

SUMMONS - CIVIL

JD-CV-1 Rev. 2-22
C.G.S. §§ 51-346, 51-347, 51-349, 51-350, 52-45a, 52-48, 52-259;
P.B. §§ 3-1 through 3-21, 8-1, 10-13

For information on
ADA accommodations,
contact a court clerk or
go to: www.jud.ct.gov/ADA.

STATE OF CONNECTICUT
SUPERIOR COURT
www.jud.ct.gov



Instructions are on page 2.

- Select if amount, legal interest, or property in demand, not including interest and costs, is LESS than \$2,500.
- Select if amount, legal interest, or property in demand, not including interest and costs, is \$2,500 or MORE.
- Select if claiming other relief in addition to, or in place of, money or damages.

TO: Any proper officer

By authority of the State of Connecticut, you are hereby commanded to make due and legal service of this summons and attached complaint.

Address of court clerk (Number, street, town and zip code) 123 Hoyt Street, Stamford, CT 06901		Telephone number of clerk (203) 965 - 5308	Return Date (Must be a Tuesday) August 15, 2023
<input checked="" type="checkbox"/> Judicial District	G.A. Number: _____	At (City/Town) Stamford	Case type code (See list on page 2) Major: M50 Minor: M00
<input type="checkbox"/> Housing Session			

For the plaintiff(s) enter the appearance of:

Name and address of attorney, law firm or plaintiff if self-represented (Number, street, town and zip code) Herz PLLC, 1836 Noble Avenue, Bridgeport, CT 06610-1630		Juris number (if attorney or law firm) 441759
Telephone number (203) 576 - 6608	Signature of plaintiff (if self-represented)	
The attorney or law firm appearing for the plaintiff, or the plaintiff if self-represented, agrees to accept papers (service) electronically in this case under Section 10-13 of the Connecticut Practice Book. <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		E-mail address for delivery of papers under Section 10-13 of the Connecticut Practice Book (if agreed) David@Herz.Law

Parties	Name (Last, First, Middle Initial) and address of each party (Number; street; P.O. Box; town; state; zip; country, if not USA)	
First plaintiff	Name: Stamford Neighborhoods Coalition Address: c/o Herz PLLC, 1836 Noble Avenue, Bridgeport, CT 06610-1630	P-01
Additional plaintiff	Name: Colucci, Jenny Address: 25 Cantwell Avenue, Stamford 06905-3421	P-02
First defendant	Name: Zoning Board of the City of Stamford Address: 888 Washington Boulevard, Stamford, CT 06901	D-01
Additional defendant	Name: Simmons, Caroline, Mayor, City of Stamford Address: 888 Washington Boulevard, Stamford, CT 06901	D-02
Additional defendant	Name: Address:	D-03
Additional defendant	Name: Address:	D-04
Total number of plaintiffs: 16		Total number of defendants: 2
<input checked="" type="checkbox"/> Form JD-CV-2 attached for additional parties		

Notice to each defendant

- You are being sued.** This is a summons in a lawsuit. The complaint attached states the claims the plaintiff is making against you.
 - To receive further notices, you or your attorney must file an *Appearance* (form JD-CL-12) with the clerk at the address above. Generally, it must be filed on or before the second day after the Return Date. The Return Date is not a hearing date. You do not have to come to court on the Return Date unless you receive a separate notice telling you to appear.
 - If you or your attorney do not file an *Appearance* on time, a default judgment may be entered against you. You can get an *Appearance* form at the court address above, or on-line at <https://jud.ct.gov/webforms/>.
 - If you believe that you have insurance that may cover the claim being made against you in this lawsuit, you should immediately contact your insurance representative. Other actions you may take are described in the Connecticut Practice Book, which may be found in a superior court law library or on-line at <https://www.jud.ct.gov/pb.htm>.
 - If you have questions about the summons and complaint, you should talk to an attorney.
- The court staff is not allowed to give advice on legal matters.**

Date July 28, 2023	Signed (Sign and select proper box) 	<input checked="" type="checkbox"/> Commissioner of Superior Court <input type="checkbox"/> Clerk	Name of person signing David R. Herz (410506)
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If this summons is signed by a Clerk: a. The signing has been done so that the plaintiff(s) will not be denied access to the courts. b. It is the responsibility of the plaintiff(s) to ensure that service is made in the manner provided by law. c. The court staff is not permitted to give any legal advice in connection with any lawsuit. d. The Clerk signing this summons at the request of the plaintiff(s) is not responsible in any way for any errors or omissions in the summons, any allegations contained in the complaint, or the service of the summons or complaint.	<i>For Court Use Only</i>		
	File Date		
I certify I have read and understand the above:	Signed (Self-represented plaintiff)	Date	Docket Number

CIVIL SUMMONS
CONTINUATION OF PARTIES
 JD-CV-2 Rev. 9-12

STATE OF CONNECTICUT
 SUPERIOR COURT

First named Plaintiff (Last, First, Middle Initial)

Stamford Neighborhoods Coalition

First named Defendant (Last, First, Middle Initial)

Zoning Board of the City of Stamford

Additional Plaintiffs

Name (Last, First, Middle Initial, if individual)	Address (Number, Street, Town and Zip Code)	CODE
Holt, Jane G.,	25 Cantwell Avenue, Stamford 06905-3421	03
Serricchio, Jamie,	383 Oaklawn Avenue, Stamford 06905-3429	04
Serricchio, David,	383 Oaklawn Avenue, Stamford 06905-3429	05
Iparraguirre, Alvaro,	57 Halpin Avenue Avenue, Stamford 06905-3423	06
Iparraguirre, Ximena,	57 Halpin Avenue Avenue, Stamford 06905-3423	07
Telesco, Cheryle,	393 Oaklawn Avenue Avenue, Stamford 06905-3429	08
Telesco, Dominick,	393 Oaklawn Avenue, Stamford 06905-3429	09
Waddell, Nichelle,	134 Webbs Hill Road, Stamford 06903-4420	10
Waddell, Alex,	134 Webbs Hill Road, Stamford 06903-4420	11
Nilsen, Brooke,	First United Methodist Nursery School, 42 Cross Rd, Stamford 06905-3402	12
Garst, Lori Ann,	1477 Hope Street, Stamford 06907-1113	13

Additional Defendants

Name (Last, First, Middle Initial, if individual)	Address (Number, Street, Town and Zip Code)	CODE
		05
		06
		07
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	12	FOR COURT USE ONLY - File Date
	13	
	14	
		Docket number

**CIVIL SUMMONS
CONTINUATION OF PARTIES**
JD-CV-2 Rev. 9-12

STATE OF CONNECTICUT
SUPERIOR COURT

First named Plaintiff (Last, First, Middle Initial)

Stamford Neighborhoods Coalition

First named Defendant (Last, First, Middle Initial)

Zoning Board of the City of Stamford

Additional Plaintiffs

Name (Last, First, Middle Initial, if individual)	Address (Number, Street, Town and Zip Code)	CODE
Battinelli, Michael	225 Culloden Rd, Stamford 06906-2112	03
Waldman, Paula	110 Old North Stamford Rd, Stamford 06905-3963	04
Michelson, Barry	111 Idlewood Drive, Stamford 06905-2407	05
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Additional Defendants

Name (Last, First, Middle Initial, if individual)	Address (Number, Street, Town and Zip Code)	CODE
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		11

	12	FOR COURT USE ONLY - File Date
	13	
	14	
		Docket number

STAMFORD NEIGHBORHOODS COALITION,
JENNY COLUCCI, JANE G. HOLT, DAVID
SERRICCHIO, JAMIE SERRICCHIO, ALVARO
IPARRAGUIRRE, XIMENA IPARRAGUIRRE,
CHERYL TELESKO, DOMINICK TELESKO,
NICHELLE WADDELL, ALEX WADDELL,
BROOKE NILSEN, LORI ANN GARST,
MICHAEL BATTINELLI, PAULA WALDMAN,
and BARRY MICHELSON

SUPERIOR COURT
JUDICIAL DISTRICT
OF FAIRFIELD
AT STAMFORD

July 28, 2023

v.

ZONING BOARD OF THE CITY OF
STAMFORD, and

CAROLINE SIMMONS, MAYOR, CITY OF
STAMFORD.

COMPLAINT

FACTS

I. The ZONING BOARD OF THE CITY OF STAMFORD (“Zoning Board” herein) is empowered by the Charter of the City of Stamford, Connecticut to regulate various aspects of the use of land in the City of Stamford, including the ability to apply to amend the zoning regulations and to hear such applications.

2. At all times herein mentioned, CAROLINE SIMMONS was Mayor of the City of Stamford. She still is.

3. At all times herein mentioned, the Plaintiff STAMFORD NEIGHBORHOODS COALITION (“SNC” or “the Coalition” herein) was an unincorporated association formed for the purpose of providing a voice to property owners in matters affecting their properties in Stamford.

4. At all times herein mentioned, the Plaintiff Jenny Colucci resided at 25 Cantwell Avenue, Stamford.

5. At all times herein mentioned, the Plaintiff Jane G. Holt owned and resided at 25 Cantwell Avenue, Stamford.

6. At all times herein mentioned, the Plaintiff Jamie Serricchio resided at 383 Oaklawn Avenue, Stamford.

7. At all times herein mentioned, the Plaintiff David Serricchio owned and resided at 383 Oaklawn Avenue, Stamford.

8. At all times herein mentioned, the Plaintiff Alvaro Iparraguirre was an owner of and resided at 57 Halpin Avenue Avenue, Stamford.

9. At all times herein mentioned, the Plaintiff Ximena Iparraguirre was an owner of and resided at 57 Halpin Avenue Avenue, Stamford.

10. At all times herein mentioned, the Plaintiff Cheryle Telesco was an owner of and resided at 393 Oaklawn Avenue Avenue, Stamford.

11. At all times herein mentioned, the Plaintiff Dominick Telesco was an owner of and resided at 393 Oaklawn Avenue, Stamford.

12. At all times herein mentioned, the Plaintiff Nichelle Waddell was an owner of and resided at 134 Webbs Hill Road, Stamford.

13. At all times herein mentioned, the Plaintiff Alex Waddell was an owner of and resided at 134 Webbs Hill Road, Stamford.

14. At all times herein mentioned, the Plaintiff Brooke Nilsen was Director of the First United Methodist Nursery School on Cross Road in Stamford.

15. At all times herein mentioned, the Plaintiff Lori Ann Garst was an owner of and resided at 1477 Hope Street, Stamford.

16. At all times herein mentioned, the Plaintiff Michael Battinelli was an owner of and resided at 225 Culloden Rd, Stamford. He is also an officer of Stamford Neighborhoods Coalition

17. At all times herein mentioned, the Plaintiff Paula Waldman was an owner of and resided at 110 Old North Stamford Rd, Stamford.

18. At all times herein mentioned, the Plaintiff Barry Michelson resided at 111 Idlewood Drive, Stamford. He is also an officer of Stamford Neighborhoods Coalition

19. On May 8, 2023, the City of Stamford Zoning Board applied to amend the text of certain zoning regulations. This application was designated 223-17.

20. This application was presented to the Planning Board of the City of Stamford for its review.

21. The Master Plan for the City of Stamford does not envision the presence of Cannabis retailers.

22. Further there is no provision of the Plan that allows for the sale of dangerous illegal substances.

23. The Planning Board of the City of Stamford is empowered to implement the Master Plan.

24. “[R]ecommendations may be made by the said Board and included in the Plan as will, in its judgment, be beneficial to the City. Such Plan shall be based on studies of physical, social, economic, and governmental conditions and trends and shall be designed to promote with the greatest efficiency and economy, the coordinated development of the City and the *general welfare, health and safety of its people.*” City Charter Section C6-30-3. - The Master Plan (emphasis added).

25. The purpose of the proposed amendment is to “establish use regulations for marijuana and cannabis related uses and to protect the welfare and safety in particular of children and adolescents.”

26. Marijuana is a Schedule I controlled substance under federal law.

27. A core purpose of plaintiff SNC is to monitor and oppose activities of the Zoning Board that could act to the detriment of Stamford’s residents and property owners.

28. As Director of the First United Methodist Nursery School, Plaintiff Brooke Nilsen is responsible for providing an appropriate environment for Nursery School children.

29. The First United Methodist Nursery School is within a thousand feet of a recently proposed retail Cannabis facility in the City of Stamford.

30. Siting Cannabis facilities anywhere in Stamford necessarily increases criminal activity in Stamford, putting children at greater risk.

31. All other individual named plaintiffs expect that the siting of additional Cannabis facilities in Stamford will have an adverse effect on their use and enjoyment of their properties.

32. Particularly, the siting of Cannabis facilities near any of their homes would diminish the values of their properties.

33. Additionally, the availability and use will necessarily increase criminal activity in their neighborhoods and Stamford generally, with added risks to their safety and the safety of their families.

34. On July 10, 2023, the Zoning Board approved its own application to amend the text of certain zoning regulations as Zoning Board Approval 223-17-(MOD).

35. Approval 223-17-(MOD) was published in the Stamford Advocate on July 13, 2021.

FIRST COUNT: AN UNCONSTITUTIONAL ENTERPRISE

36. Under federal law anyone involved in the growing, manufacturing, distribution or dispensing, or possession with intent to manufacture, grow, distribute or dispense marijuana is marijuana trafficking subject to federal prosecution under the federal Controlled Substances Act (CSA).

37. The state of Connecticut has attempted to “legalize” Cannabis by way of its *Responsible and Equitable Regulation of Adult-Use Cannabis Act*. Public Act 22-103, CGS § 21a-420 et seq. (“RERACA”)

38. The State marijuana legalization scheme runs afoul of the CSA and is preempted thereby.

39. It is therefor unconstitutional and can not be relied upon by the City of Stamford or its Zoning Board to permit the illegal enterprise that is every Cannabis business.

SECOND COUNT: AN UNCONSTITUTIONAL SCHEME

40. The Constitution of the State of Connecticut declares that “All men when they form a social compact, are equal in rights; and no man or set of men are entitled to exclusive public emoluments or privileges from the community.” Article First Declaration of Rights (Connecticut Constitution (2023 Edition)), Sec. I.

41. The Constitution further declares that “No person shall be denied the equal protection of the law nor be subjected to segregation or

discrimination in the exercise or enjoyment of his civil or political rights because of religion, race, color, ancestry or national origin." Article First Declaration of Rights (Connecticut Constitution (2023 Edition)), Sec. 20.

42. RERACA includes a scheme for a Social Equity Counsel that is impermissibly selected based on race. Conn. Gen. Stat. 21a-420d Social Equity Council (General Statutes of Connecticut (2023 Edition)).

43. The purpose of the Social Equity Counsel is to entitle a certain set of people to exclusive public emoluments.

44. That a large component of that set of people is determined on racial grounds.

45. As a consequence the whole scheme is unconstitutional under Connecticut State law and can not be allowed to operate in this State.

THIRD COUNT: A BOARD WITHOUT AUTHORITY

46. The Stamford Charter provides that "The term of each appointive Board or Commission member or relevant position shall expire on December first of the final year of the term, subject to continuance in office for a period of six (6) months or until a successor has been approved by the Board of Representatives, whichever occurs first." C6-00-4 (a).

47. The terms of all members of the board who supported this amendment had expired at the times relevant to the Application and Approval designated by the Zoning board as 221-20.

48. The term of David Stein had expired on December 1, 2017.

49. The term of William Morris had expired on December 1, 2019.

50. The term of Rosanne McManus had expired on December 1, 2018.

51. The Mayor has made no substitute appointments.

52. The Mayor continues to allow those people whose terms have expired to pretend to the authority of the board.

53. At all times relevant to this action, the Zoning Board as constituted had neither the authority to make application to amend the text of zoning regulations nor to act on any such application.

54. At all times relevant to this action, the alleged Zoning Board acted, and it continues to act, in a manner inconsistent with the Charter of the City of Stamford to the detriment of its residents and specifically to the detriment of the plaintiffs in this matter.

55. The actions of the “alleged” Zoning board deserve no effect and should be declared null and void.

FOURTH COUNT: ANNULMENT OF INVALID VOTES

56. The Application at Issue herein, 223-17-(MOD) was approved by a vote of three for, one against and one abstension.

57. All three of the votes for the application were cast by people whose terms had expired.

58. These pretender’s votes should thus be excluded from the count.

59. Counting only valid votes, the count becomes one against and one abstension.

60. As a consequence, the Application did not pass and should not be put into effect.

FIFTH COUNT: ANOTHER BOARD WITHOUT AUTHORITY

61. The Planning Board is made up of seven members.

62. The term of Theresa Dell had expired on December 1, 2020.

63. The term of Jay Tepper had expired on December 1, 2017.

64. The term of Jennifer Godzeno had expired on December 1, 2021.

65. The term of Michael A. Totilo had expired on December 1, 2018.

66. The Mayor has made no substitute appointments.

67. The Mayor continues to allow those people whose terms have expired to pretend to the authority of the board.

68. The approval of the “alleged” Planning board deserve no respect as it was made by a board without authority.

69. The reliance by the Zoning Board on that approval was therefore inappropriate and provided an insufficient basis upon which to approve 223-17-(MOD).

SIXTH COUNT: THE PLANNING BOARD EXCEEDED ITS MANDATE

70. The Planning Board in summary fashion indicated “Approval of this application is recommended as the State has legalized these uses and the City should establish tools to regulate them.” Minutes of June 13, ,2023 meeting.

71. The Planning Board failed in its duty to conduct or review “studies of physical, social, economic, and governmental conditions and trends... designed to promote with the greatest efficiency and economy, the coordinated development of the City and the *general welfare, health and safety of its people.*” (Sec. C6-30-3) and base its decision on them.

72. The Planning Board made recommendations inconsistent with the Master Plan.

73. The Planning Board chose not to attempt to amend the Master Plan to allow for the contemplated cannabis establishments.

74. The Planning Board exceeded its mandate.

75. Wherefore its approval is insufficient and can not be relied upon in the consideration of 223-17-(MOD).

WHEREFORE, the plaintiff requests that This Honorable Court:

1. Declare that the RERACA is preempted, unconstitutional and unenforceable,

2. Declare that the Approval of Zoning Board Application 223-17-(MOD) and that the modifications proposed thereunder are null, void, and unenforceable as they are pursuant to an Unconstitutional Law,

3. Declare that the RERACA is Unconstitutional under the State of Connecticut Constitution,

4. Enjoin any further activity pursuant to RERACA as an Constitutionally impermissible scheme,

5. Enjoin the operation of all Cannabis businesses in Stamford and the State of Connecticut,

6. Enjoin the city from enacting the provisions of 223-17-(MOD),

7. Direct the Mayor of Stamford to bar access to the Zoning apparatus of the City of Stamford to those people whose terms as members of the Zoning Board have expired,

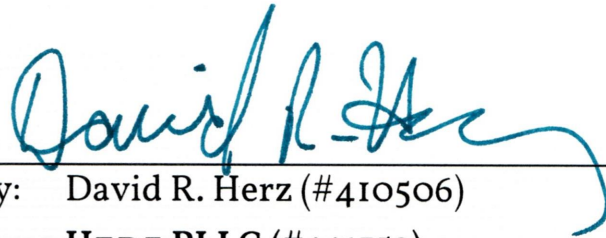
8. Enjoin any further activity of the Zoning Board of the City of Stamford until a sufficient number of Zoning Board members has been appropriately appointed to conduct the business of the Board,

9. Direct the Mayor of Stamford to bar access to the Planning apparatus of the City of Stamford to those people whose terms as members of the Planning Board have expired,

10. Enjoin any further activity of the Planning Board of the City of Stamford until a sufficient number of Planning Board members has been appropriately appointed to conduct the business of the Board,
11. Order the Defendants to pay the costs of this action, and
12. Order any other relief the Court deems equitable and proper.

Dated at Stamford, Connecticut this twenty eighth day of July, 2023.

THE PLAINTIFFS



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