

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

COMMUNITY ARTS ADVOCATES, INC.)
and STEPHEN H. BAIRD,)
Plaintiffs,)
v.)
CITY OF BOSTON,)
Defendant.)

CIVIL ACTION NO. 04-11618-NG

EXHIBIT A

to

**PLAINTIFFS' MOTION FOR LEAVE TO FILE
SUPPLEMENTAL DECLARATIONS**

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and STEPHEN H. BAIRD,)
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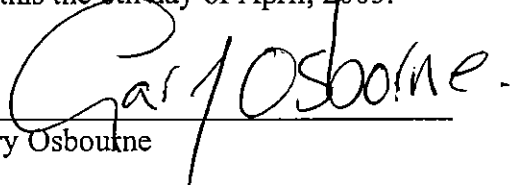
DECLARATION OF GARY OSBOURNE

I, Gary Osbourne, declare and state as follows upon personal knowledge:

1. I am a magician. I perform under the name "Gazzo the Magician".
2. I have performed as Gazzo the Magician for 22 years. I am a citizen of the U.K., but I currently reside in Acton, Massachusetts.
3. I have performed in Boston, London, Canada, all over the U.S. and around the world.
4. I have often performed publicly in the streets and parks of the City of Boston (the "City") as Gazzo the Magician. In the past I have been told by the City of Boston police that I could not perform in various areas around the City of Boston, including in the area around Faneuil Hall Marketplace (also known as "Quincy Market"). Approximately 6-8 years ago, in an attempt to determine what was Boston property and where I could perform, I acquired from the City plans indicating that certain portions of Quincy Market were owned by the City outright, and indicating that certain portions were owned by the City and leased to certain merchants. For some time after I acquired these plans, I was allowed to perform in Quincy Market if I stayed outside of the area leased to the merchants. The merchants then began parking a truck in the area where I had performed and I was forced to stop performing there.
5. In addition to being harassed by Boston police in and around Quincy Market, I have also been harassed by the Boston Police while performing on Newbury Street, in Copley Square, and near the Park Street T station. As the result of this harassment, about 8 years ago I stopped performing in Boston and began performing only in other places, including Cambridge, Massachusetts; Newburyport, Massachusetts; Salem, Massachusetts; Portsmouth, New Hampshire; and Florida.
6. It is and has been my understanding that there is no City permit or license that I could obtain that would permit me to perform in the streets and parks of Boston, other than the vendor's license described below.

7. Prior to the incidents described below, I had not attempted to perform publicly in the City in approximately 8 years. I have been chilled in my performances in Boston as the result of the City's harassing and confusing enforcement scheme regarding public artists and performers.
8. However, I had heard that Boston has changed its enforcement scheme regarding public performers and on Sunday, April 3, 2005, I went to perform at Sam Adams Park in Boston, which is also known as Dock Square. I arrived at Sam Adams Park around 2:30 p.m. I had performed for about 10 minutes for a small crowd of people when a police officer named Wayne told me that I had to have a permit to perform there. I asked the police officer where I could obtain a permit. He said I could obtain a permit in Room 811 of Boston City Hall. As the result of this exchange, it was my understanding that I could not continue performing, and I therefore ceased performing in Sam Adams Park around 3:00 p.m.
9. On Monday, April 4, 2005, I went with another performer named Daniel Denney to Room 811 in Boston City Hall and asked for a permit to perform in Boston. I was told by the City workers in Room 811 that they do not issue permits and that we should talk to the Boston Department of Public Works. They told me to go to a room directly below for permits in Boston City Hall.
10. I then went to the room directly below (which I think was Room 715) in Boston City Hall and asked for a permit to perform in Boston. The City workers in that room told me that they do issue permits but they will not issue street performer permits of any kind for Sam Adams Park or Downtown Crossing or any public thoroughfare in Boston. They said we could go to Police Headquarters in Roxbury and seek a permit there. They also said I could apply for a Vendor's License, allowing me to set up a space to sell CD's if I wanted to. However, the workers said it would take 2 weeks to get such a license and no such license would be issued for any "tourist area" in downtown Boston. I then left Boston City Hall without a permit to perform.
11. I have now been told by City employees both that I am not permitted to perform in certain areas without a permit, and that I cannot get a permit for those areas. I do not understand why I cannot perform in those areas. As a magician, I do not have any CD's or any other material to sell and I therefore do not need a Vendor's License.

Signed under the pains and penalties of perjury, this the 6th day of April, 2005.



Gary Osbourne