

FILED

APR 03 2026

IN THE CIRCUIT COURT OF ST. LOUIS COUNTY
STATE OF MISSOURI

JOAN M. GILMER
CIRCUIT CLERK, ST. LOUIS COUNTY

MARK & ELIZABETH FOGARTY, ET AL.,

Plaintiff(s),

Cause No.: 26SL-CC01973

v.

Division: 6

HARLAN LEE SORKIN, JR., TRUSTEE,
ET AL.,

Defendant(s).

FULL AND FINAL JUDGMENT AND ORDER

Before the Court are “Defendant City of Kirkwood’s Motion to Dismiss,” filed on March 9, 2026, and Defendants Harlan Lee Sorkin, Jr., Annelle Tracy Sorkin, and the Annelle Tracy Sorkin Self Declaration Trust’s “Renewed Motion to Dismiss First Amended Petition for Lack of Subject Matter Jurisdiction,” filed on March 13, 2026. Upon due consideration of each, including the briefing of the Parties, and the arguments of counsel, the Court finds Plaintiffs do not have the requisite standing to seek the relief requested, and as such, hereby GRANTS each Motion.

The Court finds and intends that this is a final judgment that resolves all issues as to all Parties. Any remaining issues or claims for relief are hereby dismissed without prejudice as moot.

SO ORDERED.



JUDGE JOHN N. BORBONUS

IN THE CIRCUIT COURT OF ST. LOUIS COUNTY, MISSOURI
BEFORE A CIRCUIT JUDGE

MARK & ELIZABETH FOGARTY, and)
 BETH GEARHART, and) Cause No. 26SL-CC _____
 EMILY PURICELLI, and) Div No. _____
 LEENY HOFFMAN, and)
 JASON & JENNIFER BUCHEK, and)
 ERIN & MARCO MARISCAL,)
 (Indirectly the 1483 Change.Org Petitioner)
 signers))
 Petitioners)
 vs.)
 HARLAN LEE SORKIN, Jr., Trustee [or agent] of the)
 or ANNELLE TRACY SORKIN, alternative Trustee or agent of)
 ANNELLE TRACY SORKIN SELF DECLARATION TRUST,)
 Serve: Harlan Lee Sorkin, Jr.)
 12920 So Topping Estates Dr.)
 St. Louis Co., MO. 63131)
 and)
 CITY OF KIRKWOOD, a Municipal corp)
 serve: Clerk or Mayor)
 City Hall)
 139 So. Kirkwood Rd.)
 Kirwood Mo. 63122)

**VERIFIED PETITION FOR TEMPORARY RESTRAINING ORDER, PRELIMINARY
INJUNCTION AND PERMANENT INJUNCTION**

And for
MANDAMUS (CONDITIONALLY)

And for
ADMINISTRATIVE REVIEW (CONDITIONALLY)

Come now your petitioners and make their affidavit and Petition for the issuance of an immediate
Temporary Restraining Order (“TRO”), followed by a Preliminary Injunction and ultimately a Permanent
Injunction,

-to stay (or deny) demolition of the Historic registered Landmark Home at 751 N. Taylor in Kirkwood
Mo, until a final substantive decision (including judicial administrative review, if necessary) is made
concerning the right of the homeowner to demolish the home; and

-conditionally for a writ of Mandamus to compel ministerial governmental administrative action to act
upon the homeowner’s application for a demolition permit (in the event that the City of Kirkwood fails to
utilized their administrative remedies properly); and

-conditionally for administrative review if the City of Kirkwood fails to deny the homeowner’s
demolition permit;

stating further as follows:

Electronically Filed - St Louis County - February 23, 2026 - 01:30 PM

COUNT I

PETITION FOR TEMPORARY RESTRAINING ORDER, PRELIMINARY INJUNCTION AND PERMANENT INJUNCTION

Parties

1. Petitioners include the following residents and owners of property within the North Taylor Historic District of Kirkwood:
 - A. Mark and Elizabeth Fogarty own and reside in the property at 705 N. Taylor, in the City of Kirkwood, Mo. 63122. 705 N. Taylor is a designated City Landmark and listed on the Kirkwood Register of Historic Register Places, and is located within the City of Kirkwood's designated North Taylor Historic District.
 - B. Beth Gearhart owns and resides in the property at 1 Sunset Lane, in the City of Kirkwood, Mo. 63122. 1 Sunset Lane is located within the City of Kirkwood's designated North Taylor Historic District.
 - C. Emily Puricelli, owns and resides in the property at 731 N Taylor Ave, in the City of Kirkwood Mo. 63122. 731 N. Taylor Ave. is located within the City of Kirkwood's designated North Taylor Historic District.
 - D. Leeny Hoffman, owns and resides in the property at 600 N. Taylor Ave, Kirkwood Mo, 63122. 600 N. Taylor Ave. is located within the City of Kirkwood's designated North Taylor Historic District
 - E. Jason & Jennifer Buchek, own and reside at 846 N. Taylor Ave, Kirkwood Mo. 63122. 846 N. Taylor Ave. is located within the City of Kirkwood's designated North Taylor Historic District
2. Petitioners Erin and Marco Mariscal own property and reside in the City of Kirkwood.
3. Erin Mariscal has obtained the petition signatures of 1483 persons protesting the demolition of 751 North Taylor. See Exhibit (1)
4. Harlan Lee Sorkin, Jr. or Annelle Tracy Sorkin are either Trustees, or the legal representatives of, the Annelle Tracy Sorkin Self Declaration Trust (hereinafter the "Sorkin Trust"), a private trust which owns the real property known as 751 North Taylor in Kirkwood Mo 63122. Both Harlan Lee Sorkin, Jr. and Annelle Tracy Sorkin reside at and can be served with process at 12920 Topping Estates Dr., in St. Louis County Missouri 63131. Service upon either Harlan Lee Sorkin Jr or Annelle Tracy Sorkin is sufficient to obtain jurisdiction over the Sorkin Trust.
5. The City of Kirkwood is a body politic and corporate, a charter city incorporated in the State of Missouri, and operates through a number of different agencies and officials, including the Kirkwood Landmarks Commission, the City Council, the City Building Commissioner, the Mayor, the City Clerk, and others. Service upon the City of Kirkwood can be made upon the City Clerk, Mayor or City Attorney pursuant to Mo. Rule Civ Proc 54.13(b)(4).

Background Facts

6. The City of Kirkwood has determined that preservation of historic buildings is a valued governmental function and has expended considerable resources to further this function, including:
 - 6.1 The City of Kirkwood has designated 9 Historic Districts within its City Limits [See Exhibit (2)], including the North Taylor Historic District [See Exhibit (3)].
 - 6.2 The City of Kirkwood has applied for and become a Certified Local Government (“CLG”) as that term is used in the National Historic Preservation Act, 54 USC 300.302. See Exhibit (4)
 - 6.3 The City of Kirkwood has enacted a National Historic Preservation Ordinance, namely Kirkwood City Code, Chapter 2 Article VII Division 9 (the “Ordinance”). See Exhibit (5)
 - 6.4 The City of Kirkwood has established an administrative agency to carry out the discretionary and ministerial determinations regarding the historical land use activities of buildings which are or could be of historic character, namely the Landmarks Commission.
 - 6.5 Because the City of Kirkwood has become, a Certified Local Government under the National Historic Preservation Program, it has certified that it—
 - (1) **enforces appropriate State or local legislation** for the designation and **protection of historic property** (*emphasis added*). See 54 USC §302503 - Requirements for certification
7. In February 2025 the Sorkin Trust purchased from the Mary L. Glen Trust and now owns property at 751 N. Taylor Ave., Kirkwood Mo. 63122, known as the “Marquitz-Garesche House”. Previously Mary L. Glen resided in the Marquitz-Garesche House. The Sorkin Trust has not attempted to occupy the Marquitz-Garesche House since it was purchased.
8. The Marquitz-Garesche House was constructed in 1858, is designated as a local historic landmark by the City of Kirkwood, and is located in the North Taylor Historic District of Kirkwood, which is listed in the National Register of Historic Places.
9. In May 2025 The Sorkin Trust applied to the City of Kirkwood for a demolition permit to demolish the Marquitz-Garesche House. This permit application was referred to the Landmarks Commission for review pursuant to the Ordinance, and labeled “Certificate of Appropriateness (COA) 08-2025”. See Exhibit (6)
10. On July 9, 2025 the Landmarks Commission held a public hearing at which 10 residents testified that the demolition permit should be denied so that the historically significant building could be preserved. The Sorkin Trust was represented by Respondent Harlan Sorkin who stated that the building was purchased without an inspection and suggested, as his basis for demolition, that
 - there might be some material defects in the insulation;
 - the clearance between one of the bathroom doors and toilet was 7”;
 - one full bath did not have a shower;
 - the stairs were narrow

Sorkin stated that the property was purchased as the “last residence for him and his spouse to age together in”. However his initial action with the city was to demolish the home and obtain approval for a new structure. It thus appears that his own actions bely that his purpose was to redevelop the property, with no intent to preserve it. Sorkin made no attempt to make the case that his purchase of the property could not be made economically beneficial if the property was preserved.

There was no other supporting testimony in favor of, or justifying, demolition.

10 Kirkwood citizens appeared in person, including residents of the North Taylor Historic District and an owner of a Landmark home at 705 N. Taylor, all objecting to the demolition.

10 other Kirkwood Citizens emailed their objections to the demolition of the Marquitz-Garesche House

At the conclusion of the hearing the Landmarks Commission voted unanimously to extend the review period for 270 days (the maximum allowed under the Ordinance).

See Exhibit (7) Landmark Commission meeting minutes and Exhibit (7A) Public Hearing Record.

11. Although not part of the public hearing, Sorkin appeared at the August 13, 2025 meeting of the Landmarks Commission and stated that the existing structure presented what he opined to be a fire safety issue and that because he desired to remove the vinyl siding, Sorkin opined that these issues precluded preservation, and went on to discuss Sorkin’s concept for a replacement structure. No evidence was presented, nor was the public hearing re-opened, and no action was taken by the Landmarks Commission. See Exhibit (7).
12. The Landmarks Commission met in September 2025, November 2025, January 2026, and February 2026. No other action was taken by the Landmarks Commission at any these meetings regarding the demolition application, COA 08-25. See Exhibit (7).¹
13. The Landmarks Commission is not scheduled or known to meet or act again before February 23, 2026.
14. The 270 day deferral period expires on February 23, 2026. If the Landmarks Commission does not take an affirmative action on the Sorkin Demolition permit Application before February 24, 2026, the Ordinance provides that such inaction constitutes a deemed “approval” of the demolition permit. See Exhibit (5).

The Law

15. Kirkwood has taken a position that is well publicized that embodies an interpretation of their Ordinance as not enabling the Landmarks Commission to deny the demolition permit, but only to table it for 270 days, as was done. See Exhibits (8) and (9).

¹ Sorkin filed a new application for Landmarks Commission review in January 2026, COA 17-2026 to obtain approval of the proposed Sorkin new construction after the anticipated demolition of the Marquitz-Garesche House home. This application was discussed in the January Landmarks Commission meeting. See Exhibit (7)

16. This position is a flat contradiction of Kirkwood's commitment and certification under 54 USC 302503 and 36 CFR 61.6 that it has in force adequate legislation to enforce the protection of historic properties subject to demolition. 54 USC 302503 states:
- “ 54 USC §302503. Requirements for certification**
- (a) Approved State Program.—Any local government shall be certified to participate under this section if the applicable State Historic Preservation Officer, and the Secretary, certify that the local government—
- (1) enforces appropriate State or local legislation for the designation and protection of historic property; “ *(emphasis added)*
- A City can not protect a historic building if it has no authority to deny demolition at the whim of the owner. If the City's Ordinance is interpreted, as the City seems to have done - that the Landmark Commission has no authority to deny a demolition permit - then its Ordinance (so interpreted) does not comply with the mandates of federal and state law and the City is not, nor has it ever been, entitled to Certified Local Government status.
17. The better interpretation of Kirkwood's Ordinance, as apparently the State and the National Park Service has done, is to incorporate the power to deny into the Ordinance. Because Kirkwood is a “Certified Local Government”, it has not only agreed, but is affirmatively required, to comply with the requirements of 54 USC 302503. These requirements were imposed on the City of Kirkwood by the Missouri State Office of Historic Preservation (“SHPO”)² when Kirkwood was certified to be a participant in the National Historic program as a Certified Local Government (“CLG”). See Exhibit (4). The SHPO guidelines for application to become a CLG, state similarly to 54 USC 302503: “Pursuant to the National Historic Preservation Act... and subsequent regulations most recently promulgated by the National Park Service on March 9, 1999 (36 CFR Part 61), certified local government programs must meet five broad criteria. These criteria are outlined below, along with further amplification and definition of the guidelines that must be met by a local government to achieve certification in Missouri.
- A. The local government shall "enforce appropriate state or local legislation for the designation and protection of historic properties" with provisions to achieve substantially the purpose of identification, evaluation, and protection of cultural resources within the jurisdiction of the CLG" (emphasis added). See Exhibit (10)
18. The requirement that the City Ordinances must enforce protection of historic properties leads to the obvious conclusion that demolition (destruction) must be preventable. There is no other way to protect historic properties when demolition is proposed. Power to deny a demolition permit is therefore a mandatory ingredient of Kirkwood's Ordinance if it is to be able to enforce protection of historic properties. This necessarily means that the Landmark Commission has authority, albeit implied, to deny a demolition permit. Otherwise one must conclude that the entire municipal effort to research, define, create, register, and preserve historic properties is without power to protect what they have created - a nonsensical result which the City of

² The State Office of Historic Protection is in the Division of State Parks, which is part of the Mo. Department of Natural Resources

Kirkwood could never have rationally intended - nor would such a result be consistent with Kirkwood's CLG certification or the law. While the Ordinance does not expressly state that the Landmarks Commission may "deny" a demolition permit, it also has no express requirement for a public hearing on such a permits, but Kirkwood found a requirement to hold public hearings on demolition permits notwithstanding. Kirkwood can deny a demolition permit.

19. The Ordinance permits an appeal to the Kirkwood City Council of the "decision" of the Landmarks Commission (See Exhibit 4). The Landmarks Commission's failure to act within the prescribed review period constitutes a final administrative action subject to appeal. This action has been appealed to the Kirkwood City Council by Petitioners. See Exhibit (11). The Council is required to make a decision on the Appeal within 31 days. As this Appeal was only filed on February 20, 2026, no decision has been made by the Council yet as to whether to acknowledge the right of appeal, to conduct the appeal, or to decide the appeal.³ A decision to remand the administrative matter back to the Landmarks Commission to exercise their power to grant or deny the demolition permit by the Council could moot this Petition if made by 24 February, 2026, but this is so unlikely as to be essentially impossible. Thus, despite the Appeal to the Council, Petitioners are at risk of demolition commencing on or after 24 February 2026
20. In administrative proceedings it is sometimes expressly provided that the action under review is not to take place until there is a final administrative decision.⁴ The Historic Preservation

³ There may be an issue as to whether there is a right to appeal under these facts. The timing window for making an appeal is framed only in terms of the circumstances where the property owner is making the appeal, leaving no definition for the filing window of any other aggrieved party. Such omission could suggest that only a the historic property owner has a right of appeal, notwithstanding the express language that "any aggrieved person" has a right to appeal. Interpreting the Ordinance to exclude all other appellants would create equal protection constitutional challenges which are to be avoided in legislative interpretation, so the better approach would be to interpret the appeal right as belonging, as literally stated, to any aggrieved person. As there is no question that the timing of the appeal is timely, the remaining seemingly limiting language is not necessary to decide this issue. A fortiori, the fact that parties other than the owner might be aggrieved by the Landmarks Commission suggests that indeed the Commission does have the power to deny a demolition permit, as it is hard to see how other persons could be aggrieved unless demolition were to occur.

⁴ In particular, demolition permits, which are issued as part of Chapter 5, Building, Construction and Housing, allows appeals to the Board of Building appeals in which there is an express provision staying all action until final decision of the appellate body. See Kirkwood Municipal Code Article V Section 5-67 which states:
 "§ 5-67 Appeals to stay proceedings; exceptions.
 Appeals shall stay all proceedings in furtherance of the action appealed from unless the Building Commissioner certifies to the Board of Building Appeals after the notice of appeal shall have been filed with him that, by reason of the facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by restraining order which may be granted by the Board of Building Appeals on application and on notice to the Building Commissioner or by court of competent jurisdiction."

- Ordinance does not specify how the appellate process at the Kirkwood Council works, but in the interest of preserving the status quo of the parties, such a stay should either be implied by law (and so ruled by this court) or directly ordered by this court pending the outcome of the Kirkwood Council decision on the administrative appeal. Absent judicial intervention, in such case, demolition may proceed before any administrative appeal can be heard, making both the appeal and this case moot.
21. Sorkin has already disabled the electric service to the Marquitz-Garesche House, as a prelude to commencing demolition. Weather predictions are for freezing weather this weekend so that there will be no electrically powered heat to keep water lines above freezing. If no attempt to drain the water from the lines and tanks in the property has been undertaken, the Marquitz-Garesche House is in imminent risk of damage this weekend and continuing.
 22. There is an obvious imminent risk of complete destruction of the Marquitz-Garesche House if the Demolition Permit is issued by the City of Kirkwood. Sorkin has indicated his desire to start demolition immediately upon permit issuance. The 270 day deferral period authorized by the Landmarks Commission expires at midnight on February 23, 2026. The permit could issue on 24 February or any day thereafter absent some form of intervention by this Court.
 23. Issuance of the demolition permit - absent consideration of the historic preservation issues - is a ministerial function. Therefore issuance is likely to be a matter of 1 or only a few days - or as early as 24 February 2026. Once the permit is issued demolition may begin and if so, the damage would be an irreparable loss to Petitioners for which no remedy at law or equity could redress.
 24. Additionally there are other scenarios which may cause the same irreparable loss to imminently occur:
 - 24.1 If the City Council undertakes the Appeal [Exhibit (11)] there is a strong likelihood that the administrative stay mentioned in (§)20) will not issue. If no Stay issues, then the Appeal to the City Council will not be effective to prevent the processing of the demolition permit while the Appeal is under consideration. In this case the City Council Appeal will not be an effective remedy for preventing the imminent demolition of the Marquitz-Garesche House and immediate injunctive relief from this court will be the only remedy available to Petitioners.
 - 24.2 If the City Council refuses to hear the Appeal [Exhibit (11)], then Petitioners will be totally without a remedy at law. Again, injunctive relief from this court will be the only remedy available to Petitioners.
 - 24.3 If the City Council undertakes the Appeal (Exhibit 7) but does not order denial of the demolition permit or remand to the Landmarks Commission with instructions to deny or continue consideration, Petitioners will again be at risk of loss of the Marquitz-Garesche House by demolition. Such decision is required to be made no more than 31 days from

submission. If such decision is made, again Petitioners will have no adequate remedy at law. Although this date is not so imminent as to require a TRO now, it is imminent enough to require a preliminary injunction staying demolition pending final resolution of whether demolition is appropriate, as no other remedy provides for a stay of demolition.

25. For all of the foregoing reasons Petitioners are without an adequate remedy at law to address the imminent destruction of the Marquitz-Garesche House.
26. Petitioners will provide 1-day Notice to all adverse parties pursuant to Mo. Sup. Ct. Rule 92.02(a)(3) so that the Hearing will be with Notice

WHEREFORE, Petitioners pray that this Court issue its immediate Temporary Restraining Order on Notice pursuant to Mo. Sup.Ct. Rule 92.02(a) enjoining the issuance of demolition permit by the City of Kirkwood so as to preserve the status quo pending completion of the Appeal pending in the City Council of Kirkwood, or alternatively enjoining any demolition of the Marquitz-Garesche House for a period of at least 15 days, and to immediately schedule a hearing for issuance of a successor preliminary injunction to last until the right to prevent demolition of the Marquitz-Garesche House can be fully adjudicated by a tribunal with the power to deny the demolition permit or otherwise prevent such demolition, and for such other and further relief in aid of petitioners as this Court may deem meet and just.

COUNT II - MANDAMUS (Conditionally)

27. Petitioners incorporate ¶¶ (1)-(26) of this Petition and all exhibits as if expressly set forth.
28. If the Kirkwood City Council refuses to undertake the administrative Appeal [Exhibit (11)], such refusal would be an abdication of mandated administrative authority under the Kirkwood Historic Preservation Ordinance ¶2-589.3, again leaving petitioners without any legal remedy and in imminent risk of demolition of the Marquitz-Garesche House on or after February 24, 2026. In such case, Petitioners resort to this court not only for the equitable relief for a Temporary Restraining Order to prevent demolition but for this court's Mandamus to compel the City of Kirkwood to undertake the Administrative Appeal as mandated by their Ordinance.

WHEREFORE Petitioners pray that this Court, if Kirkwood refuses to hear the administrative Appeal [Exhibit 11]), to immediately order the City of Kirkwood to undertake and hear said Appeal in the manner as any other administrative appeal, on the record, and to make Findings of Fact and Conclusions of Law, and either remand the appeal back to the Landmarks Commission with instructions to make a discretionary determination to deny the application for demolition permit on the record of the Public Hearing or to actually make the denial decision for the Landmarks Commission, and for such other relief in aid of Petitioners as to this court may seem meet and just.

COUNT III -ADMINISTRATIVE REVIEW (Conditionally)

29. Petitioners incorporate ¶¶ 27-28 of this Petition and all exhibits as if expressly set forth

- 30. In the event that the administrative procedure resulting from the Sorkin Application for a demolition permit for 751 North Taylor concludes without a determination that the demolition permit should be denied (whether at the City Council level or the Landmarks Commission level), Petitioners seek judicial review of such final administrative action in this case, whether it be on the record, denovo, or pursuant to §536.150 RSMo.
- 31. In such event, there will be no other authority delaying demolition and the Petitioners will be in imminent danger of losing the Marquitz-Garesche House to demolition, an irreparable injury.

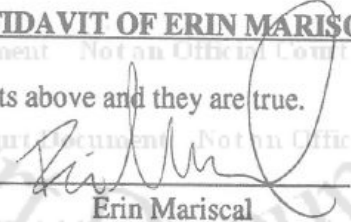
Therefore in such case, Petitioners seek an immediate stay of demolition as prayed for in County I.

WHEREFORE Petitioners pray that if Kirkwood concludes all administrative process on the demolition permit sought by Sorkn without denying such demolition permit, that this Court then take up such matter as a judicial review of Kirkwood's administrative action under Ch. 536,100 RSMo. or 526.150 RSMo., as the case may be, and that this Court stay the demolition of the Marquitz-Garesche House pursuant to 526.120 RSMo. and Rule 92.02(a) and as prayed for in County I herein, and for such other relief in aid of Petitioners as to this court may seem meet and just.

State of Missouri)
 County of St. Louis)

AFFIDAVIT OF ERIN MARISCAL

I have read all of the factual averments above and they are true.


 Erin Mariscal

Subscribed and sworn to before me a Notary Public on this February 23, 2026

My term expires on:

JAY R BURNS Notary Public - Notary Seal State of Missouri Commissioned for St. Louis County My Commission Expires: November 03, 2026 Commission Number: 12495017

 Notary Public

Respectfully submitted,
THE LAW OFFICES OF JAY R. BURNS
 /s/ Jay R. Burns
 Jay R. Burns MBN 26235
 Counsel for Petitioners
 11190 Crickett Hill Drive, St. Louis Mo. 63146
 Voice (314) 707-5183 Facsimile (314) 692-2468
 E-Mail: jrburns@sbcglobal.net