

**IN THE CHANCERY COURT FOR RUTHERFORD COUNTY, TENNESSEE**

STATE OF TENNESSEE, ex rel  
RICHARD & TATYANA MERRYMAN, JOHN A KINNARD,  
RUTH S. & HENRY B ARNETT, MICAH L BENNETT  
RICHARD D BRANNAN, RONALD E & JEAN H BROWN,  
ROBERT L BURNS, JAMES CLIMMER, SAM W COLLINS, JR,  
JOHN L COLLINS, RICHARD L DANIELS, LONNIE E. FARRIS,  
KENNY M FLEMING, WILLIAM G GAINES,  
STEVEN W & PATRICIA D GASS, WILLIAM A. GAUGER,  
HILTON M GRAVES, MICHAEL A GRUBER, MICHAEL S HAMILTON,  
MICHAEL D. & KAY B. HARVEY, HARRY HAUGER,  
RANDY S. KELLEY, VICTOR W KRAW, HOWARD A. LANE,  
BRETT A LARIMER, BRAD W LUKENS, NELCINE MATHIS,  
STEPHEN N McAULEY, TERRY M. MEYER, PATRICIA B. NEWCOMB,  
WILLIAM PATTERSON, DONNA K PFEIFFER, STAN RICHARDSON,  
RUSSELL C RIGSBY, RONALD ROBERTSON, CHARLES A ROSE,  
TIMOTHY W STORMES, PAUL W TRAUGHBER, SR, GARY E. WELSH,  
JENEE NELSON, MARIE KOSKEY, KEVIN J GROOGAN,  
FRANK M & KATHY WARD, SARAH E SUDAK,  
BRIAN T GRUBER, JAMES H FRENCH,

PLAINTIFFS

VS.

NO. \_\_\_\_\_

THE CITY OF MURFREESBORO, TENNESSEE

DEFENDANT

**COMPLAINT IN NATURE OF QUO WARRANTO and  
for DECLARATORY JUDGMENT**

Come your Plaintiffs, by and through counsel, and bring this action in the nature of quo warranto, pursuant to TCA 6-51-103 and related statutes, and seeking declaratory relief contesting the annexation of their property by the City of Murfreesboro and for cause of action would show as follows:

**COUNT I - QUO WARRANTO**

1. Plaintiffs own real property in Rutherford County, Tennessee, which property may be included within an area which Defendant City of Murfreesboro, Tennessee, a municipal corporation,

seeks to annex into its corporate limits pursuant to certain ordinances including but not necessarily limited to Ordinance Number 06-OA-13, which ordinance is attached hereto as Exhibit A and made a part hereof by reference. Defendant undertook to pass said Ordinances on third reading on or about the 13th day of July, 2006, allegedly under authority of Tennessee Code Annotated 6-51-102, et seq.

2. Plaintiffs bring this action in the nature of quo warranto pursuant to Tennessee Code Annotated 6-51-103, et seq., contesting the annexation ordinance and the attempted annexation of Plaintiffs' property without the consent and approval of your Plaintiffs.

3. Plaintiffs aver that neither the Mayor nor the City Council of Murfreesboro have received a request or approval from the Plaintiffs to annex Plaintiffs' property.

4. Plaintiffs by and through counsel aver that the proposed Ordinance constitutes an exercise of power not conferred by law (Tennessee Code Annotated 6-51-102) and is therefore void and invalid *ab initio*.

6. The governing body of the City of Murfreesboro, Tennessee, has no power to provide any services to the citizens and residents of Rutherford County, Tennessee, which the citizens and residents of Rutherford County, Tennessee, do not already have or are not able, by and through their legislative body, to procure for themselves and for the benefit of all citizens and residents of Rutherford County, Tennessee, including the proposed annexed area.

7. Plaintiffs aver that the prosperity of the City of Murfreesboro and of territory attempted to be annexed, will not be materially retarded and the safety and welfare of the inhabitants and property thereof will not be endangered if the referenced territory is not annexed.

8. Plaintiffs aver that the property subject of this annexation is contiguous to the boundaries of the City of Murfreesboro only as a result of a previous "strip annexation" of the Right of Way of Manson Pike and undeveloped property as a "bubble" at the end of the Manson Pike. Said annexation was accomplished by Ordinance 01-O-04, attached hereto as Exhibit B.

9. Plaintiffs aver that said Ordinance 01-O-04 is void and invalid *ab initio* as a strip annexation not allowed under the annexation laws of the State of Tennessee.

10. There now exists a legitimate dispute between the Plaintiffs and Defendant regarding the legal validity of said Ordinance 01-O-04. If the ordinance is invalid, then the annexation of Plaintiffs property must fail due to the lack of required contiguity with the boundaries of the City of Murfreesboro.

11. Plaintiffs aver that the said ordinance 06-OA-13 (Exhibit A) is invalid *ab initio*, in that it fails to specify with particularity, which property is being annexed.

12. Plaintiffs likewise aver that the public notice of the proposed annexation does not meet the requirements of T.C.A. § 6-51-101 et seq. in that it does not properly specify precisely which property is subject to annexation, and, therefore, the subject ordinance is void and invalid *ab initio*, for failure to comply with statutory requirements.

13. Plaintiffs aver that pursuant to the Declaratory Judgment Act (T.C.A. § 29-14-101 et seq.), that they are entitled to have this Court declare the rights of the parties and the validity, *vel non*, of said Ordinance

14. Plaintiffs aver that they are entitled to a trial by jury on the statutory issue as set out in T.C.A. § 6-58-111.

PREMISES CONSIDERED, PLAINTIFF PRAYS:

1. That process issue and be served upon Defendant requiring it to appear and answer this Complaint.

2. That a jury be empaneled to decide the statutorily mandated issue as provided in Tennessee Code Annotated 6-51-103 and T.C.A. 6-58-111.

3. That upon a trial by jury, the Ordinance herein referenced be vacated by order of this Court, and the same be declared null, void and of no effect.

4. That this Court declare, that Ordinance 01-O-04 is invalid and void *ab initio* and that as a result that Ordinance 06-OA-13 is thereby void *ab initio*.

5. That this Court declare that the requirements of T.C.A. § 6-51-101, and et seq. have not been complied with and that Ordinance 06-OA-13 is void *ab initio*.

6. That Plaintiff have such other, further, equitable and general relief to which this Court may deem it entitled

THIS IS THE FIRST PETITION IN THE NATURE OF QUO WARRANTO OR FOR EXTRAORDINARY RELIEF FILED ON BEHALF OF THE PLAINTIFF IN THIS MATTER AND NO COURT HAS HERETOFORE DENIED SUCH RELIEF.

Respectfully submitted,

---

David L. Buuck, BPR 7210  
Attorney for Plaintiffs  
707 Market St.  
Knoxville, Tennessee 37902  
(865) 544-0027  
(865) 637-9800 (Fax)  
dlbuuck@bellsouth.net

**COST BOND**

We hereby acknowledge ourselves as sureties for statutorily provide court costs as provided in T.C.A. §20-12-120, in the above cause.

---

David L. Buuck, Atty.