IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

FRIENDS OF THE PARKS, et al.,	)	
	)	
Plaintiffs,	)	No. 1:14-cv-9096
	)	
v.	)	Hon. John W. Darrah
	)	
CHICAGO PARK DISTRICT, et al.,	)	
	)	
Defendants.	)	

MEMORANDUM IN SUPPORT OF MOTION
TO DISSOLVE PRELIMINARY INJUNCTION

INTRODUCTION

At the heart of this dispute is the question who decides what is in the public interest of the people of Illinois: those people's elected representatives, or a federal court hearing a lawsuit brought by an advocacy organization. Plaintiffs oppose the planned construction of the Lucas Museum of Narrative Art (LMNA) on public park land in Chicago, and filed this lawsuit alleging that the City's lease of the land for that project deprives the people of Illinois of their beneficial interest in lands held in public trust. The Illinois General Assembly then passed, and the Governor of Illinois then signed, legislation explicitly authorizing Park Districts to lease such land for the construction of museums and aquariums. That legislation specifically finds that such museums and aquariums serve valuable public purposes, from educating and inspiring the public to expanding recreational and cultural opportunities. Plaintiffs responded by amending their complaint to allege that this new authorization was insufficiently specific to permit the LMNA project to move forward, and this Court recently denied a motion to dismiss the amended complaint.

For all the reasons set forth in the briefing in support of that motion, defendants firmly believe that the complaint fails to state a claim upon which relief can be granted, and especially a claim upon which relief can be granted by a federal court, given that this is at most a state-law land-use dispute that belongs in state court. But this motion does not challenge the Court's recent denial of defendants' motion to dismiss. Rather, this motion challenges the Court's ongoing order preventing defendants from making "any physical alteration of the property ... for the purpose of construction of the Lucas Museum of Narrative Art except upon application by Defendants for leave of court to do so." 11/25/14 Order [Dkt. 16] (Tab A); 8/12/15 Hrg. Tr. (Tab B) at 5. This Court *sua sponte* entered that order after the initial status conference on November 25, 2014, *see* Tab A, at 1, and then, after it expired by its terms, *sua sponte* "reinstate[d]" it at a subsequent status conference on August 12, 2015, *see* Tab B, at 5.

This Court's recent decision that plaintiffs have stated legally cognizable claims in no way establishes that they are entitled to the extraordinary remedy of a preliminary injunction. To the contrary, the denial of a motion to dismiss represents nothing more than a conclusion that plaintiffs' claims cross the ***starting line*** for a federal lawsuit, not that they are likely to cross the ***finish line*** in triumph (much less satisfy any of the other requirements for a preliminary injunction). Although defendants did not oppose this Court's order reinstating the preliminary injunction at the time it was entered—***before*** defendant Chicago Park District voted to approve the Ground Lease to LMNA, ***before*** the Chicago Plan Commission voted to approve the Museum and to recommend to the City Council that it amend the zoning for the Project Area, and ***before*** the City Council approved the amendment (all of which occurred in October 2015)—they vigorously oppose the continuation of such relief.

The situation has changed because the LMNA now has all appropriate approvals to proceed. Thus, whereas the project previously could not have proceeded regardless of the preliminary injunction, that is no longer true: the injunction alone prevents the project from proceeding. And the resulting delay and uncertainty of this litigation now puts the entire project at risk, because the LMNA may choose to leave Chicago and relocate to another city. The preliminary injunction thus threatens the very public interest it is bound to protect: the loss of the LMNA would deprive the City of a world-class museum and all the attendant educational, cultural, and economic benefits, as well as depriving the City of a more beneficial use for the museum site than the current asphalt parking lot. Because the preliminary injunction is not warranted—and indeed plaintiffs have never even attempted to justify that extraordinary remedy—defendants respectfully move the Court to dissolve its Order of November 25, 2014, as reinstated on August 12, 2015.

BACKGROUND

This lawsuit involves the future development of a site south of Solider Field in Chicago now occupied by an asphalt parking lot. A task force recommended that site to the Mayor for the construction of the LMNA, and the Mayor endorsed that recommendation. Defendant Chicago Park District, which owns the site, thereafter entered into a memorandum of understanding ("MOU") with the LMNA establishing a framework for further negotiations

Plaintiffs, a nonprofit advocacy organization and two Illinois residents, filed this federal lawsuit in November 2014 to block the construction of the LMNA. Plaintiffs claimed that the MOU violated the Due Process and Equal Protection Clauses of the U.S. Constitution, was *ultra vires* under Illinois law, and violated the Illinois public trust doctrine.

After an initial status hearing, and over defendants' objection, this Court *sua sponte* entered a preliminary injunction providing that, "***prior to the status hearing/ruling on***

Defendants' motion to dismiss on February 26, 2015, Defendants shall not make any physical alteration of the property identified in Paragraph 20 of Plaintiffs' Complaint for the purpose of construction of the Lucas Museum of Narrative Art except upon application by Defendants for leave of court to do so." Tab A, at 1 (emphasis added). The February 26, 2015 date, however, came and went, and plaintiffs made no efforts to extend the injunction beyond that time.

Two months later, the General Assembly passed, and the Governor signed, the Park District Aquarium and Museum Act (Museum Act), 70 ILCS 1290/1. That statute authorized "[t]he corporate authorities of cities and park districts having control or supervision over any public park or parks, including parks located on formerly submerged land ... [to] permit the directors or trustees of any corporation or society organized for the construction or maintenance and operation of an aquarium or museum ... to erect, enlarge, ornament, build, rebuild, rehabilitate, improve, maintain, and operate its aquarium or museum within any public park now or hereafter under the control or supervision of any city or park district." *Id.* The Act permitted park districts to enter leases "for an initial term not to exceed 99 years, subject to renewal" on the conditions that the "public is allowed access to such grounds in a manner consistent with its access to other public parks" and that "the city or park district retains a reversionary interest in any improvements made by the corporation or society on the grounds." *Id.* Pursuant to that Act, the Park District and the LMNA entered into a Ground Lease for the site.

At a subsequent status conference on August 12, 2015, this Court *sua sponte* raised the issue of the injunction, which plaintiffs had never sought to renew or extend:

> THE COURT: It also goes without saying that that agreed order, that there would be no construction or alteration of those premises, is still in effect. I don't know if there was actually an order, but I think somebody from the defendants' side did make the representation that there would be no material change in the subject property until further order of court.

> MR. RODDY [Attorney for defendant Chicago Park District]: Judge, I think that order was in effect for a period of time but that has expired.
>
> THE COURT: Well—
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> MR. RODDY: However, there have been no changes in the parties. The only thing that was done—
>
> THE COURT: Okay. Well, I'm going to *sua sponte* reinstate that order. There will be no material changes to the site until further order of court. Any objections to that?
>
> MR. RODDY: No, Judge.
>
> MR. AGUIAR [Attorney for the defendant City]: No, your Honor.
>
> MR. MORALES-DOYLE [Attorney for plaintiffs]: No, your Honor.

Tab B, at 4-5. Accordingly, the November 25, 2014 Order sprang back to life.

But the underlying circumstances have changed significantly since defendants' counsel agreed in August 2015 to the reinstatement of that Order. Relying on the Museum Act, the Park District held two public hearings and approved the Ground Lease on October 14, 2015. The Chicago Planning Commission also held a public hearing, approved the Museum, and recommended that the City Council amend the zoning for the Project Area to permit the Museum. The City Council's Committee on Zoning, Landmarks and Building Standards then held its own public hearing on the proposed zoning amendment and recommended it to the City Council, which approved the zoning amendment on October 28, 2015.

Meanwhile, plaintiffs filed an amended complaint. They now allege that the ground lease for the museum (1) violates the Due Process Clause of the Fourteenth Amendment because the Museum Act did not "refer *specifically* to the alienation, forfeiture or disposition of the land that is the subject of the ground lease." First Am. Compl. [Dkt. 63] ¶ 53 (emphasis added); (2) is *ultra vires* under state law because it was entered without adequate authorization, *id.* ¶ 70; and (3) violates the public trust doctrine because it transfers a public asset belonging to the people of

Illinois as beneficial owners to a private entity, *id.* ¶ 73. Defendants moved to dismiss the first amended complaint for failure to state a claim, but this Court recently denied that motion. *See* 2/4/16 Mem. Op. & Order [Dkt. 74].

LEGAL STANDARD

"A preliminary injunction is an extraordinary remedy never awarded as of right." *Winter v. NRDC, Inc.*, 555 U.S. 7, 24 (2008). "A plaintiff seeking a preliminary injunction must establish [1] that he is likely to succeed on the merits, [2] that he is likely to suffer irreparable harm in the absence of preliminary relief, [3] that the balance of equities tips in his favor, and [4] that an injunction is in the public interest." *Id.* at 20; *see also Grace Schs. v. Burwell*, 801 F.3d 788, 795 (7th Cir. 2015); *Smith v. Executive Dir. of Ind. War Mem'ls Com'n*, 742 F.3d 282, 286 (7th Cir. 2014); *United States v. NCR Corp.*, 688 F.3d 833, 837 (7th Cir. 2012). In granting or refusing such an injunction, a court must "state the findings and conclusions that support its action." Fed. R. Civ. P. 52(a)(2). Moreover, "[e]very order granting an injunction and every restraining order must: (A) state the reasons why it issued; (B) state its terms specifically; and (C) describe in reasonable detail—and not by referring to the complaint or other document—the act or acts restrained or required." Fed. R. Civ. P. 65(d)(1). Except where the Federal Government or its officers moves for the injunction, a court may not issue a preliminary injunction unless "the movant gives security in an amount that the court considers proper to pay the costs and damages sustained by any party found to have been wrongfully enjoined or restrained." Fed. R. Civ. P. 65(c).

ARGUMENT

I. THE ORDER IS A PRELIMINARY INJUNCTION.

Although not formally styled as a preliminary injunction, the November 25, 2014 Order, as reinstated on August 12, 2015, necessarily operates as such. A preliminary injunction "directs

the conduct of a party, and does so with the backing of [the court's] full coercive powers." *Nken v. Holder*, 556 U.S. 418, 428 (2009) (internal quotation marks omitted). It is "a means by which a court tells someone what to do or not to do." *Id.* A court need not "use the magic word 'injunction,'" to issue an order that is "injunctive in nature" and therefore subject to all of the ordinary substantive and procedural requirements attendant to a preliminary injunction. *Union Oil Co. of Cal. v. Leavell*, 220 F.3d 562, 566 (7th Cir. 2000); *see also Goyal v. Gas Tech. Inst.*, 718 F.3d 713, 717 (7th Cir. 2013).

The order here prevents defendants from "mak[ing] any physical alteration of the property identified in Paragraph 20 of Plaintiffs' Complaint for the purpose of construction of the Lucas Museum of Narrative Art except upon application by Defendants for leave of court to do so." Tab A, at 1. Because the order restrains defendants from exercising their rights to control the disposition of the property in question, it is necessarily injunctive in nature. *See, e.g.*, *Goyal*, 718 F.3d at 717; *Leavell*, 220 F.3d at 566.

II. THE COURT SHOULD DISSOLVE THE PRELIMINARY INJUNCTION.

This Court should dissolve the preliminary injunction for two basic reasons. ***First***, plaintiffs have ***never***—over the course of more than a year of litigation—even attempted to make the showing necessary to justify such extraordinary relief. And ***second***, plaintiffs cannot establish the necessary predicates for a preliminary injunction, including a likelihood of success on the merits, irreparable injury, and the balance of the harms and the public interest in their favor, especially in light of the facts as they now stand.

A. Plaintiffs Have Never Even Attempted To Make The Requisite Factual Showing For A Preliminary Injunction.

Although plaintiffs requested a ***permanent*** injunction against the building of the museum in their complaint, they never sought to make the necessary showing for a ***preliminary***

injunction. This Court nevertheless issued a preliminary injunction on November 25, 2014. Tab A, at 1. When that injunction expired by its terms on February 26, 2015, plaintiffs took no action to continue it or have it reinstated. The issue did not even arise until the Court *sua sponte* raised it again almost six months later and *sua sponte* "reinstate[d]" the injunction. Tab B, at 5.

Plaintiffs' failure to seek a preliminary injunction led the Court to issue an injunction without any of the procedural requirements that must attend such extraordinary relief. The Order granting the injunction did not, as required by Rule 65(d)(1), "state the reasons why it issued." Fed. R. Civ. P. 65(d)(1). The Court never required plaintiffs to make any of the showings necessary to obtain a preliminary injunction—likelihood of success on the merits, irreparable injury, and the balance of harms and the public interest in their favor. Nor did the Court ever require plaintiffs to post a bond as required by Rule 65(c). *See* Fed. R. Civ. P. 65(c); *Habitat Educ. Center v. U.S. Forest Service*, 607 F.3d 453, 459 (7th Cir. 2010) (nonprofits not exempt from injunction bond requirement). For these procedural errors alone, the preliminary injunction must be dissolved. *See, e.g.*, *Adkins v. Nestlé Purina Petcare Co.*, 779 F.3d 481, 483 (7th Cir. 2015)

Indeed, precisely because plaintiffs never moved for a preliminary injunction, they have never established the factual predicates for such extraordinary relief. Thus, they have not presented ***any*** evidence of injury—much less the requisite ***irreparable*** injury—in the absence of a preliminary injunction. And because they have not presented any such evidence, they obviously have not presented evidence that would allow a determination that the balance of harms tips in their favor or that an injunction is in the public interest. Because plaintiffs have never attempted to prove that a preliminary injunction is warranted, and it is not warranted on the facts as they now stand, this Court should dissolve the preliminary injunction.

The changed circumstances facing the parties highlight the injunction's procedural deficiencies and underscore the need to dissolve it. When this Court issued and then reinstated its injunction, the Park District had not yet approved a ground lease for the museum project. That is no longer true. The ground lease has been signed. Necessary zoning amendments have been obtained. Every regulatory agency that needed to sign off on the museum project has done so. The only thing preventing construction of the museum from moving forward is this Court's injunction. And, in light of this Court's recent order denying the City's motion to dismiss, that injunction threatens substantial delay of the project—delay that could threaten its very existence. Plaintiffs have never made the requisite showing for an injunction and, as explained in the next Section, they could not do so.

B. Plaintiffs Could Not Meet The Standard For A Preliminary Injunction.

Wholly apart from the foregoing, plaintiffs are not entitled to a preliminary injunction because they have never attempted to prove—and cannot, as a matter of law, prove—that they are likely to succeed on the merits of their claims. *See, e.g.*, *Winter*, 555 U.S. at 20 ("A plaintiff seeking a preliminary injunction must establish that he is likely to succeed on the merits."); *see also Grace Schs.*, 801 F.3d at 795 (same); *Smith*, 742 F.3d at 286 (same); *NCR*, 688 F.3d at 837 (same). Moreover, the balance of the harms and the public interest favor defendants here.

1. Plaintiffs Are Not Likely To Succeed On The Merits Of Their Claims.

As an initial matter, this Court lacks jurisdiction over any of plaintiffs' claims because plaintiffs lack standing to bring their only federal claim. To establish standing, a litigant must "prove that he has suffered a concrete and particularized injury that is fairly traceable to the challenged conduct, and is likely to be redressed by a favorable judicial decision." *Hollingsworth v. Perry*, 133 S. Ct. 2652, 2661 (2013). Here, plaintiffs have alleged that their Fourteenth Amendment due process rights were violated by a deprivation of property without

due process of law, *see* First Am. Compl. ¶ 61, but the only property interest they assert is derived from the Illinois public trust doctrine. In particular, they claim that they each have "an equitable interest, as a taxpayer, in the public property which [they] claim[] is being illegally disposed of." *Paepcke v. Public Bldg. Comm'n of Chicago*, 263 N.E.2d 11, 16-18 (1970).

Assuming for the sake of argument that such an interest were sufficient to ground a federal due process claim—which, as defendants explained in their motion to dismiss, it is not—any injury to that interest is insufficient to confer Article III standing, because it is shared by all members of the public. To satisfy the injury-in-fact requirement, "a plaintiff must have ***more*** than 'a general interest common to all members of the public'"; he must have a concrete and particularized stake in the matter. *Lance v. Coffman*, 549 U.S. 437, 440 (2007) (emphasis added) (quoting *Ex parte Levitt*, 302 U.S. 633, 634 (1934)). Thus, courts have refused to hear challenges by citizens to the procedures by which the Nineteenth Amendment was ratified, *Fairchild v. Hughes*, 258 U.S. 126 (1922), and the application of the Constitution's Incompatibility Clause to Members of Congress who serve in the military, *Schlesinger v. Reservists Comm. to Stop the War*, 418 U.S. 208 (1974), as well as challenges by taxpayers to the spending of funds paid into the Treasury, *Hein v. Freedom From Religion Found., Inc.*, 551 U.S. 587, 599 (2007). As in each of those cases, the asserted interest here—a beneficial interest in lands held in public trust, First Am. Compl. ¶ 48—is a general interest common to all members of the public. It cannot confer Article III standing.

That the Supreme Court of Illinois has elected to confer standing under ***state*** law on residents who seek to sue under the public trust doctrine, *Paepcke v. Public Bldg. Comm'n of Chicago*, 263 N.E.2d 11, 18 (1970), is of no moment. The U.S. Supreme Court's recent decision in *Perry* makes clear that a State cannot authorize private parties to represent the interests of the

public if those private parties lack a concrete and particularized interest in the litigation. *See* 133 S. Ct. at 2665. *Perry* involved a challenge to California's Proposition 8, which defined marriage as between one man and one woman. California officials refused to defend the law, and the official proponents of Proposition 8 intervened to defend the law. *Id.* at 2660. Although the California Supreme Court held that the intervenors were "authorized under California law to appear and assert the state's interest in the validity of Proposition 8," the U.S. Supreme Court concluded that such authorization was insufficient to confer Article III standing. *Id.* at 2664 (internal quotation marks omitted). The intervenors were private parties whose only interest in the matter was the type of "generalized grievance" suffered by every citizen in the State when its duly-enacted laws are enjoined. *Id.* at 2662-63. The same is true here. The only interest plaintiffs can claim is an interest as members of the public in lands held in trust for the public. *See, e.g.*, First Am. Compl. ¶ 48 ("Plaintiffs and other Illinois citizens will suffer an irreparable injury to their beneficial interest in the property held in trust for them by the State of Illinois.").

Because the Court lacks jurisdiction to hear the only federal claim in the case, the Court also lacks jurisdiction to consider the state-law claims. *See* 28 U.S.C. § 1367(a) (granting supplemental jurisdiction only to cases in which "the district courts have original jurisdiction"); *Miller v. Herman*, 600 F.3d 726, 738 (7th Cir. 2010) ("[I]f there is no subject matter jurisdiction, there can be no supplemental jurisdiction."). Plaintiffs thus have no likelihood of success on the merits.

But even if this Court had jurisdiction to consider the Due Process claim, plaintiffs cannot possibly establish a likelihood of success on that claim. Plaintiffs received all the process they were due when the Illinois General Assembly enacted the Museum Act. "Governing bodies may enact generally applicable laws, that is, they may legislate, without affording affected

parties so much as notice and an opportunity to be heard." *Pro-Eco, Inc. v Board of Comm'rs of Jay Cnty., Ind.*, 57 F.3d 505, 513 (7th Cir. 1995); *see also Dibble v. Quinn*, 793 F.3d 803, 809 (7th Cir. 2015). Nor are they entitled, as a matter of due process, to a more specific statute; to the contrary, if anything, the more specific a statute, the ***greater*** the federal constitutional concern that the legislature is crossing the line from ***legislating*** to ***adjudicating***. *See, e.g.*, *Robertson v. Seattle Audubon Soc'y*, 503 U.S. 429, 438-41 (1992); *Peterson v. Islamic Rep. of Iran*, 758 F.3d 185, 191-92 (2d Cir. 2014), *cert. granted sub nom. Bank Markazi v. Peterson*, 136 S. Ct. 26 (2015) (pending, No. 14-770). Under Seventh Circuit precedent, "[t]he fact that a statute (or statute-like regulation) applies across the board provides a substitute safeguard." *Pro-Eco*, 57 F.3d at 513. It is only when "legislation affects only a tiny class of people—maybe a class with only one member" that the Seventh Circuit has expressed procedural due process concerns. *Id.* Plaintiffs' contention that the General Assembly denied it procedural due process when it promulgated a generally applicable law, rather than a rifle-shot provision directed at this parcel of land, is in direct conflict with this Seventh Circuit precedent and thus has no likelihood of success on the merits.

Plaintiffs similarly cannot establish a likelihood of success on their state-law claims. As explained in defendants' briefing on the recent motion to dismiss, the Park District has title to the disputed area, the Museum Act authorizes the Park District to lease that area for the development of museums as long as the lease complies with certain requirements, and the Park District complied with those requirements when it entered the Ground Lease. Its actions were entirely consistent with state law and thus not *ultra vires*. Its actions also complied with the public trust doctrine. The Park District has not placed public lands "entirely under the use and control of

private parties" and therefore the public-trust doctrine does not apply. *Illinois Cent. R.R. Co. v. Illinois*, 146 U.S. 387, 453 (1892).

As noted above, this Court's recent denial of defendants' motion to dismiss does not foreclose the Court from concluding that plaintiffs have failed to demonstrate that they are likely to succeed on their claims on the merits. In deciding a motion to dismiss, a court must accept all well-pleaded factual allegations in a complaint and draw all reasonable inferences in the plaintiffs' favor. *See, e.g.*, *Ashcroft v. Iqbal*, 556 U.S. 662, 663 (2009). To obtain a preliminary injunction, however, plaintiffs must show that they are likely to prevail on their claims. *See Ty, Inc. v. GMA Accessories, Inc.*, 132 F.3d 1167, 1172 (7th Cir. 1997). Here, in denying the motion to dismiss, the Court repeatedly cited its obligation to construe the pleadings in the plaintiffs' favor. *See* 2/4/16 Order [Dkt. 74], at 6 ("Construing the allegations in Plaintiffs' favor ...."); *id.* at 13 ("Defendants raise a question of fact in this regard not now properly considered."). Stripped of that favorable standard of review, it is evident that plaintiffs have not established a likelihood of success on the merits of their claims.

2. The Balance Of The Harms And The Public Interest Favors Defendants.

Even if plaintiffs could show a likelihood of success on the merits, they cannot show irreparable harm because, as explained above, they do not face any legally cognizable harm at all. But even if they could show irreparable harm, the balance of the harms weighs against continuing the preliminary injunction. As the Seventh Circuit has explained, even if a party establishes a likelihood of success on the merits and irreparable harm from the denial of injunctive relief, a court still must "weigh[] the competing harms to the parties if an injunction is granted or denied and also considers the public interest." *Korte v. Sebelius*, 735 F.3d 654, 665 (7th Cir. 2013). These factors—harm to the opposing party and the public interest—merge when

the Government is a party to the suit, but courts must be mindful that the Government's harm is not negligible merely because it is the Government. *Nken*, 556 U.S. at 435. Here, the public interest weighs strongly against the injunction.

The City of Chicago faces very real harms from the continuation of the preliminary injunction. Although the relevant governmental entities have fully approved construction of the museum, the injunction prevents defendants from moving forward. Delay in the construction of the museum delays the delivery of all of the benefits that the museum promises to afford to the public. That in itself is a significant harm. But the protracted nature of this litigation now raises the potential for an even more serious and irreparable harm: in light of the delay and uncertainty caused by this litigation, the LMNA may move the project to another city.

That would be a tremendous loss to the people of Chicago. The Museum will be open to the public and, as the Museum Act requires, will provide free entry 52 days each year to Illinois residents and free entry every day to Illinois schoolchildren accompanied by a teacher. *See* 70 ILCS 1290/1. It will conduct public outreach and education about its collection, *see* Compl. Ex. A, Art. 1 (definition of "Mission"). It will provide an education center, a library, and an observation deck, all of which will be open to the public without any admission fee. Compl. Ex. A, ¶ 2.3. The museum will also provide nearly five acres of new park land for public use and enjoyment, replacing an existing parking lot. *Id.* Recital J. Perhaps most importantly, the museum will offer a unique collection of popular art, with a focus on the boundless potential of the digital medium. It is expected to draw visitors from all over the world. No other museum in Chicago has this unique focus and mission. If the museum moves to another city, Chicago will not be able to replace it.

On the other side of the ledger is plaintiffs' asserted interest in keeping the museum site as is. But the site can hardly be characterized as a natural wonder of the State of Illinois. Nor is it home to any historic buildings. Rather, the site is currently occupied by an *asphalt parking lot.* It is hard to imagine how the loss of a parking lot could ever be irreparable injury, and it certainly would not be so here. And even if this Court were ultimately to rule that the Park District lacked authority to enter the ground lease, the asphalt parking lot could always be rebuilt—there is nothing unique or historical about an asphalt parking lot.

Considering these prospective harms, it is perhaps no surprise that the representative body of the people of Illinois, the General Assembly, has declared that the public interest favors the use of public parks for the construction of museums. *See* 70 ILCS 1290/1. It has expressly "reaffirmed and found that the aquariums and museums ... and their collections, exhibitions, programming, and associated initiatives, serve valuable public purposes, including, but not limited to, furthering human knowledge and understanding, educating and inspiring the public, and expanding recreational and cultural resources and opportunities." *Id.* § 1. The General Assembly issued this resounding statement of the public interest after this litigation had already begun, and it plainly had the LMNA in mind. It will educate, inspire, and expand cultural opportunities for visitors near and far. It will be an exceptional addition to the City, if this Court will lift its order and allow the project to proceed.

CONCLUSION

For the foregoing reasons, defendants respectfully request that this Court dissolve the existing preliminary injunction. In light of the time-sensitive nature of these proceedings, defendants respectfully request expedited resolution of this motion, with a response due seven days after the filing of this motion (*i.e.*, by February 23, 2016), a reply due seven days after that (*i.e.*, by March 2, 2016), and a decision within fourteen days after that (*i.e.*, by March 16, 2016).

Dated: February 16, 2016

Respectfully submitted,

By: /s/ *Brian D. Sieve*

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CERTIFICATE OF SERVICE

This is to certify that, on February 16, 2016, I, Brian D. Sieve, an attorney for Defendant City of Chicago, caused a true and correct copy of the foregoing to be filed with the Clerk of the Court and served by operation of the electronic filing system of the United States District Court for the Northern District of Illinois upon the following counsel who have consented to receive notice of filings in the above-captioned matter pursuant to Fed. R. Civ. P. 5(b)(2)(E), the General Order on Electronic Case Filing, and Local Rule 5.9:

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