

At 2:04 O'clock P M
MAY 16 2022
CHASITY DEISCH
PHILLIPS COUNTY CIRCUIT CLERK
By AKS ARKANSAS D.C.

IN THE CIRCUIT COURT OF PHILLIPS COUNTY
CIVIL DIVISION

HUMANE SOCIETY OF THE DELTA,
An Arkansas Non-Profit Corporation

PLAINTIFF

Case No. 54CV-21-175

CITY OF HELENA-WEST HELENA,
ARKANSAS and KEVIN SMITH,
Individually and In His Official
Capacity as Mayor of Helena-
West Helena, Arkansas

DEFENDANTS

FIRST AMENDED COMPLAINT

COMES NOW the Plaintiff, Humane Society of the Delta, an Arkansas non-profit corporation, and for its cause of action against the Defendants, City of Helena-West Helena, Arkansas and its Mayor, Kevin Smith, states:

TABLE OF CONTENTS

I.
PARTIES

II.
FACTUAL ALLEGATIONS

III.
COUNT ONE - WATER

IV.
COUNT TWO - PERSONAL PROPERTY

V.
COUNT THREE - REAL ESTATE

VI.
DEMAND FOR JURY TRIAL

VII.
PRAYER

I.
PARTIES

1. Plaintiff, Humane Society of the Delta (HSD hereinafter) is an Arkansas non-profit corporation with its principal office in Helena-West Helena, Phillips County, Arkansas.

2. Defendant, City of Helena-West Helena, Arkansas (City hereinafter), is an Arkansas city of the first class.

3. Defendant, Kevin Smith, is the mayor of the City of Helena-West Helena, Arkansas (Mayor hereinafter) and is named in his official capacity as mayor and in his individual capacity.

II.
FACTUAL ALLEGATIONS

4. HSD is a no-kill animal rescue facility located at 8480 Phillips road 300, in Phillips County, Arkansas, outside of the City of Helena-West Helena, Arkansas city limits.

5. The legal description of the entire 5.5-acre facility is reflected in the deed attached hereto as **Exhibit 1**.

6. One acre of the facility was transferred to Phillips County, Arkansas, as reflected in the attached **Exhibit 2**.

7. HSD is served by the Helena-West Helena Municipal Water System which provides water service for a fee.

8. Funding the HSD was predominantly provided by Gloria Higginbotham, who contributed \$2,000,000.00, more or less, to the said animal shelter since 2007.

9. The City of Helena-West Helena, Arkansas has provided no funding to the HSD.

10. At times relevant to this complaint, the City of Helena-West Helena, Arkansas had no ownership interest in any property located at the HSD facility.

11. Since 2007 the City of Helena-West Helena, Arkansas depended exclusively upon HSD to quarantine, house and confine stray animals from within its city limits.

12. On the 22nd day of October 2021, the Mayor of Helena-West Helena seized Plaintiff's facility and took possession of the 4.5 acres owned by HSD, together with all tangible personal property on site.

13. The City and its Mayor:

- Padlocked the gate to the HSD and retained possession of the key to the padlock;
- claimed possessory right to the real estate, excluding the owner from the premises using the Helena-West Helena Police Department to deny possession of personal property to its true owner; and
- oversaw the removal of personal property belonging to Plaintiff.

14. HSD was not provided any notice of property seizure.

15. The personal property owned by Plaintiff which the Mayor denied Plaintiff access to is as follows:

Tangible Nonpharmaceutical Items:

Business Records: Receipts / Labor - time sheets / Files for each day of operation

Animal Records: Records of animal inoculations/veterinary records
History records of animals

Various personal papers

Two laptops computers

Two-wheel chairs/big one

IV bags

Microchips

Pet Stables

Leashes

Collars

Muzzles

Tourniquets

Various containers

Dog beds

Astroturf

Medications:

Albon
Amoxil/CLAV 500 MG/125 Tabs 100 CT (x5)
Anigin Rapid Canine Parvo Test 10 CT (x3)
Apoquel (1bottle)
Bordatella (x22)
Bravecto 100 MG 1 x 1 tab 240 (1 box)
Bravecto for Cats (x2)
Cerprofen 60 CT (2 bottles)
Clavacillin 125 MG TABS 210 CT (x1)
Clindamy Cen. 150 MG CAPS 100 CT (x10)
Clindamycin
Convenia (x2)
Crenia (x3)
Doxycycline 100 TABS 500 CT (x10)
Drontal Plus MG Large Dog 30 (x5)
Effitix Plus Topical Solution for Dogs 8 wks of age) (x6)
Enalapril MAG TAB 100 (x3)
FCP 25 CT (x2)
Feline Rapid Tests (x4)
Feline Leukemia / Giardia Test (10 in box)
Flagalgy
Furosimide 40 MG Tabs (round) 1000 (x2)
Gabapentin 300 MG (1 bottle)
Heartgard Plus (x6)
Merck 10 lbs. (1 box)
Metronidazole - 1 tab 250 MG (x3)
MultiAdvantage
NexGuard-10 1-24 lbs. (3 chews)
Nobivac Feline 1 HCP 25 PK (x1)
Nobivac Intra-Trac-KC 25 PK (x4)
Nobivac K9-1 DAPPVL2 25 PK (x5)
Nobivac K9-1 DAPPV 25 PK (x3)
Nutri-Cal 4.25 oz. (x5)
PanaCure C - 40 lbs. (x15)
PanaCure C - 19.70 (x20)
Panacure
Prednisone (x2)
Pyrantel PANL 32 oz. (x2)
Rebound Recuperation for Dogs (12 boxes)
Senergy 5.1-15 lbs. (2 boxes)
Syringe Exel 3CC 22 x 3/4 LL 100 CT
Syringe Exel 3CC with needle (x4)
Syringe Exel 1CC Syr only LS 100 CT
Tobranucin 0.3% OPHTHSOL 5 ML (x11)
Toradol

Vet Scan Parvo Test 20 CT (x1)
Vetprofen
Vetscan Heartworm Test 25 CT (x3)
Vitamin B-12 1000 MCG Inj. - 100 ML (x3)
Vitamin B-12 1000 MCG Inj 1000 MIL (x1)

16. Lorraine Ferryman, a volunteer worker and board member of HSD, was twice prohibited from entering the rescue facility by Mayor Kevin Smith because she was a board member of HSD. The first effort to enter the facility was to feed and water dogs as she had done the prior day.

17. Lorraine Ferryman's second effort to enter the property was with Tiffany Noland who lived in the trailer on the facility in an attempt to retrieve Tiffany Noland's personal property located in the trailer.

18. Gloria Higginbotham, President of HSD, was denied access to the HSD property by Mayor Smith.

19. No notice of seizure was posted at the entrance to the facility, nor was a notice of seizure published.

20. Mr. Andy Sommers, who identified himself as a volunteer and representative of the Mayor of Helena-West Helena, prohibited Plaintiff's counsel access to the HSD property on October 29, 2021.

21. The gate to the HSD land was locked with the Mayor controlling access and the key, denying access to Plaintiff until November 3, 2021.

22. Other members of the Board of Directors were denied access to the facility as was Plaintiff's counsel.

23. Telephone calls to Mayor Smith concerning ownership from Plaintiff's president, Gloria Higginbotham, and from Plaintiff's counsel, were not answered or returned as requested.

24. Between October 22, 2021 and November 3, 2021, the Mayor of the City of Helena-West Helena, Arkansas, by chaining the gate and controlling access to the key, prohibited Plaintiff possession of Plaintiff's real property and personal property located at the HSD facility.

25. When the Mayor returned access to the owner of the facility on November 3, 2021, the following personal property owned by HSD had been removed from the facility:

Tangible Nonpharmaceutical Items:

Business Records: Receipts / Labor - time sheets / Files for each day of operation

Animal Records: Records of animal inoculations/veterinary records
History records of animals

Various personal papers

Two laptops computers

Two-wheel chairs/big one

IV bags

Microchips

Pet Stables

Leashes

Collars

Muzzles

Tourniquets

Various containers

Dog beds

Astroturf

Medications:

Albon

Amoxil/CLAV 500 MG/125 Tabs 100 CT (x5)

Anigin Rapid Canine Parvo Test 10 CT (x3)

Apoquel (1bottle)

Bordatella (x22)

Bravecto 100 MG 1 x 1 tab 240 (1 box)

Bravecto for Cats (x2)

Cerprofen 60 CT (2 bottles)

Clavacillin 125 MG TABS 210 CT (x1)

Clindamy Cen. 150 MG CAPS 100 CT (x10)

Clindamycin

Convenia (x2)

Crenia (x3)

Doxycycline 100 TABS 500 CT (x10)

Drontal Plus MG Large Dog 30 (x5)

Effitix Plus Topical Solution for Dogs 8 wks of age) (x6)

Enalapril MAG TAB 100 (x3)
 FCP 25 CT (x2)
 Feline Rapid Tests (x4)
 Feline Leukemia / Giardia Test (10 in box)
 Flagalgy
 Furosimide 40 MG Tabs (round) 1000 (x2)
 Gabapentin 300 MG (1 bottle)
 Heartgard Plus (x6)
 Merck 10 lbs. (1 box)
 Metronidazole - 1 tab 250 MG (x3)
 MultiAdvantage
 NexGuard-10 1-24 lbs. (3 chews)
 Nobivac Feline 1 HCP 25 PK (x1)
 Nobivac Intra-Trac-KC 25 PK (x4)
 Nobivac K9-1 DAPPVL2 25 PK (x5)
 Nobivac K9-1 DAPPV 25 PK (x3)
 Nutri-Cal 4.25 oz. (x5)
 PanaCure C - 40 lbs. (x15)
 PanaCure C - 19.70 (x20)
 Panacure
 Prednisone (x2)
 Pyrantel PANL 32 oz. (x2)
 Rebound Recuperation for Dogs (12 boxes)
 Senergy 5.1-15 lbs. (2 boxes)
 Syringe Exel 3CC 22 x 3/4 LL 100 CT
 Syringe Exel 3CC with needle (x4)
 Syringe Exel 1CC Syr only LS 100 CT
 Tobranucin 0.3% OPHTHSOL 5 ML (x11)
 Toradol
 Vet Scan Parvo Test 20 CT (x1)
 Vetprofen
 Vetscan Heartworm Test 25 CT (x3)
 Vitamin B-12 1000 MCG Inj. - 100 ML (x3)
 Vitamin B-12 1000 MCG Inj 1000 MIL (x1)

26. The City provides water service to customers in Helena-West Helena, Arkansas and surrounding area through the city's municipal waterworks system.

27. Although HSD is situated outside of the City, it is one of the City's water customers.

28. Water users (customers) are assigned a unique account number for each metered location where water services are provided.

29. HSD has an assigned unique account number of 1501 for one of its water accounts.

30. The City charges a fee for the water used by the customer based upon the volume of water actually used by the customer, as specified in Ordinance 12-2019, a copy of which is attached hereto as **Exhibit 3**.

31. The volume of water used by a customer is determined by a meter installed by Defendant at each point of service.

32. The water meter is owned by the Defendant and is subject to the control of the City.

33. The City keeps records of the water used at each water meter, typically taking readings on a monthly basis.

34. On April 16, 2021, the balance due on Account #1501 was zero (0).

35. The water usage posted by the City for alleged usage by HSD on Account #1501 for the months of January 2021 through October 2021 was as follows:

<u>Month 2021</u>	<u>Usage Posted</u>
January	40,200 gal.
February	24,400 gal.
March	20,700 gal.
April	29,300 gal.
May	4,788,700 gal.
June	5,405,900 gal.
July	127,600 gal.
August	178,400 gal.
September	192,500 gal.
October	93,600 gal.

36. The average water usage for the first four months of 2021 was 28,650 gallons per month.

37. The water usage alleged by the City's bill to HSD for the month of May 2021 was 4,788,700 gallons, or **167 times** the average usage by the HSD for the first four months of the year.

38. The water usage alleged by the City's bill to HSD for the month of June 2021 was 5,405,900 gallons, or **188 times** the average usage by HSD for the first four months of the year.

39. The Audit History of Helena Municipal Water Account #1501 provided by the City is attached hereto as **Exhibit 4**.

40. The aforesaid Audit History of Account #1501 alleges in its billing that HSD used **10,195,600** gallons of water during the two months of May 2021 and June 2021, increasing HSD's water bill from an account balance of **\$289.04** on May 17, 2021 to an account balance of **\$28,871.96** on the June 23, 2021 bill, less than 37 days later. See **Exhibit 4**.

41. The water bill for Account #1501 (HSD) reflecting a due date of 11/15/21 with an alleged past-due balance of \$28,983.69 is attached hereto as **Exhibit 5**.

42. The monthly water usage alleged by the City on Account #1501 for the months of July, August, September and October 2021 are multiples of the average daily usage for the first four months of the year.

43. HSD hired a licensed plumber to inspect its facility to determine if any leak existed on its facility and on its side of the City's water meter for Account #1501.

44. No water leak was located and no evidence of a leak exists on HSD's side of the water meter for Account #1501.

45. The water usage alleged by the City in its water bill to HSD is in error or otherwise incorrect and excessive.

46. The daily actual water usage of HSD has not materially varied from the average usage of 28,650 gallons per month during any of the months of 2021 except perhaps in October 2021 when the facility was seized by law enforcement and the Mayor of the City of Helena-West Helena.

47. The water usage during the Mayor's seizure and occupancy should be excluded from any water bill to HSD.

48. The water usage reflected on the City's water bills to HSD from May 2021 through October 2021 is erroneous.

49. Since the zero account balance on April 22, 2021 HSD has paid \$4,196.76 (which it believed to be commensurate with the estimated use of water during the six months from the zero balance, which payments represent a realistic estimate of \$699.46 per month).

50. The amount of water alleged by the City to have been used by HSD for May and June 2021 is enough to fill 509 average size 20,000 swimming pools.

51. HSD ordinarily uses enough water during a two-month period to almost fill three (3) average size swimming pools.

52. The pipe feeding water to HSD from the City's meter on Account #1501 is 3/4-inch or smaller inside diameter.

53. A water pipe of 3/4-inch inside diameter with average water pressure can flow about 23 gallons per minute.

54. The 61-day period of May and June 2021 has 87,840 minutes.

55. At 23 gallons per minute for 87,840 minutes (61 days) a 3/4-inch inside diameter pipe will allow up to **2,020,320** gallons to flow at average municipal water system pressure.

56. During that said 87,840 minutes, the City billed HSD for **10,196,600** gallons, or over five (5) times the flow rate of a 3/4-inch inside diameter water pipe flowing for 61 days without stopping.

57. The Helena-West Helena Water and Sewer website, under the first item FAQ (Frequently Asked Questions), appears:

FAQ

To serve you better, we've assembled a list of our customers' most frequently asked questions. If you don't find your answer here, feel free to contact us.

How could I have used this much water?

You may not have - the numbers on your meter may have been transposed or hard to read. You could possibly have a leaky toilet or faucet that's difficult to detect. Just call the office and we'll work with you to solve the problem.

58. After confirming that there was no water leak on Plaintiff's side of the water meter, the president of HSD conferred with the City's water department to no avail.

59. No billing adjustment has been made.

60. The City should have known that the alleged usage was erroneous based upon:

- past usage;
- water usage billed had increased by 167 times the average usage for May 2021 and 188 times the average usage for June 2021;
- the supply line is incapable of flowing that much water;
- the water bill was for at least 3.17 times the maximum amount of water the system could possibly provide; and
- no leak existed.

61. One explanation of the City's inability to recognize such an egregious error is that the City had no Water Operator License 2 at the time and was found in violation of the state regulation for the months of May 2021 through September 2021.

62. On October 18, 2021, HSD paid \$693.76, which it deemed to be the amount reasonably commensurate with the actual usage.

63. On or about October 19, 2021, the City's water department appeared at HSD with four water department trucks, the water department director and a City of Helena-West Helena police officer to collect the Account #1501 balance which they alleged to be \$29,193.82.

64. On or before November 20, 2021, the service to water Account #1501 was terminated and the meter removed by the City without the prerequisite written notice required by the City of Helena-West Helena's Ordinance No. 10.16.02 which is attached hereto as **Exhibit 6**.

65. On or before November 20, 2021, the service to another water account of HSD was terminated and the meter removed by the City without the prerequisite written notice required by the aforesaid ordinance.

III.
COUNT ONE
WATER

66. Plaintiff incorporates by reference each allegation set forth above.

67. The water bills for Account #1501 for the months of May 2021 through date are erroneously excessive.

68. The water meter was removed from the in-ground meter box as reflected in photograph thereof attached hereto as **Exhibit 7**.

69. The measurement reveals that the size of the pipe feeding the HSD location is less than one-inch diameter.

70. The City Water Ordinance (**Exhibit 6**), a copy of which is attached hereto, indicates that the next smaller connection below one-inch is 5/8" within the city.

71. The water Account #1501 should reflect a zero balance as the result of the payment of \$4,196.76 since the zero balance on April 22, 2021.

72. That the City be enjoined from terminating water service (or other services) to Account #1501 during the pendency of this case.

73. The City should be ordered to immediately install a properly functioning water meter for Account #1501 and the other account of HSD and be ordered to reactivate water service to those accounts.

74. Plaintiff should recover damages against Defendants for the administrative blight which the City intentionally imposed upon Plaintiff's real property.

75. Plaintiff should recover damages against Defendants for inverse condemnation of Plaintiff's real property by Defendants.

76. In the alternative, if there is no adequate state law remedy, then Plaintiff should recover damages under 42 U.S.C. § 1983 for wrongful taking of property interests without due process of law and without the notice required under the City Water Ordinance, a copy of which is attached hereto as **Exhibit 6**.

**IV.
COUNT TWO
PERSONAL PROPERTY**

77. Plaintiff incorporates by reference each allegation set forth above.

78. Between October 22, 2021 and November 3, 2021, Mayor Smith controlled the HSD site from which various items of personal property at the offices of the HSD and belonging to the HSD were taken without due process of law and without compensation.

79. HSD hereby seeks immediate return of the following items known to have been taken. These items all were either (i) not in fact subject to seizure; (ii) HSD is lawfully entitled to possess these items; (iii) is or will be entitled to their return or restoration on the court's determination that they are no longer needed for evidentiary purposes.

Tangible Nonpharmaceutical Items:

Business Records: Receipts / Labor - time sheets / Files for each day of operation

Animal Records: Records of animal inoculations/veterinary records
History records of animals

Various personal papers
Two laptops computers
Two-wheel chairs/big one
IV bags
Microchips
Pet Stables
Leashes
Collars
Muzzles
Tourniquets
Various containers
Dog beds
Astroturf

Medications:

Albon
Amoxil/CLAV 500 MG/125 Tabs 100 CT (x5)
Anigin Rapid Canine Parvo Test 10 CT (x3)
Apoquel (1bottle)
Bordatella (x22)
Bravecto 100 MG 1 x 1 tab 240 (1 box)
Bravecto for Cats (x2)
Cerprofen 60 CT (2 bottles)
Clavacillin 125 MG TABS 210 CT (x1)
Clindamy Cen. 150 MG CAPS 100 CT (x10)
Clindamycin
Convenia (x2)
Crenia (x3)
Doxycycline 100 TABS 500 CT (x10)
Drontal Plus MG Large Dog 30 (x5)
Effitix Plus Topical Solution for Dogs 8 wks of age) (x6)
Enalapril MAG TAB 100 (x3)
FCP 25 CT (x2)
Feline Rapid Tests (x4)
Feline Leukemia / Giardia Test (10 in box)
Flagalgy
Furosimide 40 MG Tabs (round) 1000 (x2)
Gabapentin 300 MG (1 bottle)
Heartgard Plus (x6)
Merck 10 lbs. (1 box)
Metronidazole - 1 tab 250 MG (x3)
MultiAdvantage
NexGuard-10 1-24 lbs. (3 chews)
Nobivac Feline 1 HCP 25 PK (x1)
Nobivac Intra-Trac-KC 25 PK (x4)
Nobivac K9-1 DAPPVL2 25 PK (x5)

Nobivac K9-1 DAPPV 25 PK (x3)
Nutri-Cal 4.25 oz. (x5)
PanaCure C - 40 lbs. (x15)
PanaCure C - 19.70 (x20)
Panacure
Prednisone (x2)
Pyrantel PANL 32 oz. (x2)
Rebound Recuperation for Dogs (12 boxes)
Senergy 5.1-15 lbs. (2 boxes)
Syringe Exel 3CC 22 x 3/4 LL 100 CT
Syringe Exel 3CC with needle (x4)
Syringe Exel 1CC Syr only LS 100 CT
Tobranucin 0.3% OPHTHSOL 5 ML (x11)
Toradol
Vet Scan Parvo Test 20 CT (x1)
Vetprofen
Vetscan Heartworm Test 25 CT (x3)
Vitamin B-12 1000 MCG Inj. - 100 ML (x3)
Vitamin B-12 1000 MCG Inj 1000 MIL (x1)

80. The right of property is before and higher than any constitutional sanction; and private property shall not be taken, appropriated or damaged for **public use**, without just compensation therefor. CONST. OF ARK., Art. 2, § 22.

81. In the alternative, Plaintiff has been damaged by the taking or appropriation of private property for public use in violation of the CONST. OF ARK., Art. 2, § 22, by Defendants in an amount exceeding \$75,000.00.

82. The taking of personal property by Defendants was under color of state law which deprived Plaintiff of property and property rights secured by the U.S. Constitution.

83. In the alternative, if the taking was not for public use or a totally *ultra vires* act of the Mayor or if the Mayor is cloaked with state court immunity, the taking was nonetheless under color of state law for which Plaintiff seeks damages pursuant to 42 U.S.C. § 1983 for the value of property wrongfully taken by the Mayor and the City of Helena-West Helena, Arkansas, together with punitive damages and attorney's fees.

V.
COUNT THREE
REAL ESTATE

84. Plaintiff incorporates by reference each allegation set forth above.

85. Entry upon another's land is not to be assumed by anyone, private citizen or public agency. Const. Amend. No. 35, § 8. *See also, Pfeifer v. City of Little Rock*, 346 Ark. 449, 57 S.W.3d 718 (2001) and *Robinson v. Arkansas Game & Fish Commission*, 263 Ark. 462, 565 S.W.2d 433 (1978).

86. Defendants' actions constitute a "serious interruption of the common and necessary use of the property as to interfere with the rights of the owner."

87. That the Separate Defendants inversely condemned Plaintiff's real property in an amount equaling the fair market value before and after the taking.

88. That Plaintiff's real property has sustained damages from Defendants' inverse condemnation and wrongful taking and for possession thereof in an amount exceeding \$75,000.00.

89. Plaintiff was damaged and continues to be damaged in an amount exceeding \$75,000.00 by the Separate Defendant, City of Helena-West Helena, Arkansas's intentional and wrongful termination of the water service to the HSD facility resulting in blight and inverse condemnation of Plaintiff's real property.

90. Plaintiff is entitled to recovery of its costs and reasonable attorney's fees, including, without limitation, the cost of appraisals and fees of experts under the Arkansas Property Owner Bill of Rights, ARK. CODE ANN. § 18-15-103(11)(A) because Defendants' assessment of just compensation is zero dollars (\$0.00) and any recovery exceeds that amount by twenty percent (20%) or more.

91. Taking possession of Plaintiff's real or personal property outside of the city by the Mayor is an ultra vires act under color of state law which does not qualify for the remedy of inverse condemnation but is subject to all remedies under 28 U.S.C. § 1983.

92. In the alternative, if inverse condemnation and blight are not proper state law remedies, Plaintiff should recover an amount exceeding \$75,000.00 under 42 U.S.C. § 1983 from Defendants, both jointly and severally, punitive damages from the intentional wrongful takings without due process of law, all of which was contrary to clearly existing precedent because, among other things, the takings were outside of the jurisdictional boundaries of the City of Helena-West Helena, Arkansas, and that private property is not to be taken without due process of law and just compensation.

VI.
DEMAND FOR JURY TRIAL

93. Plaintiff demands a jury trial.

VII.
PRAYER

WHEREFORE, HSD prays that water Account #1501 from May 2021 through the date of trial be cancelled and held for naught because of mistake, error and/or impossibility; that the bills of each of the months of May 2021 through October 2021 be adjusted to \$693.76 per month; that water bills on Account #1501 after October 2021 be subject to adjustment at trial; that Plaintiff be given credit against said adjusted monthly amount of \$4,196.76 already paid and for any payments through the trial date; that Account #1501 reflect a zero balance as of the date this lawsuit is filed; that water usage during the time of the Mayor's seizure and occupancy of HSD be excluded from the account balance; that the City be enjoined from terminating water service to Account #1501 until this matter is adjudicated; that the City be required to immediately install a new and properly functioning water meter at the location of Account #1501 and reactivate the water service; that this

matter be set for a hearing on preliminary injunction requiring the City to reinstate water service to both accounts of HSD; and that HSD recover its attorney's fees pursuant to ARK. CODE ANN. § 16-22-308; recover compensatory damages and injunctive relief under 42 U.S.C. § 1983, including punitive damages and attorney's fees, its costs, together with any and all other proper relief.

Further, Plaintiff prays for damages against all parties, both jointly and severally, exceeding \$75,000.00 on Count Two - Wrongful Seizure of Personal Property; damages exceeding \$75,000.00 on Count Three - Real Property, Inverse Condemnation and Blight and alternatively, damages exceeding \$75,000.00 under 42 U.S.C. § 1983 for compensatory damages; punitive damages for the intentional violation of due process contrary to clearly existing law, together with punitive damages and attorney's fees, its costs and any and all other proper relief.

**HUMANE SOCIETY OF THE DELTA,
An Arkansas Non-Profit Corporation, *Plaintiff***

By: /s/ E. Kent Hirsch
E. Kent Hirsch, ABA # 81087
HIRSCH LAW FIRM, P.A.
2333 N. Green Acres Rd.
Fayetteville, AR 72703
(479) 751-0251
kent@hirschlawfirm.com

CERTIFICATE OF SERVICE

I, E. Kent Hirsch, hereby certify that on the 16th day of May 2022, a true and correct copy of the foregoing document was served via **U.S. Mail** to the following:

Andre K. Valley, City Attorney
226 Perry Street
Helena-West Helena, AR 72342
attorney@helena-westhelena.us

/s/ E. Kent Hirsch
E. Kent Hirsch