

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
 COUNTY DEPARTMENT, CHANCERY DIVISION

Right Field Properties, LLC, Right Field Rooftops,)
 LLC, Rooftop Acquisition, LLC, 3633 Rooftop)
 Management, LLC, Standard Bank and Trust)
 Company Trust #21101, #21101 and #21100 each)
 dated August 29, 2011, Sheffield-Waveland)
 Rooftop, Inc., GWR Properties LLC, Wrigley)
 Rooftops I, LLC, Wrigley Rooftops III, LLC,)
 Wrigley Rooftops IV, LLC, Annex Club, LLC, and)
 3701 N Kenmore, LLC,)

Plaintiffs.)

v.)

The Commission on Chicago Landmarks, Rafael M.)
 Leon, Chairman, Anita Blanchard, M.D., James)
 Houlihan, Tony Hu, Mary Ann Smith, Ernest C.)
 Wong, Victor Ignacio Dziekiewicz, Andrew J.)
 Mooney, and the City of Chicago, a municipal)
 corporation,)

Defendants.)

Case No.

14CH 13246

Calendar

Jury Demanded

FILED-7
 2014 AUG 14 PM 12:50
 CIRCUIT COURT OF COOK
 COUNTY, ILLINOIS
 CHANCERY DIV.
 CLERK

Complaint for Administrative Review and Other Relief

NOW COME Plaintiffs, Right Field Properties, LLC, Right Field Rooftops, LLC, Rooftop Acquisition, LLC, 3633 Rooftop Management, LLC, Standard Bank and Trust Company Trust #21101, #21101 and #21100 each dated August 29, 2011, Sheffield-Waveland Rooftops, Inc., GWR Properties, LLC, Wrigley Rooftops I, LLC, Wrigley Rooftops III, LLC, Wrigley Rooftops IV, LLC, Annex Club, LLC and 3701 N Kenmore, LLC, by their attorneys Anderson & Moore, P.C., and for their complaint against the Commission on Chicago Landmarks, Rafael M. Leo, Chairman, Anita Blanchard, M.D., James Houlihan, Tony Hu, Mary Ann Smith, Ernest C. Wong, Victor Ignacio Dziekiewicz, Andrew J. Mooney, and the City of Chicago, a municipal corporation, state as follows:

I. Introduction

1. Plaintiffs seek administrative review of the Commission on Chicago Landmarks'

July 10, 2014 decision to preliminarily approve the Cubs' plan to erect two Jumbotron, five outfield signs and up to eight additional rows of bleacher seats thereby blocking Plaintiffs' rooftop views in violation of the 2004 Wrigley Field Landmark Designation Ordinance. ("Designation Ordinance").

2. In addition to seeking administrative review of the Commission's July 10, 2014 decision, Plaintiffs also seek declaratory relief, injunctive relief and assert claims for violation of Plaintiffs' constitutional right to due process of law and equal protection of law.

II. Parties

3. Plaintiff Right Field Properties, LLC is the owner of the property located at 3627 North Sheffield. Right Field Rooftops, LLC is the licensee which operates a rooftop business at that address.

4. Plaintiff Rooftop Acquisition, LLC is the owner of the property located at 3633 North Sheffield. 3633 Rooftop Management, LCC is the licensee which operates a rooftop business at that address.

5. Plaintiff Standard Bank and Trust Company, Trust #21102 dated August 29, 2011 is the owner of the property located at 1034-34 West Waveland. Sheffield-Waveland Rooftops, Inc. is the licensee which operates a rooftop business at that address.

6. Plaintiff Standard Bank and Trust Company, Trust #21101 dated August 29, 2011 is the owner of the property located at 3643-45 North Sheffield. Sheffield-Waveland Rooftops, Inc. is the licensee which operates a rooftop business at that address.

7. Plaintiff Standard Bank and Trust Company, Trust #21100 dated August 29, 2011 is the owner of the property located at 3609-11 North Sheffield. Sheffield-Waveland Rooftops, Inc. is the licensee which operates a rooftop business at that address.

8. Plaintiff GWR Properties, LLC is the owner of the property located at 3637 North

Sheffield. Annex Club, LLC is the licensee which operates a rooftop business at that address.

9. Plaintiff Wrigley Rooftops I, LLC is the owner of the properties located at 3617 and 3619 North Sheffield. Plaintiff Wrigley Rooftops III, LLC is the licensee which operates a rooftop business at 3617 North Sheffield and Plaintiff Wrigley Rooftops IV, LLC is the licensee that operates the rooftop business at 3619 North Sheffield.

10. Plaintiff 3701 N Kenmore, LLC is the owner of the property located at 3701 North Kenmore.

11. The above listed Plaintiffs are collectively referred to as "Plaintiffs" or "Rooftops".

12. Plaintiffs' properties are located immediately adjacent to Wrigley Field. With the exception of 3701 North Kenmore, all of the Plaintiffs either own or lease property in which a Wrigley Field Adjacent Area Special club facility is operated. 3701 North Kenmore was purchased for the express purpose of developing a Wrigley Field Adjacent Area Special Club, but currently is only improved with an apartment building and a sign.

13. Defendant City of Chicago is an Illinois municipal corporation. Defendant Commission on Chicago Landmarks is an administrative agency of the City of Chicago. The individual defendants are members of the Commission on Chicago Landmarks.

III. Factual Background

A. History of Wrigleyville

14. In the late 1800s, Lakeview was annexed to the City of Chicago. The area surrounding Wrigley Field was primarily residential. The Plaintiffs' properties were improved with residential buildings prior to the construction of Wrigley Field.

15. In 1912, Charles Weegahn constructed Wrigley Field. When the first baseball game was played at Wrigley Field in 1914, most of the Plaintiffs' properties were improved with

multi-family residential apartment buildings.

16. Since the opening of Wrigley Field in 1914, spectators have watched events at Wrigley Field from the buildings adjacent to Wrigley Field, including the Rooftop Properties. The practice of charging spectators to view events at Wrigley Field from the rooftops dates back to at least the 1984 National League Championship series.

17. In 1988, the owners of 3633 North Sheffield applied for and were issued building permits to convert that property into a “private club” from which members and guests could view events at Wrigley Field. Beginning in the early 1990’s several other properties surrounding Wrigley Field were developed into rooftop clubs.

18. In 1998, the City adopted the Rooftops in Wrigley Field Adjacent Area Ordinance which authorized and licensed rooftop “special clubs” in the Wrigley Field Adjacent Area. (“Rooftop Ordinance”). The City recognized that the rooftop businesses substantially contributed to the ambiance of the Wrigley Field experience and enhanced economic activity in the area. The Rooftop Ordinance imposed certain restrictions on the operation of rooftop “special clubs” and subjected the Rooftops to licensing requirements, health and safety inspections and payment of the City’s general amusement tax. In order to preserve the residential character of the Wrigley Field Adjacent Area, the Rooftop Ordinance prohibits commercial uses on the first floor of buildings which contain a licensed rooftop special club.

19. In compliance with the 1998 Rooftop Ordinance, the Rooftops substantially improved their buildings. In 2001, the City issued the first Rooftop licenses.

B. 2004 Landmark Ordinance

20. In 2000, the City preliminarily designated Wrigley Field as a landmark pursuant to the City’s Landmark Ordinance. This designation was partially in response to the owner of Wrigley Field and the Chicago Cubs major league baseball team (hereafter “Cubs”) proposal to

construct a bowl-like bleacher expansion that would have walled off Wrigley Field from the surrounding community, blocked the view of the adjacent buildings from within the ball park, and substantially altered the architectural integrity of the 1938 bleacher expansion. A Blue Ribbon Commission of business and neighborhood representatives actively participated in shaping the final Landmark Designation Report, the Designation Ordinance and the 2005 bleacher Ordinance.

21. On November 1, 2000, the City issued its preliminary Landmark Designation Report. The Landmark Designation Report repeatedly identified the open-air nature of the grandstands and uninterrupted sweep and contour of the bleachers as protected historical elements. The views of the Rooftop buildings on Sheffield and Waveland avenues were repeatedly cited as visual features supporting the landmark designation. On or about October 25, 2001, Planning and Development Commissioner, Alicia Berg, confirmed the City's intention to preserve the view of the adjoining buildings as part of the landmark and planned development process.

22. The Wrigley Field landmarking process took place over a three year span consistent with the City's Landmark Ordinance. The Cubs were involved in the process and actively negotiated the terms of the final ordinance. The Landmark Designation Report dated November 1, 2000, and revised on March 6, 2003 (the "Landmark Designation Report") repeatedly cited the open and uninterrupted view of the surrounding buildings from inside the ball park as being a substantial contributing element to the landmark designation. As stated in the Landmark Designation Report:

Commonly referred to as the "friendly confines, Wrigley Field has been universally acclaimed for its intimacy, charm and distinctive urban setting. Many observers consider it to be the most beautiful baseball park in the world. It was ranked "red" on the Chicago historic Resource Survey, a distinction given only 200 other structures citywide, including such world-class landmarks as the Board of Trade,

Reliance Building, Rovie House, and the Old Water Tower.... (Landmark Designation Report, pg. 1 – Exhibit A).

Due to the varying height of the bleachers, which slope downward from the center, a portion of the ballpark--as seen from inside--is *visually enclosed by the row of buildings that face Waveland and Sheffield Avenues*, opposite the ballpark. Most of these are masonry structures, three stories in height and often topped with smaller grandstands or roof decks.... (Landmark Designation Report, pg. 2 – Exhibit A) (emphasis supplied).

The ballpark's ivy-covered walls, hand-changed scoreboard, and *intimate urban setting - with views of the surrounding townhouses*, the El, and Lake Michigan – are as integral to the image and history of Chicago as Buckingham Fountain, the Old Water Tower, the Picasso sculpture, the Union Stockyards, or the early skyscrapers. (Landmark Designation Report, pg. 5 – Exhibit A) (emphasis supplied).

Wrigley Field is considered one of the most unique and attractive ballparks in the United States. Its overall quality of design is reflected in its slightly asymmetrical playing field layout, the curving grace of its grandstands and bleachers, the charm of its ivy covered walls, its ornate main entrance sign, and *the memorable view of the surrounding buildings and Lake Michigan*. *Taken together, this comprises one of the most famous built settings in the United States*. (Landmark Designation Report, pg. 7 - Exhibit A) (emphasis supplied).

It is one of the few remaining ballparks whose design and field layout was strongly influenced by the surrounding street grid. The resulting proximity of the playing field creates a sense of intimacy and charm that is unique in professional baseball. *This urban character is further heightened by the line of masonry residences that face the ballpark along Sheffield and Waveland Avenues*. (Landmark Designation Report, pg. 7 – Exhibit A) (emphasis supplied).

The row of three-story masonry buildings lining Sheffield and Waveland avenues—behind the bleachers—are a familiar feature to the tens of thousands of spectators within Wrigley Field and to the hundreds of thousands who watch televised coverage of the Chicago Cubs. Most were built between 1895 and 1915 and are set back approximately 10 feet from the street. Since 1990, several new structures have been built on the sites of older buildings. (Landmark Designation Report, pg. 9 – Exhibit A) (emphasis supplied).

23. To preserve the open and uninterrupted view of the surrounding cityscape, the Designation Ordinance specifies that the protected features include: “all perimeter exterior elevations of the ballpark in their entirety....” [and] “the unenclosed, open-air character, the exposed structural system and the generally uninterrupted “sweep” and contour of the grandstand and bleachers.” (Exhibit C).

24. Section 5 of the Designation Ordinance guidelines provides that any work that substantially affects the generally uninterrupted “sweep” and contour of the grandstand or bleacher areas is deemed to affect elements of the Protected Features.

25. The Landmark Designation Report substantially relied upon the presence of the uninterrupted vista featuring the surrounding buildings in determining that the ballpark was worthy of landmark designation. As reflected above, the presence and view of the surrounding buildings is included in the ballpark description and is cited as a contributing factor in three of the seven designation criteria.

26. Consistent with the Landmark Designation Report, leading architects and preservationists offered testimony supporting the landmark designation of the open and uninterrupted sweep and contour of the bleachers for the express purpose of protecting the views of the surrounding buildings, from both and inside and outside of the ball park:

Preservation Chicago believes that the famous vista from inside Wrigley Field is a Chicago treasure that should not be comprised....

Preservation Chicago also supports the land marking of the view looking from inside the park toward the surrounding neighborhood. The facades of the surrounding buildings must be sufficiently visible for Wrigley Field to hold its position as the most picturesque ballpark in the nation. Most important, preserving the visual bond between Wrigley Field and the surrounding neighborhood will be a tremendous gift to future generations of Chicagoans. (Preservation Chicago letter dated March 7, 2003 - Exhibit B).

Views of the rooftops around the ballpark from inside the park are among its great charms. City landmark officials made sure to safeguard those sightlines as they oversaw the Cubs’ well-executed 2006 bleacher expansion. (Kamin, *New Toyota Sign at Wrigley: As Ugly as the Cubs Season*, Chicago Tribune, June 11, 2010).

27. On February 11, 2004, the City adopted the Wrigley Field Landmark Ordinance, which essentially codified the Landmark Designation Report. (Exhibit C). As stated in the Designation Ordinance, Wrigley Field “is considered one of the most unique and attractive ballparks in the United States” due to “the curving grace of its grandstands and bleachers . . . and

the memorable view of the surrounding Chicago skyline and Lake Michigan.” Wrigley Field is “one of the few remaining ball parks whose design and field layout was strongly influenced by the surrounding street grid.” It possesses a significant physical presence due in part to its “location at a major street intersection (Clark and Addison Streets) and setting in a low-scale residential and commercial district.”

C. 2004 Settlement Agreement

28. In 2003, the Cubs filed an unmeritorious civil action against the Rooftops. In early 2004, almost simultaneously with the adoption of the Designation Ordinance and to avoid the expense and uncertainty of continued litigation, the Rooftops entered into a comprehensive settlement agreement that required the Rooftops to pay 17% of their gross revenues to the Cubs in exchange for the Cubs agreement not to erect barriers or other obstructions which block the Rooftops’ views of Wrigley Field (“Settlement Agreement”). The Settlement Agreement permitted the Cubs to seek approval for the 2005-2006 bleacher expansion. The Rooftop Owners relied upon the City’s preliminary landmark designation of Wrigley Field when entering into the Cubs Settlement Agreement. The Rooftop Owners have collectively paid the Cubs in excess of \$40 million in royalties pursuant to the Settlement Agreement.

D. The 2005 PD Zoning of Wrigley Field

29. On or about April 6, 2005, the City adopted the Entertainment and Spectator Sports Planned Development No. 958 Ordinance (the “2005 PD Ordinance”). The bleacher expansion constructed pursuant to the 2005 PD Ordinance was negotiated between the City, the Cubs and the Rooftops to preserve the view of the surrounding buildings from inside Wrigley Field and to preserve the architectural integrity of the original Hollibard and Root 1938 bleacher design. During the design process, the City set percentage goals to preserve views of the Rooftops from within Wrigley Field.

30. Several rows of bleachers were eliminated so as to preserve the views of the Rooftops and minimize the Cubs liability under the Settlement Agreement. The Cubs completed the expansion of the bleachers pursuant to the 2005 PD Ordinance during the 2005-2006 off-season.

E. 2006 Rooftops in Wrigley Field Adjacent Area Ordinance Amendment

31. As a result of the 2005-2006 Bleacher expansion, the City granted the Rooftops permission to increase the height of the Rooftop Properties to accommodate the Cubs' bleacher expansion. In 2006, the City amended the Rooftop Ordinance to increase the permissible height of the Rooftop Buildings, but then imposed far stricter, and extremely expensive, building standards. In reliance upon the 2004 Designation Ordinance, the 2005 PD Ordinance, the 2004 Settlement Agreement and 2006 Amendments to the Rooftop Ordinance, the Rooftop Owners collectively spent over \$50 million constructing and renovating the Rooftop Properties in accordance with the 2006 amendments to the Rooftop Ordinance and the City's directives.

32. Like the Landmark Designation Ordinance, the Rooftop Ordinance sought to preserve the historic views of the surrounding Rooftop buildings. §4-388-175(f) of the Rooftop Ordinance specifically prohibits the Rooftops from altering or modifying the front façade of any Rooftop building without first obtaining the written consent of the Zoning Administrator. Under §4-388-175(f) the Zoning Administrator can approve a Rooftop façade alteration only if the alteration will not affect the "existing streetscape" or "alter the historic character of the Wrigley Field Adjacent Area."

F. Landmark Ordinance and Landmark Commission

33. The Landmark Commission is created by the Landmark Ordinance. The Mayor appoints its members. In 2012, the Mayor appointed a number of new commissioners with little or no experience in architecture or landmark preservation.

34. §2-120-740 of the Chicago Landmark Ordinance prohibits building owners from altering landmarked elements or affixing signs to landmarked elements without the written approval of the Landmark Commission. As stated in §2-120-740:

No permit for alteration, construction, reconstruction, erection, demolition, relocation, or other work, shall be issued to any applicant by any department of the City of Chicago without the written approval of the commission for any area, place, building, structure, work of art or other object for which the commission has made a preliminary recommendation for landmark status or which has been designated as a "Chicago Landmark" in the following instances: (1) where such permit would allow the alteration or reconstruction of or addition to any improvement which constitutes all or a part of a landmark or proposed landmark; or (2) where such permit would allow the demolition of any improvement which constitutes all or a part of a landmark or proposed landmark; or (3) where a permit would allow the construction or erection of any addition to any improvement or the erection of any new structure or improvement on any land within a landmark district; or (4) where a permit would allow the construction or erection of any sign or billboard within the public view which may be placed on, in, or immediately adjacent to any improvement which constitutes all or part of any landmark or proposed landmark.

35. Under §2-120-760 through §2-120-810, the Landmark Commission can preliminarily approve a permit application. If the Commission preliminarily approves a permit application, the Commission does not conduct a hearing. If the Commission preliminarily denies a permit application, the Commission conducts a public hearing and issues a final written decision. Under §2-120-810, the Commission's final written decision is appealable to the Cook County Circuit Court under the Illinois Administrative Review Act.

36. Although the Landmark Ordinance contemplates the filing of a permit application, the Landmark Commission has adopted rules which allow applicants to seek Commission approval of alterations and additions without filing a permit application.

G. The 2013-14 Landmark Proceedings

37. In early 2012, the Ricketts Family, the new owners of the Cubs, sought to install a Jumbotron and other outfield signs that would impair protected elements of Wrigley Field and

block the Rooftops' views. On or about April 4, 2013, Mayor Emanuel announced a "framework" for the renovation of Wrigley Field pursuant to which he approved a Jumbotron in left field and a script sign in Right Field even though both signs adversely impact protected elements of Wrigley Field.

38. In contrast to all previous renovation projects, the 2013-2014 negotiations were privately conducted by the Mayor's Staff and the Cubs. The Rooftops and neighborhood representatives were almost entirely excluded from the negotiations and were generally denied access to the Landmark Commissions' Staff. Unlike other applicants, the Cubs' proposals were rushed through without the customary review because all City Departments were directed to give the Cubs whatever they wanted.

39. In July of 2013, the Landmark Commission preliminarily approved a Jumbotron in left field and a 650 square foot sign in right field. On information and belief, the Cubs never filed a permit application so no permit was ever issued for the left field Jumbotron or right field sign.

40. Over the next several months, the Cubs demanded that the Rooftops agree not to sue in connection with the left field Jumbotron and the right field sign even though both signs would block the Rooftops' views and violate the 2004 Settlement Agreement and the 2004 Landmark Designation Ordinance.

41. In the summer of 2014, the Cubs announced they were seeking permission for a left field Jumbotron, a right field Jumbotron, five additional outfield signs and eight or more rows of bleacher seats. In early July, the Commission announced that it would consider the Cubs unfiled permit application on July 10, 2014.

42. In accordance with the Commission's rules, the Rooftops requested leave to become formal parties to the Cubs permit proceedings. The Rooftops' requests dated July 1,

2014 and July 10, 2014 are attached as Exhibit D. The Commission denied the Rooftops' request because, in the Commission's view, the July 10, 2014 proceeding did not qualify as a hearing. According to the Commission, the purpose of the July 10, 2014 proceeding was to approve the Cubs request. Once the Commission approved the Cubs' request, the Cubs would then file a permit application and the Commission staff would privately determine whether the Cubs permit application complied with the Commission's pre-approval.

43. On July 7, 2014, the Rooftops were told they could make a 20 minute presentation at the July 10, 2014 proceeding, but could not question or cross examine any witness or present any expert testimony. Permitting a 20 minute presentation before a Commission which has already decided the case does not satisfy the requirements of due process.

44. At the time of the July 10, 2014 proceedings, the Cubs had not revealed their proposal to the Rooftops, the local Alderman or the neighborhood community groups. Although the Rooftops do not have access to whatever materials the Cubs provided the Landmark Commission, media reports described the Cubs submission as misleading.

45. On July 10, 2014, the Commission preliminarily approved the Cubs request to add two Jumbotron, five outfield signs and eight or more rows of bleacher seats.

46. Neither the Commission's decision nor the Commission's staff reports contain any factual or architectural analysis which supports the Commission's decision. The Commission simply concludes the two Jumbotrons, five outfield signs and eight plus rows of bleacher seats will not affect the uninterrupted sweep and contour of the bleachers or impair the views of the surrounding cityscape. The Commission's staff report is attached as Exhibit E and the Commission's July 10, 2014 minutes are attached as Exhibit F.

47. Prior to 2013-2014, the Landmark Commission consistently acknowledged that under the 2004 Designation Ordinance "[T]he view from the ballpark looking out at the adjacent

buildings, the larger surrounding neighborhood, and even glimpses of the lake remains one of the ballpark's unique character-defining features." (Staff Report to Commission on Toyota Sign pg. 7 – Exhibit G).

48. Contrary to the Commission's current position, the protection of the uninterrupted sweep and contour of the bleachers served the dual purpose of protecting the integrity of the 1938 Hollibard and Root bleacher design and the vista of the surrounding buildings and neighborhood.

H. The Harm to the Rooftops

49. The Rooftops possess a legally protected interest in their views of Wrigley Field and a legally cognizable stake in any landmark decision which diminishes their views. In reliance on the 2004 Settlement Agreement, the Designation Ordinance and the 2006 Amendments to the Rooftop Ordinance, the Rooftops spent tens of millions of dollars improving their buildings in accordance with the City's directives.

50. To arbitrarily reinterpret the Designation Ordinance in a manner that completely contradicts the plain language of the Designation Ordinance is grossly inequitable.

51. Shortly after the Commission announced its July 10, 2014, decision, the Cubs told the Rooftops they could either sell their businesses to the Cubs at a fraction of both cost and fair market value or have their businesses destroyed when the Cubs block their views.

Count I – Administrative Review

52. The Commission's final decisions are subject to judicial review pursuant to §2-120-810 of the Chicago Municipal Code and 735 ILCS 5/3-101 *et. seq.*

53. Given the unusual procedures employed in connection with the Cubs proposal, it is unclear whether the Commission's July 10, 2014 preliminary approval decision qualifies as a final decision for purposes of administrative review.

54. According to the Commission, its July 10, 2014 decision is the final act of the Commission notwithstanding that its decision is referred to as a preliminary approval.

55. When the Cubs file a permit application, the Commission's staff will determine whether the Cubs permit application complies with the Commission's preliminary approval of the Cubs unfiled permit application.

56. Regardless of what the Commission calls its July 10, 2014 decision, the Commission's July 10th decision must be reversed because it: (1) violates the language and legislative intent of the Designation Ordinance; (2) is contrary to law; (3) represents an erroneous and unreasonable interpretation of law; (4) violates the Commission's designation criteria, rules and regulations; (5) violates the federal Standards for Rehabilitation; (6) ignores fundamental principles of architectural preservation; (7) represents a radical departure from the Commission's previous analysis of similar issues; (8) is arbitrary, capricious and contrary to the public interest; and, (9) is against the manifest weight of the evidence.

WHEREFORE, Plaintiffs respectfully request that this Court:

(a) Enter an order requiring the City to file a complete record of the administrative proceedings;

(b) Enter an order reversing the Commission's July 10, 2014 decision;

(c) Enter an order revoking any permits issued pursuant to the Commission's July 10, 2014 decision; and,

(d) Enter an order granting Plaintiffs such further relief as the Court deems equitable and just.

Count II – Declaratory Judgment

57. Plaintiffs reallege and incorporate by reference Paragraphs 1 through 56 as though fully set forth herein.

58. The Landmark Commission's preliminary approval of the Cubs proposal is arbitrary and capricious, unrelated to the public health, safety and morals, and violates the Designation Ordinance, the Commission's rules and Plaintiffs' constitutional rights.

59. A real and actual controversy exists between the Rooftop Properties and the City regarding the Landmark Commission's July 10, 2014 decision. As a result of the foregoing acts, an actual controversy exists between the parties which can be determined by a judgment pursuant to 735 ILCS 5/2-701.

WHEREFORE, Plaintiffs respectfully request that this Court:

- (a) Declare the parties' rights;
- (b) Enter an order requiring the City to comply with the Designation Ordinance;
- (c) Grant such further relief as is necessary to enforce the Court's declaration; and,
- (d) Grant Plaintiffs such further relief as the Court deems equitable and just.

Count III – Due Process

60. Plaintiffs reallege and incorporate by reference Paragraphs 1 through 56 as though fully set forth herein.

61. Plaintiffs possess a constitutionally protected property interest in their Rooftop properties and Rooftop licenses.

62. Defendants deprived Plaintiffs of their property without due process of law by: (1) denying Plaintiffs' request to become parties to the Cubs permit application proceedings; (2) deciding to approve the Cubs unfilled permit application prior to the July 10, 2014 proceedings; (3) arbitrarily and capriciously refusing to comply with the Landmark ordinance rules, regulations and reports; (4) applying the Landmark rules, regulations and ordinances in a discriminatory fashion unrelated to any legitimate governmental objective; (5) applying the City's rules, regulations and ordinances in a manner which renders them unconstitutionally

vague; (6) enforcing and administering a regulatory scheme that vests impermissible discretion in an administrative agency; and, (7) enforcing and administering a regulatory scheme that improperly attempts to simultaneously exercise legislative, executive, administrative and judicial power.

WHEREFORE, Plaintiffs respectfully request that this Court:

- (a) Enter an order finding that the City violated Plaintiffs' due process rights;
- (b) Enter an order requiring the City to comply with the Designation Ordinance;
- (c) Enjoin the City from engaging in further due process violations; and,
- (d) Enter an order granting Plaintiffs such further relief as this Court deems equitable and just.

Count IV – Equal Protection

63. Plaintiffs reallege and incorporate by reference Paragraphs 1 through 56 as though fully set forth herein.

64. The Equal Protection Clause of the United States Constitution and the Illinois Constitution require that all similarly situated persons be treated equally.

65. The state and federal Equal Protection Clauses prohibit the City from arbitrarily applying its landmark regulations so as to irrationally discriminate against similarly situated persons.

66. The Designation Ordinance explicitly protects the unenclosed open air character and generally uninterrupted sweep of the bleachers for the express purpose of preserving the historic view of Sheffield and Waveland Avenues.

67. Because the Designation Ordinance protects the historic views of Sheffield and Waveland Avenues, the City's Rooftop Ordinance and Zoning Administrator prohibited the Rooftops from altering the facades of their buildings even though their buildings were never

designated as landmarks. As a result, the Rooftops collectively spent millions of dollars reconstructing their buildings without altering the facades.

68. Subjecting the Rooftops' unlandmarked buildings to more stringent historical preservation standards than Wrigley Field, which is undisputedly landmarked, is irrational, arbitrary, capricious and discriminatory.

WHEREFORE, Plaintiffs respectfully request that this Court:

- (a) Enter an order finding that the City violated Plaintiffs' equal protection rights;
- (b) Enter an order requiring the City to comply with the Designation Ordinance;
- (c) Enjoin the City from engaging in further acts of discrimination or retaliation; and,
- (d) Enter an order granting Plaintiffs such further relief as this Court deems equitable and just.

Count V - §1983

69. Plaintiffs reallege and incorporate by reference Paragraphs 1 through 68 as though fully set forth herein.

70. Title 42 U.S.C. §1983 prohibits the City from depriving Plaintiffs of their constitutional rights while acting under color of state law.

71. The City has deprived Plaintiffs of their federally secured right to due process of law and equal protection of law.

72. All of the complained of decisions were made by the Commission on Historic Landmarks. The Commission possesses final authority to make the complained of landmark decisions.

73. The Commission's actions and decisions represent the official policy of the City of Chicago.

74. At all relevant times, the City acted under color of state law.

75. As a direct and proximate result of the City's violation of Plaintiffs' federally secured rights, Plaintiffs have been severely injured.

76. Plaintiffs possess no adequate state remedy because state law does not afford Plaintiffs any means of recouping the damages they have suffered as a result of the City's deprivation of their federally secured rights.

WHEREFORE, Plaintiffs respectfully request that this Court:

- (a) Enter an order finding that the City violated Plaintiffs' constitutional rights;
- (b) Enter an order requiring the City to compensate Plaintiffs for the damages Plaintiffs have suffered as a result of the City's willful and intentional violation of Plaintiffs' constitutional rights;
- (c) Enter an order requiring the City to pay Plaintiffs' attorney's fees, court costs, and litigation expenses.
- (d) Enjoin the City from engaging in any further violations; and,
- (e) Enter an order granting Plaintiffs such further relief as this Court deems equitable and just.

Count VI - Injunction

77. Plaintiffs reallege and incorporate Paragraphs 1 through 76 as though fully set forth herein.

78. Plaintiffs possess clearly ascertainable rights in need of protection, including the protection of the value of the Rooftop Properties, and the continued right to use and enjoy the Rooftop Properties.

79. Plaintiffs have suffered and will continue to suffer irreparable harm from the planned and imminent development, construction, and operation of the Jumbotron, outfield signs and additional bleacher seats.

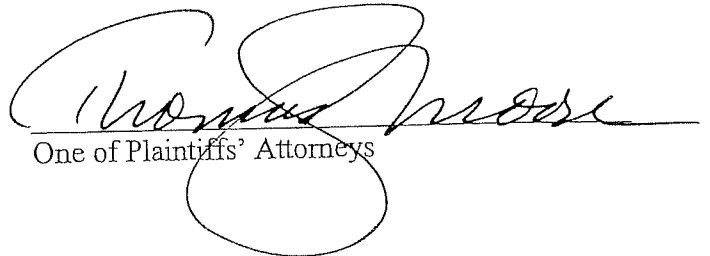
80. The City's unlawful approval of the Cubs proposal cannot be adequately remedied solely through an action at law, inasmuch as monetary damages alone are clearly inadequate to compensate the Rooftops for the unlawful actions of the City.

81. Plaintiffs lack an adequate remedy at law and there is a substantial likelihood that Plaintiffs will prevail on the merits.

WHEREFORE, Plaintiffs respectfully request that the Court:

- (a) Enter an order enjoining the City from violating the Designation Ordinance;
- (b) Enter an order enjoining the City from issuing any permits to the Cubs in violation of the Designation Ordinance and/or requiring the City to revoke any permits which have been issued to the Cubs in violation of the Designation Ordinance; and,
- (c) Grant Plaintiffs such further relief as the Court deems equitable and just.

Respectfully submitted,


One of Plaintiffs' Attorneys

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