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12 **SUPERIOR COURT OF ARIZONA**
13 **MARICOPA COUNTY**

14 AMERICA M. YOUNG, INDIVIDUALLY
15 AND AS TRUSTEE OF THE TRUST
16 ESTABLISHED BY HER ON THE 19TH
17 DAY OF DECEMBER, 1997,

18 Plaintiff,

19 vs.

20 THE CITY OF PHOENIX,

21 Defendant.

Case No. CV2020-003148

AMENDED COMPLAINT

- Action for Just Compensation under A.R.S. § 12-1134
- Tier 3

(Hon. Margaret Mahoney)

22 **PARTIES, JURISDICTION, AND VENUE**

23 1. This is an action for just compensation under Arizona’s Proposition 207,
24 also known as the Private Property Rights Protection Act, which was passed by Arizona
25 voters in 2006 and subsequently codified at A.R.S. § 12-1134.

26 2. Plaintiff America M. Young (“America”) is the Trustee of the Trust
27 established by her on the 19th day of December, 1997 (the “America Young Trust” or
28 “Plaintiff”).

3. The America Young Trust is the owner of the real property that is the
subject of this action.

4. Defendant City of Phoenix (the “City” or “Defendant”) is a political
subdivision in Maricopa County.

1 5. This case qualifies for Tier 3 designation under Ariz. R. Civ. P. 26.2.

2 6. The events alleged herein occurred in Maricopa County.

3 7. This Court has jurisdiction over this action under A.R.S. § 12-123 and the
4 Arizona Constitution, Article VI, § 14.

5 8. Venue is proper in this Court pursuant to A.R.S. § 12-401.

6 **FACTUAL BACKGROUND**

7 9. The America Young Trust is the owner of real property located at 7019
8 North Central Avenue, Phoenix, Arizona 85020, APN 160-31-022 (the “Property”).

9 10. The Property is approximate 52,141 square feet in size and zoned R1-10
10 residential.

11 11. Situated on the Property is a 1,600 square foot two-story home often
12 referred to as the “W.F. McElroy home” after the purported original owner, W.F.
13 McElroy.

14 12. According to the Maricopa County Assessor’s Office, the W.F. McElroy
15 home was built in 1918, though contemporary news accounts indicate that the home was
16 not built until 1926 or 1927.

17 13. As of December 4, 2019, the Property was not on the Phoenix Historic
18 Property Register.

19 14. In 1991 and 1993, the Phoenix Historic Preservation Office conducted two
20 surveys in the area to identify homes of potential historic significance, and the W.F.
21 McElroy home was not identified as a home of potential historic significance at that time.

22 15. A nurse by trade, America cared for the prior owners of the Property—the
23 Wyman sisters—in the final years of their lives.

24 16. When the last remaining sister passed away in the 1990s, she bequeathed
25 the Property to America to show her gratitude for America’s years of loyal and
26 compassionate service to the sisters.

27 17. Since 1998, the America Young Trust has held fee title to the Property.

28 18. America and her husband David Young, a former surgeon at Saint Joseph’s

1 Hospital and Barrow Neurological Institute, have at their own personal expense
2 maintained and improved the Property for the past 20-plus years and paid all applicable
3 property taxes.

4 19. The average expenses for the Youngs to maintain the Property have ranged
5 from \$15,000.00 to \$20,000.00 annually.

6 20. In their 70s, the Youngs simply lack the energy and financial resources to
7 maintain the Property and renovate its 90-year-old home, all while paying escalating
8 property taxes in one of Phoenix’s most exclusive residential corridors.

9 21. Accordingly, in April of 2019, the Youngs applied for a demolition permit
10 for the W.F. McElroy home in preparation to sell the Property to a prospective developer
11 for \$1.8 million or more.

12 22. On May 20, 2019, after being pressured by a group of affluent and
13 politically connected neighborhood activists led by Mary Crozier and Anne Ender, the
14 City denied the permit and initiated a Historic Preservation Overlay Zoning (“HP
15 Overlay”) for the Property against the will of the Youngs.

16 23. On May 23, 2019, Crozier—who claims to make a living restoring historic
17 properties—had her attorney send a threatening “cease and desist” letter to America.

18 24. After the City initiated the HP Overlay, and in coordination with Crozier
19 and Ender, real estate broker Eric Jensen, on behalf of his clients Brandon T. Oliver and
20 Summer F. Oliver, submitted an offer to purchase the Property with the HP Overlay for
21 \$1.3 million. On information and belief, Jensen had no true intention for the Olivers to
22 consummate the offer at that price.

23 25. On information and belief, Crozier, Ender, and Jensen engaged in this
24 conduct in an attempt to (1) intimidate the Youngs during the HP overlay Process, (2)
25 portray the Youngs as “greedy” for opposing the HP Overlay, (3) represent to the City
26 that the HP Overlay would not diminish the Property’s value, and/or (4) manipulate the
27 computation of just compensation under A.R.S. § 12-1134 if and when the Youngs filed
28 this lawsuit.

1 26. The efforts of Crozier, Ender, and Jensen were partially successful. At the
2 October 21, 2019 meeting of the City’s Historic Preservation Commission, at least one
3 member of the commission stated publicly that the Youngs were “motivated by greed”
4 because they had not accepted the Olivers’ offer.

5 27. Similarly, at the December 4, 2019 City Council meeting, Crozier
6 represented to the Council, with no evidence, that the HP Overlay would increase the
7 value of the Property, and at least one Council member specifically referenced the \$1.3
8 million offer as justification for approving the HP Overlay.

9 28. The City Council voted to approve the HP Overlay for the Property under
10 Ordinance G-6648 at the December 4, 2019 City Council meeting.

11 29. On December 5, 2019, the America Young Trust served on the City a
12 demand for just compensation under A.R.S. § 12-1134.

13 30. On June 5, the America Young Trust served on the City an amended
14 demand for just compensation under A.R.S. § 12-1134.

15 31. On December 23, 2019, the Olivers purchased a vacant lot zoned R1-10
16 and with no HP Overlay located at 7230 North Central Avenue, Phoenix, Arizona 85020.
17 On information and belief, the Olivers were under contract for this vacant lot while
18 Jensen was falsely representing to the Youngs and the City that his clients were going
19 purchase the Property with the HP Overlay for \$1.3 million.

20 **COUNT I: ACTION FOR JUST COMPENSATION UNDER A.R.S. § 12-1134**

21 32. A.R.S. § 12-1134 states in relevant part

22 A. If the existing rights to use, divide, sell or possess private
23 real property are reduced by the enactment or applicability of
24 any land use law enacted after the date the property is
25 transferred to the owner and such action reduces the fair
26 market value of the property the owner is entitled to just
27 compensation from this state or the political subdivision of
28 this state that enacted the land use law.

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E. If a land use law continues to apply to private real property more than ninety days after the owner of the

1 property makes a written demand in a specific amount for just
2 compensation to this state or the political subdivision of this
3 state that enacted the land use law, the owner has a cause of
4 action for just compensation in a court in the county in which
5 the property is located, unless this state or political
6 subdivision of this state and the owner reach an agreement on
7 the amount of just compensation to be paid, or unless this
8 state or political subdivision of this state amends, repeals, or
9 issues to the landowner a binding waiver of enforcement of
10 the land use law on the owner's specific parcel.

11 33. Under A.R.S. § 12-1136(3), a "land use law" is defined as "any statute,
12 rule, ordinance, resolution or law enacted by this state or a political subdivision of this
13 state that regulates the use or division of land or any interest in land or that regulates
14 accepted farming or forestry practices."

15 34. Ordinance G-6648, passed by the City on December 4, 2019 is a "land use
16 law" under A.R.S. § 12-1134.

17 35. Ordinance G-6648 has caused the Property to diminish in value.

18 36. The America Young Trust served a written demand for just compensation
19 in the specific amount of \$500,000.00 on December 5, 2019 and Ordinance G-6648 has
20 continued to apply for more than ninety days since.

21 37. The America Young Trust served an amended written demand for just
22 compensation in the specific amount of \$500,000.00 on June 5, 2020 and Ordinance G-
23 6648 has continued to apply for more than ninety days since.

24 38. None of the exemptions in A.R.S. § 12-1134(B) are applicable.

25 39. The America Young Trust therefore has a claim under A.R.S. § 12-1134 for
26 just compensation.

27 **PRAYER FOR RELIEF**

28 Plaintiff requests judgment against Defendant as follows:

A. For just compensation under A.R.S. § 12-1134

B. For Plaintiffs' taxable costs and reasonable attorney's fees pursuant to
A.R.S. §§ 12-341 and 12-1135(D); and

C. For such other relief as is appropriate.

1 RESPECTFULLY SUBMITTED this 17th day of December, 2020.



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10 **ORIGINAL** of the foregoing filed, e-mailed, and
11 mailed upon request, this 17th day of
12 December, 2020 to:

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