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FROM THE OFFICE OF CIRCUIT JUDGE THOMAS T. REMINGTON
PAT BEARD, JUDICIAL ASSISTANT
OKALOOSA COUNTY CIRCUIT COURT
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Date: April 17, 2009

To: Matthew L. Gaetz, II
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Re: Okaloosa County v Arnold, et al
Case No. 09 CA 2020 and,
Bradley v. City of Valparaiso
Case # 09 CA 1965

Attached please find a copy of Judge Remington's rulings entered this morning as a result of Wednesday's hearings in the above matters.

**IN THE CIRCUIT COURT OF THE FIRST JUDICIAL CIRCUIT
IN AND FOR OKALOOSA COUNTY, FLORIDA**

OKALOOSA COUNTY, a political subdivision of
the State of Florida, and **RICHARD WOELFL**,
individually,

Plaintiffs,

v.

Case No. 09-CA-2020

BRUCE ARNOLD, individually, and in his official
capacity as Mayor of Valparaiso, **HAYWARD
STRONG**, individually, and in his official capacity
as city commissioner for the City of Valparaiso;
THOMAS MILLER, individually, and in his
official capacity as city commissioner for the City
of Valparaiso; and **THE CITY OF VALPARAISO**,
a political subdivision of the State of Florida,

Defendants.

**ORDER GRANTING PLAINTIFFS' REQUEST FOR PUBLIC RECORDS
AND DENYING PLAINTIFFS' MOTION FOR TEMPORARY INJUNCTION
AS TO PENDING FEDERAL LITIGATION BY THE CITY OF VALPARAISO**

THIS CAUSE having come before the Court for an expedited hearing on April 15, 2009,
on Plaintiffs' Motion for Temporary Injunction filed on April 8, 2009, and the Court having
heard testimony and argument of counsel and having fully considered the pleadings and exhibits
filed by counsel, and otherwise being fully advised in the premises, finds as follows:

Plaintiffs allege Defendants have committed violations of Chapter 119, Public Records
Law, and §286.011, Fla. Stat., Sunshine Law, with regard to a meeting of the Valparaiso City
Commission on February 18, 2009, at which the Commission authorized litigation against the
United States Air Force based on its decision to bring F-35 jets to Eglin Air Force Base.

Plaintiffs request this Court enjoin Defendants from prosecuting the federal actions they have pending against the United States Air Force in the United States District Court, Northern District of Florida, Pensacola, Florida.

Public Records Request

Plaintiff Richard Woelfl requested copies of public records from the City of Valparaiso through his attorneys in a letter dated March 6, 2009, which included a request for all e-mails containing any of the following terms: F-35, Joint Strike Fighter, Lawsuit, Litigation, Eglin, and Airport. The City of Valparaiso responded with an estimate of the cost of providing said copies, in the amount of \$4,374.54 - \$4,774.54. The estimate included labor costs in the amount of \$1,200 - \$1,600 of an employee reviewing 55 CDs containing the e-mails, along with other city records, in order to filter out any confidential information. Tammy Johnson, Valparaiso City Clerk, testified that the e-mails are maintained on the same server as other confidential city records; therefore, she could not simply provide copies of the CDs. Ms. Johnson further testified that the records would not be segregated until the costs deposit was paid.

§119.07(4)(d), Fla. Stat. (2008) authorizes the City to charge a special service charge if the nature of the public records request is such to require extensive use of information technology resources or extensive clerical or supervisory assistance of personnel; however, said charge must be reasonable. The Court finds the charge for filtering out the requested information contained on the CDs is not reasonable and the City cannot charge Woelfl for the labor involved in retrieving the e-mails and reviewing them to determine which e-mails are subject to exemption under the Public Records Law.

Sunshine Law

Plaintiffs allege Defendants violated the Sunshine Law by purposefully excluding two city commissioners from attending the meeting held on February 18, 2009, and that governmental decisions were crystalized during private discussions among Defendants. The three basic requirements of §286.011, Fla. Stat., Sunshine Law, are (1) meetings of public boards or commissions must be open to the public; (2) reasonable notice of such meetings must be given; and (3) minutes of the meetings must be taken. The Court finds based upon the testimony and exhibits that Plaintiffs have failed to prove at this time, any violation of the Sunshine Law with regard to the Valparaiso City Commission meeting held on February 18, 2009, and that Plaintiffs have failed to show they have a substantial likelihood of succeeding on the merits of this allegation.

Injunctive Relief as to Pending Federal Litigation

The City of Valparaiso has filed two lawsuits against the United States Air Force which are pending in the United States District Court, Northern District of Florida, Pensacola, Florida. Plaintiffs request this Court enjoin Defendants from prosecuting this pending federal litigation on the basis that the authorization for this litigation occurred at the city commission meeting on February 18, 2009, and is invalid due to the alleged violations of the Public Records Law and Sunshine Law.

Even if this Court disagrees with the City of Valparaiso's decision to sue the United States Air Force, this Court is completely without power to bar litigants from filing or prosecuting any *in personam* actions in federal court. The right to litigate in federal court is granted by Congress and the United States Supreme Court has long held the Supremacy Clause

of the United States Constitution¹ prevents a state court from enjoining *in personam* actions in federal court.² This Court therefore has no authority to enjoin Defendants from prosecuting the pending federal actions against the United States Air Force.

Based on the foregoing, it is

ORDERED AND ADJUDGED as follows:

1. Plaintiffs' request for public records is granted in that the City of Valparaiso shall review the 55 CDs for all e-mails containing any of the following terms: F-35, Joint Strike Fighter, Lawsuit, Litigation, Eglin, and Airport, and notify Plaintiffs' attorneys of the costs for copying those requested e-mails, within ten (10) days of the date of this order. Upon payment of said costs, the City of Valparaiso shall furnish copies of said e-mails to Plaintiffs' attorneys.

2. Plaintiffs' Motion for Temporary Injunction against the prosecution of the pending federal litigation by the City of Valparaiso against the United States Air Force is hereby

DENIED.

DONE AND ORDERED in Okaloosa County, Shalimar, Florida, this 17th day of April, 2009.


THOMAS T. REMINGTON
CIRCUIT JUDGE

¹Article VI, paragraph 2, United States Constitution.

²Donovan v. City of Dallas, 377 U.S. 408 (1964) and General Atomic Co. v. Felter, 434 U.S. 12 (1977).

CLERK'S CERTIFICATE OF SERVICE

I hereby certify a true copy of the foregoing has been furnished to the following this 17th day of April, 2009:

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Thomas Miller, Valparaiso City Commissioner
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William M. McCool
Clerk, U.S. District Court
Northern District of Florida
United States Courthouse
1 North Palafox Street
Pensacola, FL 32502
Re: Case No. 3:08-cv-00420-MCR-MD
and Case No. 3:09-cv-00135-MCR-MD

By:



Judicial Assistant

**IN THE CIRCUIT COURT OF THE FIRST JUDICIAL CIRCUIT
IN AND FOR OKALOOSA COUNTY, FLORIDA**

**ANTHONY S. BRADLEY, a resident
of the City of Valparaiso, Florida,**

Petitioner,

v.

Case No. 09-CA-1965

**CITY OF VALPARAISO, FLORIDA,
a municipal corporation of the
State of Florida,**

Respondent.

**ORDER DENYING PETITIONER'S MOTION
TO ACCELERATE FOR DISCOVERY AND TRIAL**

THIS CAUSE having come before the Court for an expedited hearing on April 15, 2009, on Petitioner's Motion to Accelerate for Discovery and Trial filed on April 14, 2009, and the Court having heard testimony and argument of counsel and having fully considered the pleadings and exhibits filed by counsel, and otherwise being fully advised in the premises, finds as follows:

Petitioner alleges Respondent has committed violations of §286.011, Fla. Stat., Sunshine Law, with regard to meetings and actions taken by Respondent and the Valparaiso City Council resulting in litigation against the United States Air Force based on its decision to bring F-35 jets to Eglin Air Force Base. Petitioner requests this Court declare the actions of the Valparaiso City Council illegal and void, and enjoin Respondent from prosecuting the federal actions it has pending against the United States Air Force in the United States District Court, Northern District of Florida, Pensacola, Florida. Petitioner's motion requests this Court determine if this action should be accelerated and if so, set a schedule for discovery, motions and trial.

Even if this Court disagrees with the City of Valparaiso's decision to sue the United States Air Force, this Court is completely without power to bar litigants from filing or prosecuting any *in personam* actions in federal court. The right to litigate in federal court is granted by Congress and the United States Supreme Court has long held the Supremacy Clause of the United States Constitution¹ prevents a state court from enjoining *in personam* actions in federal court.² This Court therefore has no authority to enjoin Respondent from prosecuting the pending federal actions against the United States Air Force. Accordingly, the Court finds there is no basis for accelerating this action for discovery and trial.

Therefore, it is

ORDERED AND ADJUDGED that Petitioner's Motion to Accelerate for Discovery and Trial filed on April 14, 2009, is hereby **DENIED**.

DONE AND ORDERED in Okaloosa County, Shalimar, Florida, this 17th day of April, 2009.


THOMAS T. REMINGTON
CIRCUIT JUDGE

¹Article VI, paragraph 2, United States Constitution.

²Donovan v. City of Dallas, 377 U.S. 408 (1964) and General Atomic Co. v. Felter, 434 U.S. 12 (1977).

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17th day of April, 2009:

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By: Pat Beard
Judicial Assistant