



7. The injunction will cause a budget shortfall of more than \$12 million through June.
8. There are few ways for the City to meet the potential \$12 million budget shortfall in the middle of a budget year.
9. The City has a reserve fund balance of approximately \$9 million dollars. Because the largest revenue source, property tax, is only paid to the City twice annually, it is not technically possible to expend a substantial part of the reserve fund balance to meet unexpected revenue shortfalls.
10. Moreover, spending down the City's reserve fund balance will, in turn, cause a lowering of the City's now high bond rating and will result in substantially increased interest being paid on the City's bonds. This damage cannot be reversed later.
11. Another way to meet a budget shortage of this magnitude would be to furlough approximately 250 employees for 6 months. About 1221 City employees are general fund employees. Of the 1221 general fund employees, about 750 of them are police and fire employees. Every day that the furlough is delayed would result in an increased number of employees who will need to be furloughed to meet the budget shortfall.
12. A stay of the injunction will not unfairly prejudice the Plaintiff. The few dollars in franchise fees she will continue to pay during the course of the appellate process (approximately \$10 per month according to her deposition testimony) must be balanced against the certain and immediate harm that will befall City taxpayers and perhaps hundreds of City employees.
13. A stay will allow the City to take appropriate budget action to account for the revenue shortfall this year and in future budget years.
14. A stay will not eliminate any final remedy which might be available to the Plaintiffs

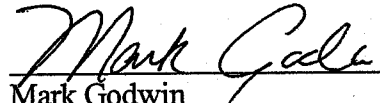
(or the potential class).

15. A stay will keep City services from being unnecessarily interrupted and will keep the City's bond rating from being unnecessarily damaged.

16. It is the intention of the City to immediately file a notice of appeal in this case and to immediately ask the Supreme Court for expedited review.

17. The City also requests the Court to withhold ruling on the remaining issues – class certification and the like – because to do so now would unnecessarily complicate matters even more.

WHEREFORE, the City prays the Court, pursuant to I.R.App. P.6.7(3) to stay all proceedings under its summary judgment ruling in this case without the filing of a supersedes bond.

  
Mark Godwin  
Deputy City Attorney  
City Hall  
400 Robert D. Ray Drive  
Des Moines, IA 50309-1891  
Telephone: 283-4564  
Fax: (515) 237-1748  
ATTORNEY FOR DEFENDANT  
CITY OF DES MOINES

Original Filed.

Copy to:

Honorable Michael D. Huppert  
Judge, 5th Judicial District

Mr. Brad Schroeder  
Hartung & Schroeder LLP  
Equitable Building, Suite 100  
608 Locust Street  
Des Moines, IA 50309  
ATTORNEY FOR PLAINTIFF

**PROOF OF SERVICE**  
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause to each of the attorneys of record herein at their respective addresses disclosed on the pleadings on Jan. 9, 2005  
By:  U.S. Mail       FAX  
 Hand Delivered       Overnight Courier  
 Federal Express       Other:  
Signature 