

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, CHANCERY DIVISION**

ILLINOIS ROAD AND TRANSPORTATION )  
 BUILDERS ASSOCIATION, FEDERATION )  
 OF WOMEN CONTRACTORS, ILLINOIS )  
 ASSOCIATION OF AGGREGATE )  
 PRODUCERS, ASSOCIATED GENERAL )  
 CONTRACTORS OF ILLINOIS, ILLINOIS )  
 ASPHALT PAVEMENT ASSOCIATION, )  
 ILLINOIS READY MIXED CONCRETE )  
 ASSOCIATION, GREAT LAKES )  
 CONSTRUCTION ASSOCIATION, )  
 AMERICAN COUNCIL OF ENGINEERING )  
 COMPANIES (ILLINOIS CHAPTER), )  
 CHICAGOLAND ASSOCIATED GENERAL )  
 CONTRACTORS, UNDERGROUND )  
 CONTRACTORS ASSOCIATION OF )  
 ILLINOIS, and ILLINOIS CONCRETE PIPE )  
 ASSOCIATION, )

Case No.  
 JURY TRIAL DEMANDED

2018CH02992  
 CALENDAR/ROOM 04  
 TIME 00:00  
 Declaratory Jdsmt

Plaintiffs,

v.

COUNTY OF COOK, a body politic and  
 corporate,

Defendant.

COURT OF CHANCERY  
 COUNTY OF COOK  
 ILLINOIS  
 FILED  
 2018 OCT 11 AM 10:00  
 COURT CLERK

**COMPLAINT FOR DECLARATORY AND OTHER RELIEF**

This is an action to enforce the Safe Roads Amendment to the Illinois Constitution. (Ill. Const. Art. IX, § 11.) That constitutional provision prohibits local governments, such as defendant Cook County (also referred to as the “County”), from diverting revenue derived from taxes and fees on transportation to non-transportation purposes. Plaintiffs, by their counsel, Tabet DiVito & Rothstein LLC, respectfully state as follows:

**INTRODUCTION**

1. Cook County’s transportation infrastructure is failing, and the County is not prepared to modernize its transportation infrastructure to meet the needs of the future. Despite

these realities, the County continues to underfund transportation initiatives. Instead, to plug gaps in its budget, the County diverts revenue from transportation-related taxes and fees to the County's Public Safety Fund, where it is then spent on non-transportation-related purposes in violation of Article IX, Section 11 of the Illinois Constitution (the "Safe Roads Amendment").

2. Plaintiffs, a broad coalition of non-profit associations that advocate for investment in our County's infrastructure, respectfully ask this Honorable Court to enforce the Safe Roads Amendment. Plaintiffs seek a declaration that the County violates the Safe Roads Amendment by diverting to the Public Safety Fund revenue derived from: the Cook County Home Rule County Use Tax Ordinance, CODE OF ORDINANCES OF COOK COUNTY, Ch. 74, Art. VII, Sec. 74-270 *et seq.*; the Cook County Retail Sale of Gasoline and Diesel Fuel Tax Ordinance, CODE OF ORDINANCES OF COOK COUNTY, Ch. 74, Art. XII, Sec. 74-470 *et seq.*; the Cook County New Motor Vehicle and Trailer Excise Tax Ordinance, CODE OF ORDINANCES OF COOK COUNTY, Ch. 74, Art. VI, Sec. 74-230 *et seq.*; the Cook County Home Rule Use Tax Ordinance for Non-retailer Transfers of Motor Vehicles, CODE OF ORDINANCES OF COOK COUNTY, Ch. 74, Art. XVII, Sec. 74-595 *et seq.*; the Cook County Wheel Tax on Motor Vehicles Ordinance, CODE OF ORDINANCES OF COOK COUNTY, Ch. 74, Art. XIV, Sec. 74-550 *et seq.*; and the Cook County Parking Lot and Garage Operations Tax Ordinance, CODE OF ORDINANCES OF COOK COUNTY, Ch. 74, Art. XIII, Sec. 74-510 *et seq.* (together, the "Cook County Transportation Revenue Ordinances"). This relief is necessary to enforce the County's constitutional obligation and to save the County's infrastructure from a crisis of Cook County's own making.

3. Plaintiffs further seek to enjoin the County from continuing to divert revenue derived from the Cook County Transportation Revenue Ordinances and all other transportation-related taxes and fees to any purpose other than as provided in subsections (b) and (c) of the Safe

Roads Amendment, because the County's ongoing violations of the Safe Roads Amendment must finally be brought to an end.

### **JURISDICTION AND VENUE**

4. This Court may exercise personal jurisdiction over the County pursuant to 735 ILCS 5/2-209(a)(1) because this action arises from the County's transaction of business within Illinois.

5. Venue is proper in the Circuit Court of Cook County pursuant to 55 ILCS 5/1-6001 and 735 ILCS 5/2-101 *et seq.* because this action is against Cook County, the County maintains offices in Cook County, and the transactions out of which the cause of action arose occurred in Cook County.

### **PARTIES**

6. Plaintiff Illinois Road and Transportation Builders Association ("IRTBA") has served as the leading transportation industry trade association in Illinois since 1938.

7. The IRTBA's membership consists of more than 350 member firms who design, build, and maintain Illinois' highways, transit systems, railways, and aviation systems. Many of the IRTBA's members are based in Cook County and contract with the County to perform construction work on transportation-related projects within the County.

8. The core purpose of the IRTBA is to advance and promote the transportation design and construction industry in Illinois.

9. The IRTBA brings this action in its associational capacity to assert the constitutional rights of its members. The IRTBA has standing to vindicate the interests of its members, who are suffering economic harm due to the County's ongoing violations of the Safe Roads Amendment.

10. The IRTBA also has associational standing because at least one of its members has

taxpayer standing to challenge the County's unlawful diversion of revenue from one or more of the Cook County Transportation Revenue Ordinances to non-transportation-related purposes in violation of the Safe Roads Amendment.

11. Plaintiff Federation of Women Contractors ("FWC"), in existence since 1989, is the oldest and most recognized leader among women-owned construction businesses in Illinois.

12. The FWC's membership consists of more than one hundred women and women-owned firms working in the construction industry, including general and specialty contractors, subcontractors, architecture and engineering firms, and suppliers representing every facet and component of construction. The majority of the FWC's members are based in Cook County, including twenty-seven Disadvantaged Business Enterprise-certified members whose main headquarters are in Cook County.

13. The FWC's core mission is to advocate for women-owned businesses and women executives in the construction industry by fully engaging in economic development and public affairs to ensure its members are successful entrepreneurs.

14. The FWC brings this action in its associational capacity to assert the constitutional rights of its members. The FWC has standing to vindicate the interests of its members, who are suffering economic harm due to the County's ongoing violations of the Safe Roads Amendment.

15. Plaintiff Illinois Association of Aggregate Producers ("IAAP") was organized in 1962 and incorporated as a not-for-profit trade association in 1967.

16. The IAAP represents every sector of Illinois' non-coal aggregate mining industry. Its members produce more than 90 percent of Illinois' aggregate and industrial minerals at more than two hundred plants and facilities in seventy counties throughout Illinois, including Cook County. Most of the aggregate material produced by IAAP members is utilized in road

construction, including crushed aggregate in concrete and asphalt pavements and drainage bases under roads, sewers, parking lots, and sidewalks.

17. The IAAP's mission is to promote and protect its members' interests through advocacy and education to ensure a regulatory and business climate focused on industry growth, safety, and sustainability.

18. The IAAP brings this action in its associational capacity to assert the constitutional rights of its members. The IAAP has standing to vindicate the interests of its members, who are suffering economic harm due to the County's ongoing violations of the Safe Roads Amendment.

19. Plaintiff Associated General Contractors of Illinois ("AGCI") is one of the largest heavy-highway construction trade organizations in Illinois.

20. The AGCI represents highway, heavy, and utility contractors. The AGCI has more than one hundred active, associate, and affiliate members, including members that are based in Cook County and that conduct business with Cook County.

21. The AGCI's mission is to promote and protect its members' interests by, among other things, building relationships in the Illinois General Assembly and the Illinois Department of Transportation, providing its members up-to-date information about bills relevant to their businesses, and educating its members about the legislative process.

22. The AGCI brings this action in its associational capacity to assert the constitutional rights of its members. The AGCI has standing to vindicate the interests of its members, who are suffering economic harm due to the County's ongoing violations of the Safe Roads Amendment.

23. Plaintiff Illinois Asphalt Pavement Association ("IAPA"), founded in 1938, is a nonprofit association of hot mix asphalt producers and affiliated companies serving the Illinois market.

24. The IAPA has nearly two hundred members, including sixteen members that produce or supply hot mix asphalt within Cook County and approximately ninety members that supply material, equipment, or services directly to Cook County or to the IAPA's plant mix members working in Cook County.

25. The mission of the IAPA is to promote the improvement and advancement of quality asphalt pavement construction in Illinois; provide assistance to members in the areas of research, technical specifications, environmental issues, education, promotion, and government relations; and educate potential owners and designers of asphalt pavements.

26. The IAPA brings this action in its associational capacity to assert the constitutional rights of its members. The IAPA has standing to vindicate the interests of its members, who are suffering economic harm due to the County's ongoing violations of the Safe Roads Amendment.

27. Plaintiff Illinois Ready Mixed Concrete Association ("IRMCA") is a non-profit trade organization that represents Illinois ready mix producers, suppliers, and contractors.

28. The IRMCA represents more than 90 percent of Illinois' ready mix concrete companies. Its nearly 150 members include multiple firms that supply concrete in Cook County.

29. The IRMCA's mission is to be the voice for the ready mix industry in Illinois, to promote the use of quality ready mixed concrete through innovative educational programs, and to accomplish common goals as an organization that cannot be accomplished individually.

30. The IRMCA brings this action in its associational capacity to assert the constitutional rights of its members. The IRMCA has standing to vindicate the interests of its members, who are suffering economic harm due to the County's ongoing violations of the Safe Roads Amendment.

31. Plaintiff Great Lakes Construction Association ("GLCA") was founded by Illinois

contractors in 1947.

32. The GLCA currently represents more than two hundred member firms in twenty-seven work categories in the construction industry. The GLCA's membership includes firms from three states and all of the surrounding counties in the Chicagoland area, including approximately one hundred members who are based in Cook County.

33. The GLCA's mission is to give its members a voice in government affairs that affect its members' businesses.

34. The GLCA brings this action in its associational capacity to assert the constitutional rights of its members. The GLCA has standing to vindicate the interests of its members, who are suffering economic harm due to the County's ongoing violations of the Safe Roads Amendment.

35. Plaintiff American Council of Engineering Companies, Illinois Chapter ("ACEC"), whose origins date back to 1921, is the only statewide association dedicated solely to the interests of Illinois consulting engineering firms.

36. The ACEC consists of more than two hundred member firms, many of whom perform work related to transportation infrastructure design and construction for governmental entities in Illinois, including Cook County.

37. The ACEC's objective is to assist its members in achieving higher professional, business, and economic standards by, among other things, cooperating with public bodies and other organizations in matters of common interest, promoting the professional and economic welfare of its members, and being proactive in the enactment of legislation affecting the interests of its members.

38. The ACEC brings this action in its associational capacity to assert the constitutional rights of its members. The ACEC has standing to vindicate the interests of its members, who are

suffering economic harm due to the County's ongoing violations of the Safe Roads Amendment.

39. Plaintiff Chicagoland Associated General Contractors ("AGC") was formed in January 2018 as the result of a merger between the former Builders Association and the Fox Valley AGC.

40. The AGC's members include the leading contractors and suppliers in the Chicago area, including more than eighty members who are based in Cook County. The AGC's general contractor members range from large, national firms to smaller, specialized companies and build private and public projects worth more than \$11 billion annually.

41. The AGC's mission is to serve as a leading voice of the Chicagoland construction industry through advocacy, education, and networking to provide business opportunities, safety programs, and innovative construction practices to its members.

42. The AGC brings this action in its associational capacity to assert the constitutional rights of its members. The AGC has standing to vindicate the interests of its members, who are suffering economic harm due to the County's ongoing violations of the Safe Roads Amendment.

43. Plaintiff Underground Contractors Association of Illinois ("UCA"), established in 1957, is a not-for-profit trade association.

44. The UCA represents more than two hundred contractors and associate member companies in the sewer, water, utility, and underground industries throughout Illinois, including in Cook County.

45. The UCA's mission is to serve and advance the underground industry and the interests of its members. The UCA is active in market development, information, education, labor, and the promotion of public safety.

46. The UCA brings this action in its associational capacity to assert the constitutional



rights of its members. The UCA has standing to vindicate the interests of its members, who are suffering economic harm due to the County's ongoing violations of the Safe Roads Amendment.

47. Plaintiff Illinois Concrete Pipe Association ("ICPA"), founded in 1951, is a non-profit trade association composed of concrete pipe producers and affiliated companies serving the Illinois sewer and culvert market, including members based in Cook County.

48. The ICPA's mission is to promote the use of quality concrete pipes in a manner that is technically sound and environmentally safe, and to provide assistance to its members in the areas of research, education, promotion, and government relations.

49. The ICPA brings this action in its associational capacity to assert the constitutional rights of its members. The ICPA has standing to vindicate the interests of its members, who are suffering economic harm due to the County's ongoing violations of the Safe Roads Amendment.

50. The plaintiffs' members are being harmed because the County's diversion of revenue from transportation-related taxes and fees to non-transportation-related purposes in violation of the Safe Roads Amendment is depriving the plaintiffs' members of opportunities to work to improve the County's failing transportation infrastructure.

51. Defendant Cook County is a body politic and corporate of the State of Illinois with offices located at 118 N. Clark Street, Chicago, Illinois.

### **FACTUAL ALLEGATIONS**

#### **I. Cook County has a dire need for transportation infrastructure investment, which is critical to the County's economic health.**

52. Cook County has an "IMMENSE DEMAND FOR TRANSPORTATION." (*Connecting Cook County Executive Summary*, attached hereto as Exhibit A, at 1 (emphasis in original).) As the center of the nation's third largest metropolitan area, the County is home to more than five million residents who rely on the County's transportation system each day. With two

major airports, ten interstate expressways, and the largest freight hub in the nation, the County's transportation system is one of its most important assets—key not only to the County's economic prosperity, but also to the well-being of its residents. (*Connecting Cook County 2040 Long Range Transportation Plan*, attached hereto as Exhibit B, at 1.)

53. During a 24-hour workday, County residents take more than 19 million trips across the County's transportation system. (Ex. B at 8.) Two million commutes begin and end in the County every day. (Ex. B at 9.) Another quarter million County residents travel to neighboring counties for work every day. (*Id.*) Nearly a half million other commuters travel into the County from surrounding counties for work every day. (*Id.*) The vast majority of these trips are by car. (*Id.*)

54. The County has one of the largest and most extensive public transit systems in the nation. The public transit system in Cook County provides more than 650 million passenger trips per year, roughly 90 percent of which begin or end in Cook County. (Ex. B at 28.)

55. In 2015, more than 52 million people visited the City of Chicago alone. (Ex. B at 12.) These visitors rely on the transportation system to come and go, whether via airport, train, or highway. (*Id.*) While in the area, they depend on the County's transportation network to get around, using public transit, rental cars, taxis, ride sharing, and bike sharing. (*Id.*) These visitors are vital to the County's economy.

56. The County is the "freight capital of North America." (Ex. B at 38.) Between a quarter and a third of all freight tonnage in the United States originates, terminates, or passes through the region. (*Id.*) In total, 925 million tons of freight move across the County's transportation system each year. (Ex. A at 1.) Transportation makes manufacturing distribution and logistics key sectors of the County's economy, supporting over 176,000 jobs and generating

\$12.3 billion in annual personal income. (*Id.*; Ex. B at 13.)

## **II. The County’s transportation infrastructure is failing.**

57. Despite the immense demand for transportation infrastructure in Cook County and the critical role that transportation plays in the County’s economy, the County’s transportation system has aged and fallen behind those of similar regions across the globe. (Ex. A at 1.) Investment in the County’s infrastructure has declined. (*Id.*) In short, the County’s transportation infrastructure is failing. (Ex. B at 68.)

58. The County’s roads are deteriorating. On an estimated aggregate basis, 39 percent of the County’s roads are rated as being in “Fair” or, worse, “Poor” condition. (Ex. B at 24.)

59. The County’s bridges are crumbling. Nearly half of the County’s bridges are either structurally deficient, functionally obsolete, or both. (*Id.*)

60. The County’s public transit system is struggling. Between 1991 and 2014, public transit ridership in the County declined—performing worse than every other major metropolitan region in the United States. (Ex. B at 31.)

61. The County’s market share in freight services is slipping. (Ex. B at 53.) Trucks operate on roads, streets, and highways that were designed for cars. (Ex. B at 42.) As a result, commercial trucks frequently encounter bridges that cannot bear their loads, viaducts that are too low, streets that are too narrow, and turning radii that are too small. (*Id.*) Because of these hurdles, shippers, trucking companies, and logistics firms often identify the Chicago region as one of the least commerce-friendly places in the country. (*Id.*) In contrast, the County’s competitors have upgraded transportation systems and added strategic capacity to and connections between roads, rail lines, waterways, ports, and airports. (Ex. B at 53.)

62. The County’s transportation services and the opportunities they afford are not equally distributed. (Ex. B at 54.) The County is littered with “transit deserts”—areas that have

high demand for, but no access to, high-quality transit. (Ex. B at 55.) Transit deserts impede businesses' ability to thrive and expand, limit companies' access to labor pools, and prevent residents in some of the County's most economically vulnerable communities from accessing jobs in the County's employment centers. (Ex. B at 56-57.) This lack of transportation services disproportionately affects African Americans and residents of south Cook County. (Ex. A at 2.)

63. Congestion is devastating the County's transportation networks. Nine of the top twenty highway bottlenecks in the Upper Midwest are located in the County. (Ex. B at 52.) Freight trains slow traffic at the County's 794 at-grade rail crossings and must share tracks with the commuter rail service, a complication for both the commuter passengers and freight customers. (Ex. B at 38.) All told, the cost of congestion in the Chicago region is the third highest in the nation, at \$7.3 billion per year. (Ex. B at 25.) That cost is borne largely by County businesses and residents. (*Id.*)

### **III. Greater investment in Cook County's transportation infrastructure is required to solve these problems.**

64. The County must invest significant resources to maintain its current transportation network, rectify what is failing, and prepare for future transportation needs. (*See* Ex. B at 62.)

65. The County's failure to maintain the transportation system that already exists has major negative consequences. (Ex. B at 60.) It is three to four times more expensive to restore pavement once it has fully degraded than to keep it in a state of good repair through regular upkeep. (*Id.*) Poor maintenance creates safety hazards, increases operating costs, causes delays, and creates or worsens congestion. (*Id.*) Poorly maintained public transit services lead to declines in ridership. (*Id.*) Deteriorating highway systems and freight rail networks underperform by delivering fewer goods at higher costs. (*Id.*)

66. Despite these realities, the County's current transportation system has fallen into a

state of disrepair because the County has failed to invest enough money in proper transportation maintenance. (*Id.*)

67. As a result, transit agencies in the County have a backlog of \$19.5 billion in maintenance needed to achieve a “State of Good Repair.” (Ex. B at 32.)

68. In addition, just bringing the average pavement quality of the County’s roads up to industry standards of “good condition” will require an additional investment of \$60 million per year for approximately the next ten years. (Ex. A at 2.)

69. The County also must prepare for future transportation needs, including a growing population (the County is expected to add more than 850,000 residents by 2040), more travelers interested in utilizing public transit or alternative modes of transportation, job growth in areas not currently served by the current transportation network, and ever-changing technological developments that affect transportation infrastructure. (Ex. B at 14-18.) These trends will have a significant impact on the future need for transportation services. (Ex. B at 14.)

70. The County’s failure to invest in transportation has shifted more of the cost of transportation to taxpayers. (Ex. B at 62.) The real cost of transportation is borne by the County’s families and businesses when they buy vehicles, fill them with gas, insure them, repair them, hire drivers for trucks, or pay a transit fare. (*Id.*) For every dollar governments spend on transportation, families and businesses spend eight dollars. (*Id.*)

**IV. Illinois voters overwhelmingly recognize the need for transportation funding and pass the Safe Roads Amendment with nearly 80 percent of the vote.**

71. Illinois legislators and voters have overwhelmingly recognized the need for critical transportation funding in Illinois and the failure of state, county, and local governments to devote sufficient resources to transportation infrastructure.

72. In April 2015, state legislators introduced HJRCA 36 in the Illinois House of

Representatives. HJRCA 36 proposed an amendment to the Illinois Constitution requiring revenue from transportation-related taxes and fees to be used exclusively for transportation-related purposes.

73. On April 22, 2016, the Illinois House of Representatives passed HJRCA 36 with 96 percent of the vote in that chamber. On May 5, 2016, the Illinois Senate passed HJRCA 36 unanimously. The Illinois General Assembly’s near-unanimous vote in favor of HJRCA 36 was far above the 60 percent threshold necessary to place the Safe Roads Amendment on the ballot in the 2016 General Election.

74. The County itself has acknowledged that taxpayers want their transportation-related tax dollars to go to critical transportation funding, stating in 2016:

Experience locally and throughout the country has demonstrated that the public will support new revenue for transportation, but only if they can be assured the investments will generate a good return. For example, the Tollway almost doubled its tolls recently with little public objection. Those who had to pay the tolls believed that the money was wisely and fairly used, providing value and worth the added cost.

The public is less likely to support new taxes, tolls, or fares if they lack confidence in the ability of public agencies to deliver promised results. To build that support, the County and others must demonstrate their ability to be responsible stewards of public resources allocated to the transportation system. ***This must include transparent allocation of resources . . . .***

(Ex. B at 63 (emphasis added).)

75. The County has further stated: “Requests for more transportation dollars, regardless of the source, will only be honored by the public if it is assured that the money will be used efficiently and effectively.” (Ex. B at 78.)

76. The Safe Roads Amendment appeared on the ballot for the November 8, 2016 General Election.

77. On November 8, 2016, Illinois voters elected in a landslide to adopt the Safe Roads

Amendment: nearly 80 percent of voters approved the amendment.

78. The Safe Roads Amendment states, in its entirety:

#### SECTION 11. TRANSPORTATION FUNDS

(a) No moneys, including bond proceeds, derived from taxes, fees, excises, or license taxes relating to registration, title, or operation or use of vehicles, or related to the use of highways, roads, streets, bridges, mass transit, intercity passenger rail, ports, airports, or to fuels used for propelling vehicles, or derived from taxes, fees, excises, or license taxes relating to any other transportation infrastructure or transportation operation, shall be expended for purposes other than as provided in subsections (b) and (c).

(b) Transportation funds may be expended for the following: the costs of administering laws related to vehicles and transportation, including statutory refunds and adjustments provided in those laws; payment of highway obligations; costs for construction, reconstruction, maintenance, repair, and betterment of highways, roads, streets, bridges, mass transit, intercity passenger rail, ports, airports, or other forms of transportation; and other statutory highway purposes. Transportation funds may also be expended for the State or local share of highway funds to match federal aid highway funds, and expenses of grade separation of highways and railroad crossings, including protection of at-grade highways and railroad crossings, and, with respect to local governments, other transportation purposes as authorized by law.

(c) ***The costs of administering laws related to vehicles and transportation shall be limited to direct program expenses*** related to the following: the enforcement of traffic, railroad, and motor carrier laws; the safety of highways, roads, streets, bridges, mass transit, intercity passenger rail, ports, or airports; and the construction, reconstruction, improvement, repair, maintenance, operation, and administration of highways, under any related provisions of law or any purpose related or incident to, including grade separation of highways and railroad crossings. The limitations to the costs of administering laws related to vehicles and transportation under this subsection (c) shall also include direct program expenses related to workers' compensation claims for death or injury of employees of the State's transportation agency; the acquisition of land and the erection of buildings for highway purposes, including the acquisition of highway rights-of-way or for investigations to determine the reasonable anticipated future highway needs; and the making of surveys, plans, specifications, and estimates for the construction and maintenance of flight strips and highways. The expenses related to the construction and maintenance of flight strips and highways under this subsection (c) are for the purpose of providing access to military and naval reservations, defense-industries, defense-industry sites, and sources of raw materials, including the replacement of existing highways and highway connections shut off from general use at military and naval reservations, defense-industries, and defense-industry sites,

or the purchase of rights-of-way.

(d) None of the revenues described in subsection (a) of this Section shall, by transfer, offset, or otherwise, be diverted to any purpose other than those described in subsections (b) and (c) of this Section.

(e) If the General Assembly appropriates funds for a mode of transportation not described in this Section, the General Assembly must provide for a dedicated source of funding.

(f) Federal funds may be spent for any purposes authorized by federal law.

(Ill. Const. Art. IX, § 11 (emphasis added).)

79. The Safe Roads Amendment requires any revenue generated from transportation-related taxes and fees to be used exclusively for transportation-related purposes. (*Id.*)

80. The Safe Roads Amendment prohibits the state and local governments from using, diverting, or transferring revenue generated from transportation-related taxes and fees for a purpose other than the limited purposes set forth in Article IX, Section 11(b) of the Illinois Constitution. (*Id.* at § 11(b).)

81. The Safe Roads Amendment prohibits the state and local governments from using, diverting, or transferring revenue generated from transportation-related taxes and fees for “the costs of administering laws related to vehicles and transportation” unless those costs are “direct program expenses” related to the limited functions identified in Article IX, Section 11(c) of the Illinois Constitution. (*Id.* at § 11(c).)

82. Undifferentiated “public safety” expenditures are not “direct program expenses” related to the limited functions identified in subsection (c) of the Safe Roads Amendment. (*See id.* at § 11(c).)

**V. The County continues to divert transportation-related tax revenue to non-transportation-related purposes in violation of the Safe Roads Amendment.**

83. Despite a clear mandate from the legislature, the public and, now, the Illinois



Constitution, the County continues to spend transportation-related tax revenue on non-transportation-related purposes in violation of the Safe Roads Amendment.

84. The Cook County Home Rule County Use Tax imposes a tax at the rate of one percent on the selling price of tangible personal property, purchased through a sale at retail, which is titled or registered with an agency of the State of Illinois at a location inside Cook County.

85. The Cook County Home Rule County Use Tax is a transportation-related tax within the meaning of Article IX, Section 11(a) of the Illinois Constitution.

86. The Cook County Home Rule County Use Tax is estimated to generate \$81 million in revenue for the County for Fiscal Year 2017. (2017 ANNUAL APPROPRIATION, VOLUME 1, REVENUE ESTIMATE, attached hereto as Exhibit C, at 30.)

87. The County deposits all revenue from the Cook County Home Rule County Use Tax in the County's Public Safety Fund. (*Id.*)

88. The Cook County Retail Sale of Gasoline and Diesel Fuel Tax imposes a tax on the retail sale in Cook County of gasoline, diesel fuel, biodiesel fuel, and gdiesal fuel at the rate of \$0.06 per gallon or fraction thereof.

89. The Cook County Retail Sale of Gasoline and Diesel Fuel Tax is a transportation-related tax within the meaning of Article IX, Section 11(a) of the Illinois Constitution.

90. The Cook County Retail Sale of Gasoline and Diesel Fuel Tax is estimated to generate \$91.5 million in revenue for the County for Fiscal Year 2017. (Ex. C at 31.)

91. The County deposits all revenue from the Cook County Retail Sale of Gasoline and Diesel Fuel Tax in the County's Public Safety Fund. (*Id.*)

92. The Cook County New Motor Vehicle and Trailer Excise Tax imposes a tax on the retail sale in the County of new motor vehicles and trailers.

93. The Cook County New Motor Vehicle and Trailer Excise Tax is a transportation-related tax within the meaning of Article IX, Section 11(a) of the Illinois Constitution.

94. The Cook County New Motor Vehicle and Trailer Excise Tax is expected to generate \$3.4 million in revenue for the County for Fiscal Year 2017. (Ex. C at 31.)

95. The County deposits all revenue from the Cook County New Motor Vehicle and Trailer Excise Tax in the County's Public Safety Fund. (*Id.*)

96. The Cook County Home Rule Use Tax for Non-retailer Transfers of Motor Vehicles imposes a tax upon the privilege of using in the County any motor vehicle that is acquired by purchase, gift, or transfer.

97. The Cook County Home Rule Use Tax for Non-retailer Transfers of Motor Vehicles is a transportation-related tax within the meaning of Article IX, Section 11(a) of the Illinois Constitution.

98. The Cook County Home Rule Use Tax for Non-retailer Transfers of Motor Vehicles is expected to generate \$20 million in revenue for the County for Fiscal Year 2017. (Ex. C at 31.)

99. The County deposits all revenue from the Cook County Home Rule Use Tax for Non-retailer Transfers of Motor Vehicles in the County's Public Safety Fund. (*Id.*)

100. The Cook County Wheel Tax on Motor Vehicles imposes an annual license fee to authorize the use of motor vehicles within unincorporated Cook County.

101. The Cook County Wheel Tax on Motor Vehicles is a transportation-related tax within the meaning of Article IX, Section 11(a) of the Illinois Constitution.

102. The Cook County Wheel Tax on Motor Vehicles is expected to generate \$4.2 million in revenue for the County for Fiscal Year 2017. (Ex. C at 32.)

103. The County deposits all revenue from the Cook County Wheel Tax on Motor Vehicles in the County's Public Safety Fund. (*Id.*)

104. The Cook County Parking Lot and Garage Operations Tax imposes a tax upon the use and privilege of parking a motor vehicle in or upon any parking lot or garage in the County.

105. The Cook County Parking Lot and Garage Operations Tax is a transportation-related tax within the meaning of Article IX, Section 11(a) of the Illinois Constitution.

106. The Cook County Parking Lot and Garage Operations Tax is expected to generate \$47.3 million in revenue for the County for Fiscal Year 2017. (Ex. C at 32.)

107. The County deposits all revenue from the Cook County Parking Lot and Garage Operations Tax in the County's Public Safety Fund. (*Id.*)

108. The Public Safety Fund funds operations of the County's criminal justice system, including the sheriff's office, the state's attorney, the department of corrections, and the clerk of the Circuit Court. (*Id.* at 26.)

109. The Public Safety Fund is not designed to maintain County roadways and does not fund highway maintenance. *Moran Transp. Corp. v. Stroger*, 303 Ill. App. 3d 459, 462, 475 (1999).

110. The Public Safety Fund is not a transportation-related purpose within the meaning of Article IX, Sections 11(b) or (c) of the Illinois Constitution.

111. On information and belief, after the revenue derived from the Cook County Transportation Revenue Ordinances is distributed to the Public Safety Fund, that revenue is then further distributed to the departments subsidized by the Public Safety Fund, such as the sheriff, the state's attorney, and the public defender. (*See* Ex. C at 26.)

112. On information and belief, the County's ERP system does not track how revenue

derived from the Cook County Transportation Revenue Ordinances is allocated within the departments subsidized by the Public Safety Fund.

113. Diversion of transportation-related tax and fee revenue to undifferentiated costs within the Public Safety Fund is prohibited by the Safe Roads Amendment.

114. The County spends revenue from the Cook County Transportation Revenue Ordinances on non-transportation-related purposes in violation of the Safe Roads Amendment.

115. On information and belief, the County spends revenue derived from other transportation-related taxes and fees on non-transportation-related purposes in violation of the Safe Roads Amendment.

**VI. The County is withholding public information in an effort to conceal its violations of the Safe Roads Amendment and to discourage efforts to enforce the Safe Roads Amendment.**

116. On or about October 3, 2017, the County received a request, pursuant to the Freedom of Information Act (“FOIA”), for documents or a detailed explanation showing how the revenue generated from the Cook County Transportation Revenue Ordinances is used for transportation-related purposes.

117. In response to that FOIA request, the County produced select portions of the FY2017 Annual Appropriation Bill stating that the County deposits all revenue from the Cook County Transportation Revenue Ordinances “in the Public Safety Fund, for transportation purposes authorized by law.” (Ex. C at 30-32.)

118. The County provided no additional information about how it spends revenue from the Cook County Transportation Revenue Ordinances or how those expenditures relate to transportation.

119. On January 16, 2018, in response to continued requests from plaintiff IRTBA that the County demonstrate its compliance with the Safe Roads Amendment, Cook County Chief

Financial Officer Ammar Rizki committed to share, by January 19, information that he claimed would verify the County's compliance.

120. By January 30, Mr. Rizki had not contacted the IRTBA or its counsel to share any information whatsoever regarding the County's purported compliance with the Safe Roads Amendment.

121. Accordingly, on January 30, counsel for the IRTBA sent a letter to Mr. Rizki's legal counsel with another request that the County promptly share whatever information it believed would enable the IRTBA to verify the County's purported compliance with the Safe Roads Amendment. Counsel for the IRTBA assured the County that litigation would be unnecessary if "the County's assurances of its compliance with the Safe Roads Amendment are true." (January 30, 2018 letter from J. Fitzgerald to J. Clary, attached hereto as Exhibit D.)

122. Two days later, Mr. Rizki sent a letter to Michael Sturino, plaintiff IRTBA's President and CEO, stating that the County refused to share any information whatsoever regarding the manner in which the County has implemented the Safe Roads Amendment. (February 1, 2018 letter from A. Rizki to M. Sturino, attached hereto as Exhibit E.)

123. Mr. Sturino responded to Mr. Rizki that day, explaining that the IRTBA simply requested public information about how tax dollars are spent and that the County has no right to conceal information about the expenditure of public funds as a means of punishing someone for trying to enforce the Constitution. (February 1, 2018 letter from M. Sturino to A. Rizki, attached hereto as Exhibit F.)

124. Neither Mr. Rizki nor anyone else from the County responded to Mr. Sturino's February 1, 2018 letter.

125. On February 8, 2018, Mr. Sturino sent a letter to Toni Preckwinkle, President of

the Cook County Board of Commissioners, in a final attempt to avoid litigation. (February 8, 2018 letter from M. Sturino to T. Preckwinkle, attached hereto as Exhibit G.)

126. Neither Ms. Preckwinkle nor anyone else from the County responded to Mr. Sturino's February 8, 2018 letter.

**COUNT I:**  
**CLAIM FOR DECLARATORY AND OTHER RELIEF**

127. Plaintiffs repeat and reallege all the paragraphs above as though fully stated herein.

128. The County has violated and continues to violate Article IX, Section 11 of the Illinois Constitution by allocating all revenue derived from the Cook County Transportation Revenue Ordinances to the Public Safety Fund.

129. This case presents an actual controversy concerning the unconstitutionality of the County's diversion of revenue derived from the Cook County Transportation Revenue Ordinances.

130. Plaintiffs, associations seeking to vindicate the constitutional rights of their members, have a direct interest in that actual controversy.

131. Preliminary and permanent injunctive relief is appropriate and necessary in this case because plaintiffs have rights that are guaranteed by the Safe Roads Amendment, are and will continue to be irreparably harmed by the County's unconstitutional diversion of public funds for unconstitutional purposes, have no adequate remedy at law, and are likely to succeed on the merits of this case. Any weighing of the equities would mandate the issuance of preliminary and permanent injunctive relief in favor of the plaintiffs.

WHEREFORE, plaintiffs pray that this Honorable Court:

(a) enter a declaratory judgment, pursuant to 735 ILCS 5/2-701, that the County's diversion of revenue derived from the Cook County Transportation Revenue Ordinances to undifferentiated costs within the Public Safety Fund is unconstitutional;

(b) award plaintiffs preliminary and permanent injunctive relief to enjoin the County from diverting revenue derived from the Cook County Transportation Revenue Ordinances to any purpose other than those provided in subsections (b) and (c) of Article IX, Section 11 of the Illinois Constitution, and to mandate that the County restore all such diverted revenue;

(c) order the County to provide plaintiffs a line-item accounting of how the County allocates or appropriates revenue derived from the Cook County Transportation Revenue Ordinances;

(d) award reasonable attorney's fees to plaintiffs; and

(e) award such other and further relief as the Court deems proper.

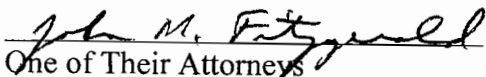
**THE PLAINTIFFS DEMAND A TRIAL BY A JURY OF TWELVE (12) ON ALL ISSUES TRIABLE BY A JURY.**

Dated: March 6, 2018

Respectfully submitted,

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ILLINOIS ROAD AND TRANSPORTATION BUILDERS ASSOCIATION, FEDERATION OF WOMEN CONTRACTORS, ILLINOIS ASSOCIATION OF AGGREGATE PRODUCERS, ASSOCIATED GENERAL CONTRACTORS OF ILLINOIS, ILLINOIS ASPHALT PAVEMENT ASSOCIATION, ILLINOIS READY MIXED CONCRETE ASSOCIATION, GREAT LAKES CONSTRUCTION ASSOCIATION, AMERICAN COUNCIL OF ENGINEERING COMPANIES (ILLINOIS CHAPTER), CHICAGOLAND ASSOCIATED GENERAL CONTRACTORS, UNDERGROUND CONTRACTORS ASSOCIATION OF ILLINOIS, and ILLINOIS CONCRETE PIPE ASSOCIATION

By:   
One of Their Attorneys