a "Ruby Tuesday." Ex. 6.

Acquisition of Buehler Park by the City Of Rolla

Before the City of Rolla took title to Buehler Park, the park land was owned by the Rolla Chamber of Commerce. Ex. 1. The official records of the Chamber reveal that, in 1957, the Chamber was exploring whether to convey Buehler Park to the City:

The question has come up, whether or not the Chamber of Commerce should deed that part of Buehler Park which lies south of the road, to the City, so that the City, through the Park and Recreation Board could maintain and improve it. Discussion followed, and Mr. Maggi asked Mr. Christopher to meet with the Park and Recreation Board and get their opinion.

Minutes of the Rolla Chamber of Commerce, July 10, 1957, Ex. 7. At the next regular Chamber meeting, the Chamber discussed the conditions under which it would consider transferring the property to the City:

Mr. Christopher reviewed his meeting with the Park Board concerning the Chamber of Commerce deeding the park section of the Buehler Park tract to the City. Mr. White mentioned that maintaining the grove was a moral obligation to the memory of Chief Buehler. When the Park Board have definite plans for improvement, and maintenance, and arrangements can be made for the transfer of the property.

Minutes of the Rolla Chamber of Commerce, August 16, 1957, Ex. 7. Five months later the Chamber settled upon the conditions under which it would make the transfer:

Motion was made by Aaron Baxter, and seconded by John Morris, that the part of the land south of the road at Buehler Park be deeded to the City to be used from now on as a Park in memory of Chief Buehler.

Minutes of the Rolla Chamber of Commerce, January 3, 1958, Ex. 7. The land was to be used as a Park "from now on." Id. The park was to be "in memory of Henry Buehler." Id.

The following month the Chamber and the City executed the deed for the transfer of Buehler Park. The deed conveys the property "to have and to hold. . . FOREVER." (Emphasis in original.) The deed includes the following statement:

It is understood that the above described real estate is conveyed to the City of Rolla, Missouri for Park purposes only and none other, and to be known as Buehler Park.

Ex. 1.

In Memory of Chief Buehler

Buehler Park honors the life of Henry Andrew Buehler. Ex. 7.

Henry Andrew Buehler was born at Monroe, Wisconsin on May 27, 1876. Ex. 10. He entered public service in Missouri in 1901 as Assistant State Geologist. Id. He was appointed Missouri's State Geologist in 1908. Ex. 12. He served as State Geologist for thirty-six years, having been appointed and

reappointed by 11 governors during his term of office. *Id.*; Attachment to Stipulation of Facts, ¶ A.

He was instrumental in bringing Fort Leonard Wood to Missouri. Ex. 12. In 1935, he served as President of the American Institute of Mining and Metallurgical Engineers in 1935, following Herbert Hoover, the Country's thirty-first President. Ex. 9.

Henry Buehler selflessly devoted his life to serving the public and, in particular, the citizens of Rolla. In 1944, upon Henry Buehler's death, Rolla's Mayor called for all Rolla businesses to close for two hours. Minutes of Special Meeting of the Rolla City Council, March 15, 1944; Ex. 8. The Missouri House, the Missouri Senate, and the delegates to the 1943-1944 Constitutional Convention all passed resolutions the following day. The Missouri House called Henry Buehler "Rolla's most prominent citizen." Ex. 9. The Missouri Senate referred to Henry Buehler as "a Missouri institution." Ex. 10. The delegates to the 1943-1944 Constitutional Convention wrote:

It is said that no man is indispensable. This may be true, but it will require many days to find a man of the stature and capacity and unselfish devotion to succeed to the work of H. A. Buehler . . .

Resolution No. 69, Ex. 11. Even a half century after his death Governor Mel Carnahan proclaimed that there be a "Chief Henry A. Buehler Week." Ex. 12.

In all likelihood Henry Buehler is Rolla's most prominent historical figure.

Maintenance of Buehler Park, 1958-2006

From the time the Chamber conveyed Buehler Park to the City, the Park has been maintained by the City of Rolla as a park, known as "Buehler Park." Stipulation, ¶ 2.

Use of Buehler Park

From the time the Chamber conveyed Buehler Park to the City, the Park has been used as a public park, and still is used as a park. Stipulation, ¶ 2; Attachment to Stipulation, ¶¶ C, E, F, G; Ex. 13.

Proposed Sale of Buehler Park

In 2004 and 2005, the City of Rolla, its mayor and city council developed plans to sell Buehler Park. Exs. 2-6. In December, 2004, the City mailed out requests for proposals for the sale and development of Buehler Park (Stipulation, ¶¶ 6, 7; Ex. 5), and placed an advertisement in the Rolla Daily News, soliciting proposals. Stipulation, ¶ 7; Ex. 4.

American Realty and Thessing Commercial Properties, among others, tendered a joint proposal to the City. Stipulation, ¶ 8; Ex. 6. The developers propose to develop Buehler Park into a “Restaurant Development District.” Ex. 6, p. 1. The proposal includes three letters of intent - one on behalf of “Ruby Tuesday, ” one on behalf of “Lions Choice,” and a third on behalf of “Rib Crib.” See p. 4 of attachment to Ex. 6. While converting Buehler Park to these three eating establishments, the proposal claims to “preserve[] a part of the Buehler Park heritage,” in that the developers “plan to preserve a landscape strip on Fairgrounds Road and Kingshighway that will include a distinctive monument as a ‘City of Rolla’ identification element.” See p. 5 of attachment to Ex. 6.

In March, 2005, the City Council passed Resolution No. 1556, authorizing the Mayor to execute a contract with American Realty. Stipulation, ¶ 3; Ex. 2. In April, 2005, the City and American Realty executed an option contract for Buehler Park. The contract requires Buehler Park to be converted to at least one regional franchise restaurant and at least one other food service business. See p. 3 of agreement for sale of Buehler Park, attached to Ex. 3.

Evidence Relating to Standing

By way of a stipulation, plaintiffs testified concerning the use of Buehler Park by the public, along with their interest in Buehler Park.

Citizens for the Preservation of Buehler Park

Citizens for the Preservation of Buehler Park is a membership organization, organized and existing under Missouri's not-for-profit corporation laws for the purpose of promoting and preserving historic Buehler Park. Almost all of the members of the organization are frequent users of the Park. All of the organization's members have an interest in promoting and preserving historic Buehler Park for park purposes. Attachment to Stipulation of Facts, ¶ B.

Thomas J. Sager

Thomas J. Sager resides at 8 Laird Avenue in the City of Rolla, Missouri. He owns the property there, and has paid real estate taxes to the City of Rolla since 1993. Almost all of the goods purchased by him are purchased within the City of Rolla. Since 1982, he has paid sales taxes and other taxes and fees to the City of Rolla.

Sager has been an avid user of Buehler Park for over 10 years. This summer he has been practicing baseball in Buehler Park with his 8-year-old grandson. He has also played soccer in Buehler Park with the Rolla Optimist Club Soccer League. Sager has met many interesting people in Buehler Park. Last year, he met the cast of a production of Hans Christian Anderson's "Little Mermaid" in Buehler Park.

He is a member of Citizens for the Preservation of Buehler Park.

Linda Marie Novak

Linda Marie Novak is a member of Citizens for the Preservation of Buehler Park. Ninety-five percent of the goods purchased by her are

purchased within the City of Rolla. She has paid sales taxes to the City of Rolla since 1994.

Edie Gale Hays

Edie Gale Hays resides at 110 Bryant, approximately 500 feet from Buehler Park, in the City of Rolla, Missouri. She owns the property there, and has paid real estate taxes to the City of Rolla since 1994. Ninety percent of the goods purchased by her are purchased within the City of Rolla. Since 1990 she has paid sales and personal property taxes to the City. She also owns a business in the City of Rolla and pays licensing fees to the City. She has been using Buehler Park for more than twenty years. She enjoys attending various events there, and watching sports practices there.

She is a member of Citizens for the Preservation of Buehler Park.

Neil Elfrink

Neil Elfrink resides at 10231 County Road 8150, Rolla, Missouri 65401, near the City of Rolla. Eighty-five percent of the goods purchased by him are purchased within the City, and he has paid sales and real estate taxes to the City of Rolla since 1992. He has been using Buehler Park for 14 years. He walks through the Park almost every day. He also enjoys walking his dogs in the Park.

He is a member of Citizens for the Preservation of Buehler Park.

Eileen J. Lunsford

Eileen J. Lunsford resides at 1001 Lynwood Drive in the City of Rolla, Missouri. For the past 20 years, she has paid personal property taxes, utility taxes and franchise fees to the City of Rolla. All of the goods purchased by her are purchased within the City, and she pays sales taxes to the City of Rolla.

She has been using Buehler Park for many years. She enjoys walking to the Park with her daughter, who spends time on the playground equipment, and

enjoys using the pavilion for creating works of art inspired by the wildlife she sees there.

She is a member of Citizens for the Preservation of Buehler Park.

The Expenditures of Public Funds

For the proposed sale of Buehler Park, \$214.72 was expended from the City's general fund to mail out requests for proposals on or about December 8, 2004, and \$68.75 was spent from the City's general fund to advertise a "Public Notice" requesting proposals on or about December 12, 2004. Stipulation, ¶ 7; Exs. 4, 5. The payees were the United States Postal Service and the Rolla Daily News respectively. Stipulation, ¶ 7. The source of the funding was the City's general fund which includes monies from taxation, fees and other sources. *Id.* The expenditures would not have occurred but for the defendants' plan to sell Buehler Park. *Id.*

ARGUMENT

I. BUEHLER PARK IS DEDICATED TO PUBLIC USE

The evidence establishes all three elements of a dedication: (1) the Rolla Chamber of Commerce intended to set aside Buehler Park for public use; (2) the City of Rolla has maintained the property as a park; and (3) the public has been using Buehler park. Accordingly, as a matter of common law, Buehler Park has been dedicated to the City of Rolla for public use:

Common law dedication. . . is proven by showing: (1) that the owner, by unequivocal action, intended to dedicate the land to public use; (2) that the land dedicated was accepted by the public; and (3) that the land dedicated is used by the public.

Whittom v. Alexander-Richardson Partnership, 851 S.W.2d 504, 507-08 (Mo. banc 1993). This is the well-established test for dedication. See, e.g., *Connell v. Jersey Realty & Investment Co.*, 180 S.W.2d 49, 52 (Mo. 1944); *Kleeman v.*

Kingsley, 167 S.W.3d 198, 203 (Mo. App. S.D. 2005); *Earls v. Majestic Point, Ltd.*, 949 S.W.2d 239, 246 (Mo. App. S.D. 1997); and *Coffey v. State ex rel. County of Stone*, 893 S.W.2d 843, 846 (Mo. App. S.D. 1995).

A. The Rolla Chamber of Commerce intended to dedicate the land to public use as a park

The Chamber's intent to set aside the "park" or "grove" in memory of Henry Buehler appears in the Chamber's official records. Ex. 7. The Chamber believed that there was a "moral obligation" to maintain the grove in memory of Chief Buehler. Minutes of the Rolla Chamber of Commerce, August 16, 1957, Ex. 7. The Chamber would not transfer Buehler Park to the City until the City had definite plans to maintain the park. *Id.* When the City's plans to improve and maintain the Park were in place:

Motion was made by Aaron Baxter, and seconded by John Morris, that the part of the land south of the road at Buehler Park be deeded to the City to be used *from now on as a Park in memory of Chief Buehler*. Minutes of the Rolla Chamber of Commerce, January 3, 1958, Ex. 7 (emphasis added).

Moreover, the Chamber's intent to dedicate or set aside Buehler Park for public use is set out on the face of the deed:

It is understood that the above described real estate is conveyed to the City of Rolla, Missouri for Park purposes only and none other, and to be known as Buehler Park.

Ex. 1. Even if one were to ignore the existence of the Chamber's official records, the wording of the warranty deed itself shows that the Chamber intended to set aside the Buehler Park land for public use as a park. A warranty deed which contains language showing an intent that the property be accessible to the public is sufficient to show an intention to dedicate land to public use. *Coffey v. State ex rel. County of Stone*, 893 S.W.2d 843, 844 (Mo. App. S.D.

1995). The language in the Buehler Park deed is far more restrictive, for example, than the language contained in the warranty deed which was the subject of *Coffey*. In *Coffey*, a general warranty deed conveyed a private road and contained the language "Grantee agrees maintenance of road in suitable condition for school bus to travel." 893 S.W.2d at 844. The Court of Appeals held that the recitals in the deed manifest the owner's intent to dedicate the road to public use. 893 S.W.2d at 847. See also *Hand v. City of St. Louis*, 59 S.W.92 (Mo. 1900) (deed to city "for purpose of a public market to be called Shepard's Free Market"). The language in the Buehler Park deed is far more specific and more limiting than the language in the *Coffey* and *Hand* deeds. The language in the Buehler Park deed shows the intent of the Rolla Chamber of Commerce to dedicate Buehler Park to public use.

**B. The land dedicated was accepted by the City of Rolla
and maintained as a public park**

With respect to the second element, acceptance by the public, the City of Rolla has maintained, and the public has used, Buehler Park for approximately fifty years. Stipulation, ¶ 2. Maintenance of Buehler Park by the City and use of Buehler Park by the public are sufficient to establish acceptance by the public. *Kleeman v. Kingsley*, 167 S.W.3d 198, 203 (Mo. App. S.D. 2005); *Coffey v. State ex rel. County of Stone*, 893 S.W.2d 843, 847 (Mo. App. S.D. 1995).

**C. Since 1958 the land dedicated has been and is used by
the public as a public park**

For the third element, use by the public, the facts show that Buehler Park is actively used. Stipulation, ¶ 2; Attachment to Stipulation, ¶¶ C, E, F, G.

For example, Thomas J. Sager regularly plays baseball in the Park with his grandson. He has met many people in Buehler Park, including the cast of

“The Little Mermaid.” Attachment to Stipulation, ¶ C. He has taken various photos of the Park and of people using the Park. See. Ex. 13.

And, for example, Eileen Lunsford enjoys walking to the park with her daughter who spends time on the playground equipment. Ms. Lunsford also enjoys using the pavilion in the Park. Attachment to Stipulation, ¶ G.

The evidence establishes the regular use of Buehler Park by the public. *Coffey v. State ex rel. County of Stone*, 893 S.W. 2d 843, 847 (Mo. App. 1995).

Summary

In 1958, Buehler Park was dedicated to public use.

II. PLAINTIFFS HAVE STANDING TO CHALLENGE

THE ABUSE OF THE PUBLIC TRUST

Plaintiffs have standing to challenge the proposed sale on each of three grounds.

A. As taxpayers, plaintiffs have standing

Some of the plaintiffs reside in the City of Rolla, own property there, and pay real estate taxes to the City of Rolla. Attachment to Stipulation, ¶¶ C, E. Almost all of the goods purchased by the plaintiffs are purchased within the City of Rolla, and they pay sales taxes to the City of Rolla. Attachment to Stipulation, ¶¶ C - G. Further, the City of Rolla has spent public funds in pursuit of its effort to sell Buehler Park. Stipulation, ¶ 7. But for the effort to sell the park, these funds that would not have been spent. *Id.*

As taxpayers, the individual plaintiffs have standing because, “[t]o establish standing, [plaintiffs], like all Missouri taxpayers, need only show ‘that [their] taxes went or will go to public funds that have been or will be expended due to the challenged action.’” *National Solid Waste Management Ass'n v. Director of Dept. of Natural Resources*, 964 S.W.2d 818, 819 (Mo. banc 1998), citing *O'Reilly v. City of Hazelwood*, 850 S.W.2d 96, 98 (Mo. banc 1993);

Citizens for the Preservation of Buehler Park v. City of Rolla, 187 S.W. 3d 359, 362 (Mo. App. S.D. 2006). See also *Missouri Coalition for the Environment v. Joint Committee on Administrative Rules*, 948 S.W.2d 125, 132 (Mo. banc 1997); *Harris v. Missouri Gaming Commission*, 869 S.W.2d 58, 60 (Mo. banc 1994); and *Eastern Missouri Laborers District Council v. St. Louis County*, 781 S.W.2d 43, 46 (Mo. banc 1989).

Consistent with these decisions, in *Ours v. City of Rolla*, the Court of Appeals held that “[a]llegations and proof of the illegal expenditure of public funds or the prospect of such illegal expenditures,” apart from “general operating expenses which would be incurred whether or not the challenged transaction took place,” are sufficient to confer standing. 965 S.W.2d at 346. The expenditures made by the City here to mail out requests for proposals and to advertise the request are precisely the sort of expenditures the Court had in mind. They are not “general operating expenses which would be incurred whether or not the challenged transaction took place.” Rather, the expenditures arose only because of the plan to sell Buehler Park. Stipulation, ¶ 7. These expenditures confer taxpayer standing:

The need for taxpayer suits ‘arises from the need to ensure that government officials conform to the law.’ An indispensable need exists ‘to keep public corporations, their officers, agents and servants strictly within the limits of their obligations and faithful to the service of the citizens and taxpayers.’ . . . Taxpayers only need to show that ‘taxes went or will go to public funds that have been or will be expended due to the challenged action.’

Citizens for the Preservation of Buehler Park v. City of Rolla, 187 S.W. 3d 359, 362 (Mo. App. S.D. 2006).

B. As users of the park, plaintiffs have standing

In this case (unlike *Ours v. City of Rolla*, 965 S.W.2d at 345, where the Court of Appeals held that users of Buehler Park did not have standing to sue)

the Attorney General has determined that his office is unable to devote any resources to enforce the dedication. See Ex. 16. Accordingly, plaintiffs respectfully request that this Court follow the rule from an unbroken line of cases going back to 1908. See *Tracy v. Bittle*, 112 S.W. 45, 49 (Mo. 1908); *Whittom v. Alexander-Richardson Partnership*, 851 S.W.2d 504 (Mo. banc 1993); and *Coffey v. State ex rel. County of Stone*, 893 S.W.2d 843, 844, 845 (Mo. App. 1995). These cases uphold the standing of persons who use the dedicated property to enforce the dedication. With the Attorney General having declined, in this matter, to enforce the dedicated use, the Court should declare that the users of the Park have standing:

If a dedication is a "contract" between the dedicator and the public, it is meaningless if the public cannot enforce it. If the entities who traditionally have the authority to enforce dedicated uses of public property do not do so, the public who use the facilities should have standing to present the issue to the courts.

Ours v. City of Rolla, 965 S.W.2d at 348 (Garrison, J., dissenting).

Plaintiffs respectfully assert that, as users of the Park, they have standing to sue. However, because the facts establish the standing of the individual plaintiffs as taxpayers, this Court need not address the question of whether plaintiffs have standing as users of Buehler Park. See *Kinder v. Holden*, 92 S.W.3d 793, 804 (Mo. App. W.D. 2002) (because plaintiffs have alleged taxpayer status, it is unnecessary to address the other types of standing alleged by them). See also *National Solid Waste Management Ass'n v. Director of Dept. of Natural Resources*, 964 S.W.2d 818, 819 (Mo. banc 1998) (where one plaintiff taxpayer has standing, the court need not address the standing of the other plaintiffs).

Plaintiffs have shown injury suffered by them, beyond the injury suffered by the general public. Even if this case did not involve the public interest, the use of the Park by plaintiffs should be sufficient to confer standing.

C. As inhabitants and property holders of the city, plaintiffs have standing

As with section II.B above, because the Attorney General has elected not to enforce the dedication (see p. 11, supra), plaintiffs respectfully request the Court to adopt the rule from a series of decisions dating back to 1871. See *Gaskins v. Williams*, 139 S.W. 117 (Mo. 1911); *Cummings v. City of St. Louis*, 2 S. W. 130, 132-33 (Mo. 1886); and *Price v. Thompson*, 48 Mo. 361 (1871). These cases uphold the standing of an inhabitant and property holder to enforce the dedication.

Plaintiffs Sager, Hays, and Lunsford reside in the City of Rolla. Plaintiffs Sager and Hays are owners of real property in the City. As inhabitants and property holders of the City, these plaintiffs should have standing to sue.

Summary

The evidence establishes plaintiffs' standing to bring this suit.

III. THE CITY HAS NO AUTHORITY TO SELL BUEHLER PARK

The three elements of a dedication having been established, the City of Rolla holds the fee to Buehler Park in trust for the benefit of the public, the trust to be executed in accordance with the terms of the Deed:

There is no doubt that if land in a city has been dedicated for use as a park, the city has a duty to keep the park open and in good order for the benefit of the public for purposes of health, pleasure, and recreation.

Bogert, *The Law of Trusts and Trustees* § 34 (West Pub. Co. 1984). When the fee was conveyed to the City by the Deed, the real estate "was not owned by the [City] in fee absolute, but was held in trust for a specific use." *Gaskins v.*

Williams, 235 Mo. 563, 139 S.W. 117, 120 (Mo. 1911). The Deed conveys a "dedicatory trust committed to the hands of the city." *Goode v. City of St. Louis*, 20 S.W. 1048, 1053 (Mo. 1892). The City "took the premises as a trustee with the obligations attached." *City of St. Louis v. Bedal*, 394 S.W.2d 391, 396 (Mo. 1965), quoting *Price v. Thompson*, 48 Mo. 361, 366 (1871).

Because the City holds Buehler Park in trust for the public, to be used for the purpose for which it was dedicated, the City has no power to sell any part of Buehler Park for use as a restaurant. See, e.g., *Cummings v. City of St. Louis*, 2 S.W. 130, 131 (Mo. 1886) ("The [public entity] may control and regulate [the use of the dedicated property], but it has no right to sell the property. . . . It must follow that the proposed out and out sale is a flagrant abuse of the trust reposed in the [public entity], and without any warrant or authority of law"). See also *Board Regents Normal School District No.3 v. Painter*, 14 S.W. 938, 940 (Mo. 1890):

[T]he [public entity] is but a trustee to manage the property for the uses and purposes to which it was devoted by the donors. It may control and regulate the use of the property, but it has no right to devote the same to private uses, or even to public uses, different from those specified in the deed. . . . This being so, the [public entity] had no right or power to convey the [dedicated property].

14 S.W. at 940.

IV. THE APPROPRIATE REMEDY IS AN INJUNCTION AGAINST THE BREACH OF TRUST

When a public body proposes to alienate or alter the use of property dedicated for use as a park, the remedy is to enjoin the alienation or misuse. *Price v. Thompson*, 48 Mo. 361 (Mo. 1871); *Cummings v. City of St. Louis*, 90 Mo. 259, 2 S.W. 130 (Mo. 1886).

[O]ne to whom property has been conveyed in trust for a particular use can not lawfully divert it to a different purpose, and

if he attempts to do so a court of equity. . . will interpose and prevent the misuse and abuse of the trust.

Hand v. City of St. Louis, 158 Mo. 204, 209, 59 S.W. 92 (Mo. 1900).

Summary

The purpose of a dedication is to establish a trust. The grantor gives up his ownership, in exchange for assurance that successors to the grantor and grantee will not have the authority to alter the terms of the trust. In 1958, the Rolla Chamber of Commerce dedicated Buehler Park for public use as a Park in exchange for the assurance that neither the Chamber's successor, nor the City of Rolla, would one day be tempted to swap park land for tax dollars (or perhaps for a bite of Rib Crib's "Buckaroo BBQ Sandwich").

CONCLUSION

Buehler Park was dedicated to the City of Rolla for use by the public as a park. Having received the property for "Park purposes only and none other," the City of Rolla holds Buehler Park in trust for the public, to be used for the purpose for which it was conveyed. The City has no power to sell or alienate any part of the Park property. For the reasons set forth above, this Court should enjoin the City of Rolla from conveying or alienating Buehler Park for use as a restaurant district.

Respectfully submitted,

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1. The City and its officials made similar plans in 1997. See *Ours v. City of Rolla*, 965 S.W.2d 343 (Mo. App. S.D. 1998).
2. The facts also support the standing of the plaintiff organization. Citizens for the Preservation of Buehler Park is a membership organization, organized and existing under Missouri's not-for-profit corporation laws for the purpose of promoting and preserving historic Buehler Park. Attachment to Stipulation of Facts, ¶ B, Ex. 15. The members of the organization are frequent users of the Park. Attachment to Stipulation of Facts, ¶¶ C, E, F, G. All of the organization's members have an interest in promoting and preserving historic Buehler Park for park purposes. Attachment to Stipulation of Facts, ¶ B. E.g., *Citizens for Rural Preservation v. Robinett*, 648 S.W.2d 117 (Mo. App. W.D. 1982).