

IN THE CHANCERY COURT FOR KNOX COUNTY, TENNESSEE

LISTON MATTHEWS and)
KIMBERLY BERGERON)

Plaintiffs,)

vs.)

THE CITY OF KNOXVILLE, TENNESSEE,)
MADELINE ROGERO, in her individual capacity)
and official capacity as Mayor of the City of)
Knoxville; DAVID RAUSCH in his official)
capacity as the Chief of Police for the City)
of Knoxville; and TENNESSEE VALLEY)
AGRICULTURAL AND INDUSTRIAL)
FAIR, a nonprofit corporation,)

Defendants,)

and)

No. 101057-1

STATE OF TENNESSEE ex rel.)
LISTON MATTHEWS and)
KIMBERLY BERGERON)

Plaintiffs,)

vs.)

MADELINE ROGERO, in her official capacity)
as Mayor of the City of Knoxville,)

Defendant.)

MEMORANDUM IN SUPPORT OF
MOTION TO DISMISS BY CITY DEFENDANTS

As this Court stated in its Memorandum Opinion last October, “[t]he determinative issue presented by plaintiff’s complaint, as amended, is whether the state statute, amended in 2015, precludes the City and the Fair from prohibiting civil handgun permit holders from carrying or

possessing handguns in Chilhowee Park . . . As such, the case turns upon the question of whether Chilhowee Park is a park within the meaning of Tenn. Code Ann. § 39-17-1311(b)(1)(H).” That question, however, is no longer justiciable in light of certain amendments to state guns laws which took effect on July 1, 2017. These amendments, combined with the fact that the 2015 Fair and the 2016 Fair have long since ended, render moot the question of whether the subject property is a “park” under state law. As a result, the City of Knoxville, Mayor Madeline Rogero, and Police Chief David Rausch (“City Defendants”) ask the Court to dismiss the Amended and Supplemental Complaint based upon the doctrine of mootness.

I. PROCEDURAL HISTORY & CHANGE IN STATE LAW

A. Procedural History of Case

On February 11, 2016, the plaintiffs filed a Complaint seeking a declaratory judgment regarding their right to bring handguns onto the Chilhowee Park property (the “Property”) during the 2015 Tennessee Valley Fair (the “Fair”). According to the Complaint, the plaintiffs each had carry permits issued by the State of Tennessee and wanted to bring their guns into the Fair under the authority of Tenn. Code Ann. § 39-17-1311(b)(i)(H)(i). In addition to seeking a declaration that the Property was a “park,” the plaintiffs asserted a claim for civil conspiracy between the City of Knoxville and the Tennessee Valley Agricultural & Industrial Fair, (“TVA&I”)the non-profit organization that operates the Fair.

After Defendants moved to dismiss the Complaint, the plaintiffs filed an Amended Complaint, which removed the Executive Director of TVA&I as a defendant, deleted the claim for civil conspiracy, and added a claim for a writ of mandamus as to Mayor Rogero. After the TVA&I and the City Defendants filed motions to dismiss the Amended Complaint, the plaintiffs sought entry of an alternative writ of mandamus and also moved to further amend their

Complaint. On June 3, 2016, the Court entered an order that reserved the issue of the issuance of the writ, pending a decision on the declaratory judgment claim. After hearing argument on the plaintiffs' request to amend the Complaint, the Court entered an order permitting the amendment on June 14, 2016.

Thereafter, Defendants filed motions to dismiss the Amended Complaint, as further amended. On August 18, 2016, the Court heard oral argument on the motions.

On September 16, 2016, prior to the Court's ruling on the pending motions, the plaintiffs filed a motion for a temporary restraining order with respect to the 2016 Fair, which opened on September 9, 2016 and was scheduled to close on September 17, 2016. As a legal basis for requested relief, the plaintiffs repeated their argument that the Property was a "park" and asserted that state law permitted them to enter the Property with their handguns. In addition to seeking a TRO, the plaintiffs asked the Court to consider facts that were alleged to have occurred since the August 18 hearing. These facts related primarily to the actions of the plaintiffs in attempting to enter the Property during the 2016 Fair.

On September 9, 2016, the Court entered an order denying the request for a TRO. Thereafter, the plaintiffs filed a motion to allow supplemental pleading based upon the events that transpired at the 2016 Fair. On October 3, 2016, the Court entered an order which dismissed the plaintiff Matthews on the grounds of standing but denied the motion to dismiss as to the plaintiff Bergeron.

Based upon the allegations contained in supplemental pleading, the parties entered an Agreed Order which: a) permitted the Amended Complaint to be supplemented, b) reinstated Matthews as a plaintiff, and c) provided a time in which the defendants would answer. The

plaintiffs filed an Amended and Supplemental Complaint on November 14, 2016, to which Defendants filed Answers.

B. Adoption of Public Chapter 467

During the 2017 session of the General Assembly, the legislature amended state law regarding the rights of municipalities to regulate the possession of handguns by permit holders on government-owned property. Among its changes, Public Chapter 467 (the “Act” or “PC 467”) made clear that, as long as a local government meets certain prerequisites regarding entry onto government property, including parks, a local government may prohibit entry by individuals with handguns holding valid handgun carry permits.¹ The Act took effect on July 1, 2017.

Public Chapter 467 has five material sections. Section 1, which applies to Tenn. Code Ann. § 39-17-1314, adds a new subsection that provides a private cause of action to persons who are adversely affected by an ordinance, policy, or rule of a local government or a governmental official that violates Tenn. Code Ann. § 1314. Section 2 amends Part 2 of Title 29, Chapter 20, to remove immunity from suit for a governmental entity in a suit brought under this new provision of state law (Tenn. Code Ann. § 39-17-1314(g)-(i). Section 3 amends Tenn. Code Ann. § 39-17-1359 by adding a new subsection (g), to provide a specific process for local governments and their permittees to follow if the entity intends to prohibit or restrict a person with a handgun carry permit from entering onto “property owned or administered by the entity.” These include a) the use of metal detection devices, b) the use at least one law enforcement officer or private security officer trained to conduct inspections of persons through the use of metal detectors, and c) the inspection of bags, packages, and containers brought by persons onto the government-owned property. The new statute makes clear that a local government and its

¹ A copy of Public Chapter 467 was attached to the City Defendants’ Motion to Dismiss. For the convenience of the Court, an additional copy is attached hereto as Exhibit A.

permittes may “enact or enforce a prohibition or restriction on the possession of a handgun by a handgun carry permit holder,” and such restriction or prohibition may occur on any property owned or administered by the local government. Section 3 also includes an exemption from these requirements for courts, buildings containing law enforcement offices, and certain other facilities and properties. Section 4 deletes the phrase “This section shall not apply to,” from Tenn. Code Ann. § 39-17-1314(f) and replaces it with the phrase “Except as provided in subsection (g), this section shall not apply to.” The significance of this superficially minor change is that it brings public parks, greenways, and similar areas within the express scope of Section 3.² Finally, Section 5 of PC 467 replaces the word “room” with the word “building” in Tenn. Code Ann. § 39-17-1306(a).

In summary, the amendments to state gun laws established by the adoption of PC 467 make clear that a municipality and its permittees may prohibit a person with a handgun carry permit from carrying his/her handgun onto any property owned or administered by the municipality, including parks, but only if the entity follows the statutorily prescribed procedure.

II. FACTUAL ALLEGATIONS IN SUPPLEMENTAL, AMENDED COMPLAINT³

The plaintiffs, Liston Matthews (“Matthews”) and Kimberly Bergeron (“Bergeron”), are citizens and residents of the State of Tennessee. Amended and Supplemental Complaint, ¶¶ 1, 2. Matthews and Bergeron (“Plaintiffs”) have each been granted a permit pursuant to T.C.A. § 39-17-1351 to carry a handgun. *Id.* ¶¶ 19, 20.

² Prior to adoption of PC 467, Tenn. Code Ann. § 39-17-1314(f) read: This section shall not apply to the grounds of any public park, natural area, historic park, nature trail, campground, forest, greenway, waterway or other similar public place that is owned or operated by the state, a county, a municipality or instrumentality thereof. The carrying of firearms in those area shall be governed by § 39-17-1311.

³ These Factual Allegations are taken solely from the Amended and Supplemental Complaint, which is the last pleading filed by the plaintiffs in this case.

The defendant TVA&I is a nonprofit corporation with a principal place of business in Knoxville, Tennessee. Am. Supp. Compl. ¶ 6. The defendant City of Knoxville (the “City”) is a municipal corporation. *Id.* ¶ 3. The defendant Madeline Rogero (the “Mayor”) is the Mayor of the City, whose current term of office began on December 17, 2015. *Id.* ¶ 4. The defendant David Rausch (“Chief Rausch”) is the Chief of Police of the City, having been appointed by the Mayor. *Id.* ¶ 5.

In 1993, TVA&I deeded certain property, commonly known as Chilhowee Park (the “Property”), to the City *Id.* ¶¶ 21, 22. Facilities on the Property include an exhibition hall containing 57,100 square feet of space, an amphitheater seating 4500, barns, and arenas. *Id.* ¶ 28. On a yearly basis, the Property is home to the Fair, which takes place in September. *Id.* ¶ 40. To conduct the Fair, TVA&I leases the property from the City. *Id.* ¶ 41.

In 2015, the Fair took place from September 11 through September 20. *Id.* ¶ 58. Prior to the commencement of the Fair, the City and TVA&I each adopted a policy (the “Weapons Policy”) which prohibited persons attending the Fair from bringing weapons onto the grounds of the Fair. *Id.* ¶¶ 59, 60, 66, Ex. 6, Ex. 7. The Weapons Policy applied to persons holding handgun carry permits. *Id.* ¶ 64. The decision was grounded upon language in the applicable state statute which makes it an offense for any person to possess or carry any weapon in or on the grounds of any civic center or other public building, and its environs.

The Amended and Supplemental Compliant alleges that Plaintiffs desired to attend the 2015 Fair while exercising their alleged constitutional right to carry a handgun. Am. Supp. Compl. ¶¶ 81, 82. Bergeron attended the 2015 Fair but did not carry a handgun. *Id.* ¶ 83. Matthews did not attend the 2015 Fair. *Id.* ¶ 84.

In 2016, the Fair was held at Chilhowee Park from September 9 through September 18. Am. Supp. Compl. ¶ 101. The Amended and Supplemental Complaint alleges that on September 13, 2016, Plaintiffs purchased or received tickets to the 2016 Fair. *Id.* ¶ 102. On that same day, a group of persons holding handgun carry permits, including Plaintiffs, spoke with an officer of the Knoxville Police Department stationed at an entrance to the Fair and inquired whether persons holding handgun carry permits could enter the Fair armed with a handgun. *Id.* ¶ 104. These persons were advised that weapons were not permitted at the Fair, that the weapons policy applied to persons holding handgun carry permits, and that persons attempting to enter the Fair with a handgun would be arrested for criminal trespass. *Id.* ¶¶ 105, 108, 109, 112-13.

III. ARGUMENT

A. STANDARD FOR DISMISSAL

Pursuant to Tenn. R. Civ. Pro. 12.02(1), a Court should dismiss a case for lack of subject matter jurisdiction where, based upon the issue in the case having become moot, a case is no longer justiciable. *State v. Rodgers*, 235 S.W.3d 92, 97 (Tenn. 2007). Whether a case has become moot is a question of law for the Court. *Hurd v. Flores*, 221 S.W.3d 14, 31 (Tenn. Ct. App. 2006).

B. BASED UPON THE AMENDMENT OF STATE LAW, THE ISSUES RAISED IN THE AMENDED, SUPPLEMENTAL COMPLAINT HAVE BECOME MOOT.

In contrast to the United States Constitution, the Constitution of the State of Tennessee does not contain any express limitation on judicial power. Nevertheless, Tennessee courts have long recognized that “the province of a court is to decide, not advise, and to settle rights, not to

give abstract opinions. . . .” *West v. Schofield*, 468 S.W.3d 482, 489-90 (Tenn. 2015). Thus, like their federal counterparts, “Tennessee courts follow self-imposed rules of judicial restraint so that they stay within their province to decide cases and settle rights rather than to advise parties and issue abstract opinions. *Hooker v. Haslam*, 437 S.W.3d 409, 417 (Tenn. 2014) Collectively, these rules require that lawsuits be justiciable. *See, e.g. Cummings v. Baker*, 223 S.W.2d 913, 915 (Tenn. 1949). “To be justiciable, a case must involve presently existing rights, lives issues that are within a court’s power to resolve, and parties who have a legally cognizable interest in the resolution of these issues.” *DeSelm v. Jordan*, 296 S.W. 3d 530, 534 (Tenn. Ct. App. 2008) (per. app. den, 2009) (citing *State v. Brown and Williams Tobacco Corp.*, 18 S.W. 3d 186, 193 (Tenn. 2000)).

Further, a case must remain justiciable “from the time it is filed until the moment of final appellate disposition.” *Norma Faye Pyles Lynch Family Purpose LLC v. Putman Co.*, 301 S.W.3d 196, 203 (Tenn. 2009). If a case loses its justiciability after the commencement of the case, it will have become moot. *DeSelm*, 296 S.W.3d at 536. As stated by the Tennessee Supreme Court, “[a] case, or an issue in a case, becomes moot when the parties no longer have a continuing, real, live, and substantial interest in the outcome.” *Hooker* 437 S.W.3d at 417 (citations omitted). In that event, a case must be dismissed. *DeSelm*, 296 S.W.3d at 536. “The long and well established rule in this State is that the Court ‘will not decide a moot question, though it be the question of constitutionality of a statute.’” *Hooker*, 437 S.W.3d at 417. (quoting *Tennessee Negro Funeral Directors Ass’n v. Board of Funeral Directors and Embalmers of Tenn.*, 332 S.W.2d 195, 197 (1960). *See also Hatcher v. Chairman*, 341 S.W.3d 258, 261 (Tenn. Ct. App. 2009).

From the date that Plaintiffs filed the original Complaint, the central legal issue for resolution has been whether the Property is a “public park” or a “civic center or other public building” and its environs, such that Plaintiffs may or may not go armed onto the Property during the Fair. *See* Am. Supp. Compl. ¶ 92.⁴ In fact, Plaintiffs spend approximately thirty (30) paragraphs in the Amended and Supplemental Complaint alleging facts to support their assertion that the Property qualifies as a “public park,” “greenway,” or “similar public place” as used in T.C.A. § 39-17-1311. Further, the relief requested - - a declaratory judgment and a writ of mandamus - - is based upon a resolution of this central question. Plaintiffs ask the Court to find that the Property is a public park; to declare that neither the City nor TVA&I had the authority under T.C.A. § 39-17-1311 “before, during, and after the 2015 and 2016 Fair” to prohibit Plaintiffs and others with a handgun carry permit from carrying a handgun on the grounds of the Property; to issue an injunction, enjoining Defendants from prohibiting Plaintiffs and others with a handgun carry permit from going onto the Property; to find that the City’s actions were *ultra vires*; and to issue an alternative writ of mandamus to the Mayor ordering her to make various statements, perform various acts, and issue various commands all related to the use of the Property by those with handgun carry permits. *Id.* ¶¶ 128.

Reduced to its essentials, the lawsuit seeks relief from policies that prohibited Plaintiffs from bringing handguns to the Fair in 2015 and 2016 Fair based upon an allegedly erroneous interpretation of state law by officials of the City and TVA&I, as state law stood in 2015 and 2016. As this Court stated in its Memorandum Opinion of October 3, 2016, “the case turns upon the question whether Chilhowee Park is a park with the meaning of the Tenn. Code Ann. 39-17-1311 (b)(1)(H).”

⁴ Paragraph 92 reads: “Knoxville and TVA&IF had no legal authority under § 39-17-1311 to prohibit the carrying of a handgun into Chilhowee Park by Tennessee citizens who possessed a valid civilian handgun carry permit issued by the State of Tennessee pursuant to Tenn. Code Ann. § 39-17-1351.”

That question became moot on July 1, 2017, when PC 467 took effect. In PC 467 the General Assembly made clear that local governments may prohibit handguns on government property, including parks. Given the fact that the 2015 and the 2016 Fairs were long since over, this change in the law rendered the question moot. *City of Memphis v. Hargett*, 414 S.W.3d 88, 96 (Tenn. 2013). “An issue becomes moot if an event occurring after the commencement of the case extinguishes the legal controversy attached to the issue.” *Id.* (citing *Lufkin v. Bd. of Prof'l Responsibility*, 336 S.W.3d 223, 226 (Tenn. 2011)). A Second Amendment scholar might have an interest in the abstract and theoretical question whether the Property is a “park,” a “public building,” or a combination of both, as Tennessee law existed in 2015 and 2016. However, the lawsuit no longer presents a situation where the parties have “a continuing, real, live, and substantial interest in the outcome.” *Pyles*, 301 S.W.3d at 203). Whether or not the Property is a “park” under Tenn. Code Ann. § 37-17-1311(b)(i)(H)(1) the City and TVA&I can unquestionably prohibit the carrying and handguns by permit holders on the Property.

Perry v. Banks is on point. 521 S.W.2d 549 (Tenn. 1975). In *Perry*, the two Democratic members of the Knox County Election Commission filed a declaratory judgment lawsuit seeking a determination of the eligibility of two candidates to hold the office of County Judge. The plaintiffs sought a declaration that candidates for County Judge must be “learned in the law,” a requirement which neither Kessel nor McMillan met. In addition, the plaintiffs sought a temporary restraining order to prevent the Election Commission from placing these individuals’ names on the ballot. Kessel and McMillan counterclaimed and cross-claimed, seeking a declaration that they were qualified candidates who were entitled to be listed on the ballot.

Prior to the election, the Chancellor conducted a hearing and ruled that the office of County Judge must filled by a lawyer. Based upon this holding, the Chancellor initially directed

the Election Commission to remove two candidates from the ballot. However, after receiving a post-judgment motion, the Chancellor modified his ruling to permit both names to remain on the ballot. However, he enjoined the Election Commission from issuing a certificate of election in the event that either candidate prevailed. *Id.* at 550. They did not. Both were defeated in the General Election. *Id.* Nevertheless, the Republican members of the Election Commission and one of the losing candidates appealed the Chancellor's decision.

The Tennessee Supreme Court held that the issue of the candidates' eligibility was rendered moot by virtue of the fact that the election was over and the candidates had been defeated. 521 S.W.2d at 550. The Court said:

Thus it is that by the time this controversy reach this Court, the questions presented had been deprived of practical significance and were academic and abstract in character, insofar as the general election of 1974, these particular parties and this particular Election Commission are concerned.

Id. Given the outcome of the General Election, a decision regarding the correctness of the Chancellor's ruling would have had no real impact on anyone. The issue had been rendered moot.

Perry v. Banks is typical. In multiple cases, Tennessee courts have dismissed lawsuits on the basis of mootness where a legal challenge concerns an event that has already taken place. In such cases, a lawsuit "no longer serves as a means to provide relief to the prevailing party." *McIntyre v. Traughber*, 884 S.W.2d 134, 137 (Tenn. Ct. App. 1994). In *DeSelm v. Jordan*, for example, the Court of Appeals upheld former Chancellor Fansler's dismissal of the case based upon events that had occurred previously. 296 S.W.3d at 535. The Court of Appeals said: "In light of the facts that all of the officials that this action sought to have removed as term-limited no longer hold office, that their replacements have been ostensibly duly elected and inaugurated in according with Tennessee law, and that the Supreme Court clearly held in *Jordan* that the

officials found to be term limited in that case legitimately held office as *de facto* officers until their successors were named in accordance with law, all of the issues raised by the complaint are now moot.” *Id.* at 535. See also *Hatcher v. Chairman*, 341 S.W.3d 258, 262 (Tenn. Ct. App. 2009) (challenge to qualification of candidate found to be moot where election had already occurred), *Alliance for Native American Indian Rights in Tennessee v. Nicely*, 182 S.W.3d 333, 339 (Tenn. App. 2005)(per. app. den.)(case became moot upon completion of road project that plaintiff sought to enjoin), *Ford Consumer Finance Co., Inc. v. Clay*, 984 S.W.2d 615, 617 (Tenn. Ct. App. 1998)(filing of Chapter 7 bankruptcy by appellant after trial court entered judgment against appellant rendered appeal moot), *LaRouche v. Crowell*, 709 S.W.2d 585 (Tenn. Ct. App. 1985) (issue of placement of candidate’s name on presidential primary election ballot had become moot where primary had already taken place).

Just so here, the events which Plaintiffs sought to participate in - - the 2015 Fair and the 2016 Fair – are over. The 2015 Fair closed on September 20, 2015, and the 2016 Fair closed on September 17, 2016. Consequently, a ruling on the question of whether the Property is or is not a “park” and whether the plaintiffs should or should not have been allowed to bring their handguns into the Fair in 2015 or 2016 will be purely “academic and abstract in character,” insofar as these particular parties are concerned. *Perry*, 521 S.W.2d at 550. Because such a decision by the Court will have no “real impact on anyone,” the issues raised in the case have become moot. *Perry*, 521 S.W.2d at 550.

Of course, this description did not present the whole picture when Plaintiff’s filed their last pleading in October of 2016. As noted in the Amended and Supplemental Complaint, the Fair is a recurring event, which takes place for approximately ten days during September each year. Ann. Supp. Cop. ¶ 40. As the lessee of the Property under a Lease Agreement from the

City, TVA&I has exclusive possessory rights to the Property for operation of the Fair, subject to de minimus exceptions. *Id.* ¶ 41, TVA&I Ans. ¶ 41, Ex. 1. That being the case, Plaintiffs could have legitimately argued that, with the Fair scheduled to begin on September 8, 2017, the issue of whether the Property was a “park” within the meaning of Tenn. Code Ann. § 39-17-1311(b)(1)(H) still had practical significance. *Perry*, 521 S.W.2d at 550. Depending upon the Court’s resolution of this issue, Defendants would have either been permitted to prohibit Plaintiffs from going armed into the Fair in 2017 or not. Even though the 2015 Fair was over and even through the 2016 Fair was over, the case still served as a means to provide judicial relief that would have affected Plaintiffs, TVA&I, the City Defendants, and other persons attending the Fair in 2017.

But the General Assembly’s amendment of gun regulation by municipalities in PC 467 changed the situation. As detailed in Section I.B. above, PC 467 permits “an entity of local government or a permittee thereto to enact or enforce a prohibition or restriction on the possession of a handgun by a handgun carry permit holder on property owned or administered by the entity” if certain procedures are met. Notably, property subject to regulation is not limited to governmental buildings, facilities, or structures and, therefore, includes parks, greenways, and other recreational areas “owned or administered by the entity.” Further, Section 4 of PC 467 replaces phrase “This section shall not apply to” with the phrase “Except as provided in subsection (g), this section shall not apply to.” The effect of this minor change in terms is to bring parks, greenways, and similar areas within the express scope of the new section (g). In other words, a municipality or its permittee may prohibit persons with handgun carry permits from entering a government building or park but only if the entity or permittee follows the procedures outlined in PC 467.

Given the fact that the Fair for 2015 and 2016 has come and gone, this amendment moots the question of whether the Property is a “park.” As in multiple other cases involving statutory amendments, this change in the law makes the meaning of “park” a dead letter. *See Hargett*, 414 S.W.3d at 96 (finding that 2013 amendment to Tennessee Voter Identification Act rendered moot the issue of whether sovereign immunity would bar the plaintiffs’ declaratory judgment suit against state officers), *Tennessee Negro Funeral Directors Ass’n*, 332 S.W.2d at 197 (General Assembly’s repeal of provision in 1951 statute which had been challenged by plaintiff association on due process grounds rendered the case moot, requiring dismissal).

Since it is now abundantly clear that local governments and their permittees may prohibit persons with handgun carry permits from entering parks armed with a handgun, the question of whether this was permitted under prior law no longer presents a justiciable issue. *Nicely*, 182 S.W.3d at 339. The case “no longer involves a present, ongoing controversy” nor will it “serve[] as a means to provide some sort of judicial relief to the prevailing party.” *Id.* (citations omitted). Whether or not the Property is a park or not, the City and TVA&I will be able to preclude Plaintiffs and others with handgun carry permits from coming onto the Property at the 2017 Fair. Any relief this court could give “would be tantamount to carrying coals to Newcastle.” *Clay*, 984 S.W.2d at 617. Based upon mootness, the case should be dismissed.

IV. CONCLUSION

Based upon the foregoing, the City Defendants respectfully request the Court to dismiss the Amended and Supplemental Complaint based upon the doctrine of mootness.

Respectfully submitted,



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Chief David Rausch

Amendment No. 6 to SB0445

Stevens
Signature of Sponsor

AMEND Senate Bill No. 445*

House Bill No. 508

other enactment if the individual is or was physically present within the boundaries of the political subdivision for any reason; or

(2) The party is a membership organization that:

(A) Includes two (2) or more individuals described in subdivision (h)(1); and

(B) Is dedicated in whole or in part to protecting the rights of persons who possess, own, or use firearms for competitive, sporting, defensive, or other lawful purposes.

(i) A prevailing plaintiff in an action under subsection (g) is entitled to recover from the county, city, town, municipality, or metropolitan government the following:

(1) The greater of:

(A) Actual damages, including consequential damages, attributable to the ordinance, resolution, policy, rule, or other enactment; or

(B) Three (3) times the plaintiff's attorney's fees;

(2) Court costs, including fees; and

(3) Reasonable attorney's fees; provided, that attorney's fees shall not be awarded under this subdivision (i)(3) if the plaintiff recovers under subdivision (i)(1)(B).

SECTION 2. Tennessee Code Annotated, Title 29, Chapter 20, Part 2, is amended by adding the following as a new section:

Immunity from suit of all governmental entities is removed for causes of action brought under § 39-17-1314(g)-(i).

SECTION 3. Tennessee Code Annotated, Section 39-17-1359, is amended by adding the following new subsection (g):

(1) Except as provided in subdivision (g)(2), nothing in this section shall authorize an entity of local government or a permittee thereof to enact or enforce a prohibition or restriction on the possession of a handgun by a handgun carry permit holder on property owned or administered by the entity unless the following are provided at each public entrance to the property:

(A) Metal detection devices;

(B) At least one (1) law enforcement or private security officer who has been adequately trained to conduct inspections of persons entering the property by use of metal detection devices; and

(C) That each person who enters the property through the public entrance when the property is open to the public and any bag, package, and other container carried by the person is inspected by a law enforcement or private security officer described in subdivision (g)(1)(B) or an authorized representative with the authority to deny entry to the property.

(2) Subdivision (g)(1) does not apply to:

(A) Facilities that are licensed under title 33, 37, or 68;

(B) Property on which firearms are prohibited by § 39-17-1309 or § 39-17-1311(b)(1)(H)(ii);

(C) Property on which firearms are prohibited by § 39-17-1306 at all times regardless of whether judicial proceedings are in progress;

(D) Buildings that contain a law enforcement agency, as defined in § 39-13-519;

(E) Libraries; or

(F) Facilities that are licensed by the department of human services,
under title 71, chapter 3, part 5, and administer a Head Start program.

SECTION 4. Tennessee Code Annotated, Section 39-17-1359(f), is amended by deleting the language "This section shall not apply to" and substituting instead the language "Except as provided in subsection (g), this section shall not apply to".

SECTION 5. Tennessee Code Annotated, Section 39-17-1306(a), is amended by deleting the word "room" and substituting instead the word "building".

SECTION 6. This act shall take effect July 1, 2017, the public welfare requiring it.