

STATE OF NORTH CAROLINA
COUNTY OF MECKLENBURG

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

13-CVS-12678

MECKLENBURG COUNTY
FILED #64
JUL 18 2013
AT 3:50 O'CLOCK P.M.
BY KML
CLERK OF SUPERIOR COURT

CITY OF CHARLOTTE,
A municipal corporation,

Plaintiff,

v.

TEMPORARY RESTRAINING ORDER

THE STATE OF NORTH CAROLINA
AND CHARLOTTE DOUGLAS
INTERNATIONAL AIRPORT
AUTHORITY,

Defendants.

THIS MATTER is before the Court on the Motion for Temporary Restraining Order filed by Plaintiff City of Charlotte ("Charlotte").

Upon such application the Court considered the Verified Complaint and the arguments and submissions of counsel in attendance at the hearing. Counsel of record for Charlotte was present at the hearing. Counsel for Charlotte advised the Court that they had given notice of the commencement of this action and of the application for a temporary restraining order to counsel for the Defendants as required by Rule 65 of the North Carolina Rules of Civil Procedure.

IT APPEARS to the Court that good cause exists to grant the Motion.

Charlotte has shown a likelihood of success on the merits on each of its claims for relief. First, Charlotte has shown that it is likely to succeed on the merits of Count 1 because the Act is an unconstitutional local act concerning airports in violation of Article V, Section 13 and Article XIV, Section 3 of the North Carolina Constitution. ~~Second, Charlotte has shown that it is likely to succeed on the merits of Count 2 because the Act is an unconstitutional impairment to a~~

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~~contractual obligation in violation of Article I, Section 10 of the United States Constitution and N.C. Gen. Stat. § 159-93. Third, Charlotte has shown that it is likely to succeed on the merits of Count 3 because the Act is an unconstitutional subversion of the authority of the Federal Aviation Authority in violation of Article I, Section 5 of the North Carolina Constitution.~~

Finally, Charlotte has shown that it is likely to succeed on the merits of Count 4 because the Act is an unconstitutional taking in violation of Article I, Sections 19 and 35 of the North Carolina Constitution.

Charlotte has also demonstrated that it will suffer irreparable harm in the absence of immediate injunctive relief, as violations of the North Carolina and U.S. Constitution constitute *per se* irreparable harm. Furthermore, Charlotte has demonstrated that it will suffer immediate and irreparable harm if the Act is allowed to take effect. Enforcement of the Act threatens to cause imminent, irreparable harm to Charlotte including but not limited to the consequences of default on its obligations under the Airport Bonds, the disruption or loss entirely of Airport services upon the Act becoming effective, and the Airport's inability to function without violating state or federal law. Charlotte has no adequate remedy at law because monetary damages are incapable of protecting Charlotte and its citizens from the devastating and immediate loss of an operational airport.

The balance of equities also favors granting immediate injunctive relief. Charlotte has successfully and efficiently maintained the Airport since the mid-1930s. Thus, it does not appear that the State or its interests will be harmed by permitting Charlotte to continue maintaining the Airport until such time as the Court decides Charlotte's Motion for Preliminary Injunction, particularly when considered against the immediate and irreparable harm that Charlotte and its citizens would suffer if the Act were allowed to take effect.

WHEREFORE, Plaintiff's Motion for Temporary Restraining Order is **GRANTED**.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that during the pendency of Plaintiff's Motion for Preliminary Injunction, and pending a decision by the Court on the Motion for Preliminary Injunction:

1. The State is restrained and enjoined from taking any action to implement or enforce the Act;

2. The Charlotte Douglas Airport Authority, and all of its agents, servants, and employees are forbidden from assuming any authority or control over the Airport or any of the real or personal property owned by the City of Charlotte with respect to the Airport;

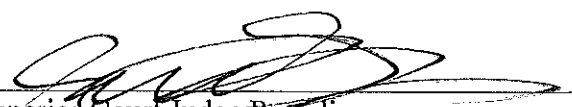
3. None of the property, licenses, debt, or contracts associated with or related to the Airport are to be transferred to the Charlotte Douglas Airport Authority;

4. Charlotte continues to own, manage, and operate the Airport and all of the property owned by the City of Charlotte with respect to the Airport pending further Order of this Court.

Counsel for Charlotte shall cause copies of this Order to be delivered to Defendants.

Unless the parties consent to an extension of this injunction, the Court will hear Charlotte's Motion for Preliminary Injunction on July 29, 2013 at 10:00 a.m. in Courtroom 6310 of the Mecklenburg County Courthouse, 832 East Fourth Street, Charlotte, North Carolina 28202. This injunction shall expire ten (10) days from the date and time of issuance in accordance with the North Carolina Rules of Civil Procedure, unless the parties otherwise agree to its extension.

Signed and Ordered on July 18, 2013 at 3:50 p.m.



Superior Court Judge Presiding
Superior Court, Mecklenburg County