

**IN THE SUPREME COURT OF OHIO**

|                                  |                                    |
|----------------------------------|------------------------------------|
| <b>Barbara Andersen, et al.,</b> | ) <b>CASE NO. 2015-0393</b>        |
|                                  | )                                  |
| <b>Relators,</b>                 | ) <b>RESPONDENT'S RESPONSE TO</b>  |
| <b>vs.</b>                       | ) <b>RELATORS' MOTION FOR</b>      |
|                                  | ) <b>AMENDMENT FOR THE</b>         |
|                                  | ) <b>SUBSTITUTION OF TWO</b>       |
| <b>The City of Cleveland,</b>    | ) <b>PHOTOGRAPHS TO REPLACE</b>    |
|                                  | ) <b>THE PHOTOGRAPH PREVIOUSLY</b> |
| <b>Respondent.</b>               | ) <b>LABELED "ATTACHMENT II"</b>   |

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**RESPONDENT'S RESPONSE TO RELATORS' MOTION FOR AMENDMENT FOR  
THE SUBSTITUTION OF TWO PHOTOGRAPHS TO REPLACE  
THE PHOTOGRAPH PREVIOUSLY LABELED "ATTACHMENT II"**

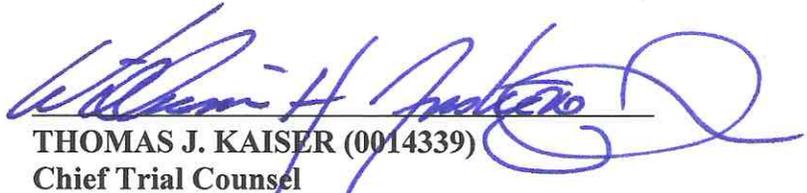
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The City of Cleveland, by and through counsel, responds to Relators' Motion for Amendment for the Substitution of Two Photographs to Replace the Photograph Previously Labelled "Attachment II". The grounds for Respondent's Motion are more fully set forth in the attached Memorandum in Support, which is hereby incorporated by reference.

Respectfully submitted,

**BARBARA LANGHENRY (0038838)**  
**Director of Law**

By:



**THOMAS J. KAISER (0014339)**

**Chief Trial Counsel**

**WILLIAM H. ARMSTRONG, JR. (0059919)**

**Assistant Director of Law**

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*Counsel for Respondent*

*City of Cleveland*

**CERTIFICATE OF SERVICE**

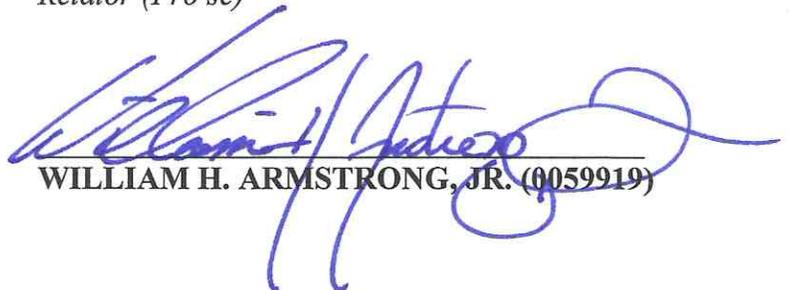
I certify that I sent a true and accurate copy of Respondent's Response to Relators' Motion for Amendment for the Substitution of Two Photographs to Replace the Photograph Previously Labelled "Attachment II" via U.S. Mail, postage prepaid and the Clerk of Court's e-filing system on October 16, 2015 to:

Barbara Andersen  
3802 Bosworth Rd.  
Cleveland, Ohio 44111

*Relator (Pro se)*

Michael McCarthy  
3802 Bosworth Rd.  
Cleveland, Ohio 44111

*Relator (Pro se)*



**WILLIAM H. ARMSTRONG, JR. (0059919)**

## MEMORANDUM IN SUPPORT

Relators Barbara Andersen and Michael McCarthy filed on October 7, 2015, a motion entitled: Motion for Amendment for the Substitution of Two Photographs to Replace the Photograph Previously Labelled "Attachment II". Respondent The City of Cleveland objects to the submission of these photographs for the following reasons.

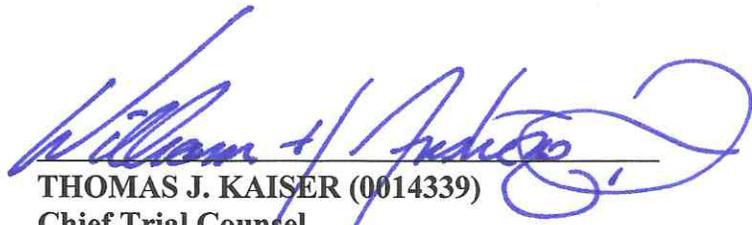
These photos not only show the property from a different perspective, Relators also added captions that further their argument in their Motion for Clarification, which is really a time-barred Motion for Reconsideration. The time for Relators to have submitted these pictures was when they filed their Motion for Clarification. Although it is not addressed in S.Ct. Prac.R 4 regarding general motions and applications, in other areas of this Court's Rules, the supplementation of briefs is generally not permitted. The pictures and the captions that contain argument are attempts to supplement their already filed motion. Relators should not be permitted to supplement their motion. Moreover, If this Court accepts Relators' untimely submitted photographs, along with the added argument, Respondents will be unduly prejudiced because they will not have an opportunity to respond. Thus, this Court should overrule Relators' Motion and deny their attempt to supplement their Motion for Clarification, which is, as they admit in the Motion, really a time-barred Motion for Reconsideration.

WHEREFORE, Respondent City of Cleveland respectfully requests this Honorable Court for an Order overruling Relators Barbara Andersen and Michael McCarthy's Motion for Amendment for the Substitution of Two Photographs to Replace the Photograph Previously Labelled "Attachment II", together with such other and further relief as may be just and proper.

Respectfully submitted,

**BARBARA LANGHENRY (0038838)**  
**Director of Law**

By:



**THOMAS J. KAISER (0014339)**

**Chief Trial Counsel**

**WILLIAM H. ARMSTRONG, JR. (0059919)**

**Assistant Director of Law**

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*Counsel for Respondent*

*City of Cleveland*

### **CERTIFICATE OF SERVICE**

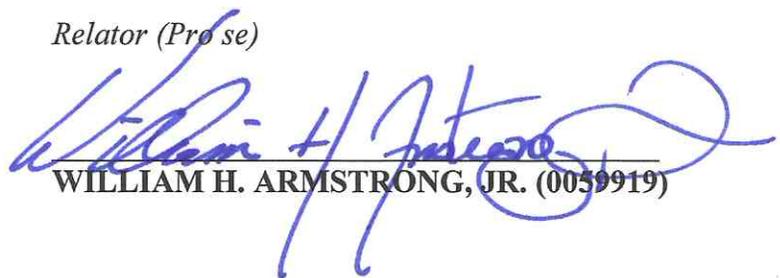
I certify that I sent a true and accurate copy of Respondent's Response to Relators' Motion for Amendment for the Substitution of Two Photographs to Replace the Photograph Previously Labelled "Attachment II" via U.S. Mail, postage prepaid and the Clerk of Court's e-filing system on October 16, 2015 to:

Barbara Andersen  
3802 Bosworth Rd.  
Cleveland, Ohio 44111

*Relator (Pro se)*

Michael McCarthy  
3802 Bosworth Rd.  
Cleveland, Ohio 44111

*Relator (Pro se)*



**WILLIAM H. ARMSTRONG, JR. (0059919)**