

IN THE COURT OF COMMON PLEAS
SCIOTO COUNTY, OHIO
GENERAL DIVISION

2007 AUG 15 AM 9:33

Clerk of Courts

TERESA MOLLETTE, et al.,

Plaintiffs,

CASE NO. 04CIH00110

VS

PORTSMOUTH CITY COUNCIL, et al.,

JUDGMENT ENTRY

Defendants.

This matter comes before the Court upon Portsmouth/Defendant's Motion for Summary Judgment filed March 12, 2007, and Plaintiff's Memorandum Contra and Cross Motion for Summary Judgment filed May 3, 2007.

The Court having once again reviewed the entire file herein finds that the Defendant claims that the Complaint submitted by the Plaintiffs with their July 26, 2005, Motion for Leave is barred by the statute of limitations and did not relate back to May 28, 2004, the date of Plaintiff's filing of their original Complaint. The Defendant also claims that they are entitled to Summary Judgment because of claims set forth in Plaintiff's Complaint are moot. The City Ordinance, which was the subject of Plaintiffs' original Complaint, was declared void by this Court. Thereafter, the City entered into a new transaction with the Marting's Foundation.

The City further moves for Summary Judgment on its counterclaims that under Section 4 of the Portsmouth City Charter, it is subject to all duties, requirements and privileges of The Sunshine Law, Ohio Revised Code Section 121.22.

The first issue to be decided by this Court is whether the Plaintiffs' Proposed Amended Complaint of July 26, 2005, relates back to the Plaintiffs' original Complaint. Inasmuch as this Court has originally found, we are dealing with a two (2) year statute of limitations contained in Revised Code Section 121.22. In order for the Plaintiffs' Proposed Amended Complaint filed with the Court on July 26, 2005 to satisfy the statute of limitations, it must fulfill the requirements of Ohio R. Civ. P. 15(C) regarding the relation back of amendments changing the party against whom a claim is asserted. The Court finds that the Proposed Amended Complaint arose from the exact same events which are the basis of the original complaint. The parties brought in by the amendments within the period provided by law for commencing the action received such notice of the institution of the action, and that they were not prejudiced in maintaining a defense based upon the following facts:

