

ED SHELDON, SR.; ED SHELDON,
JR.; J. M. SPENCER; J. P.
KLEIN; GLEN KEENE; J. D.
STIMPSON; J. H. BLAIR; AL
SCHWANN,

COMPLAINANTS

VS

ED OVERTON as Mayor; and
MARVIN O. BERGLIN, LAWRENCE
BLATCHFORD, RICHARD MACON,
DUPREE MASON, and RALPH BROWN
as members of the Council of
the City of Fairhope,

DEFENDANTS

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA,

IN EQUITY

3849

Come the defendants in the above styled cause and demurring
to complainants' bill of complaint say:

1. There is no equity in the bill.

BEEBE & SWEARINGEN

BY

W. C. Beebe
Solicitors for defendants

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SEP 19 1956

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FILED
 SEP 19 1956
 ALICE J. DUCK, Register

ED SHELDON SR.; ED SHELDON
JR.; J. M. SPENCER; J. P.
KLEIN; GLEN KEENE; J. O.
STIMPSON; J. H. BLAIR;
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COMPLAINANTS

VS

ED OVERTON as Mayor; and
MARVIN O. BERGLIN, LAWRENCE
BLATCHEFORD, RICHARD MACON,
DUPREE MASON, and RALPH BROWN, et al
as members of the Council of the
City of Fairhope,

RESPONDENTS

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN EQUITY.

CASE NO. 3849

TO THE HONORABLE HUBERT M. HALL, JUDGE OF THE CIRCUIT COURT OF BALDWIN COUNTY,
ALABAMA, IN EQUITY SITTING:

Now comes the Complainants in said cause and show unto your Honor as
follows:

1. That your Complainants are over the age of 21 and are residents of Baldwin County, Alabama.
2. That the said Ed Overton is Mayor of the incorporated Municipality of Fairhope in Baldwin County, Alabama and Lawrence Blatchford, Marvin O. Berglin, Richard Macon, Dupree Mason and Ralph Brown, are members of the Council of Municipality which Municipality is duly organized and incorporated as a Municipality in the State of Alabama and in Baldwin County thereof.
3. That the occupations of your Complainants are: Ed Sheldon Sr., Brick Mason; Ed Sheldon Jr., Brick Mason; J. M. Spencer, Brick Mason; J. P. Klein, Brick Mason; Glen Keene, Carpenter; J. O. Stimpson, Carpenter; J. H. Blair, Carpenter; Al Schwann, Painter.
4. That your Complainants seek employment and are employed on an hourly pay schedule and that much of said employment is within the corporate limits of the City of Fairhope.
5. That on to-wit May 14, 1956 the Council of the City of Fairhope enacted an ordinance number 231 amending schedule 124 of ordinance 221, same being attached hereto and made a part hereof.
6. That the said amendment violates the due process clause of the 14th amendment to the Constitution of the United States.
7. That the said amendment violates the due process clause and the equal protection clause of the 14th amendment to the Constitution of the United States.

8. That said licenses schedule as amended violates section 1 of the Constitution of 1901 of Alabama.

9. That said licenses schedule as amended violates section 390 of Title 26 of the 1940 Code of Alabama as amended.

10. That your Petitioners are accustomed to seeking employment by the hour and that said licenses is illegal tax upon their hourly income.

11. That the said licenses is the same licenses for contractors and that it is a confiscatory licenses on a wage earner.

12. That your Petitioners are engaged in a harmless and useful occupation.

13. That the said licenses imposed by the City of Fairhope on your Petitioners is such a license as to embarrass and destroy useful and harmless occupation that are essential to the prosperity of the people.

14. That said license schedule as amended fails to exempt the wage earner employed by the hour on repair and maintenance work.

15. That said licenses schedule as amended fails to exempt the home owner engaged in doing painting, brick masonry or carpenter work.

16. That the said license schedule as amended discriminates against the working man in favor of the contractor in that the same licenses placed on the wage earner who works by the hour as on the contractor who may employ many craftsman.

17. That the rights and status and other legal relations of complainants are affected by construction of the said ordinance #231 amending schedule #124 of Ordinance #221, that said Ordinance, as amended, provides that Painters or Carpenters, and Brick Masons; for each person other than contractors, who shall engage in the business of Painting, Carpentry or Brick Masonry shall procure and pay for a City of Fairhope license for engaging in such business as follows: \$15.00.

18. Respondents content that they are not liable for, or required to procure such a license because they seek employment by the hour, that said license provided for "doing business".

19. That an actual, justiciable controversy exists between the Complainants and the Respondents with the respect to the application of said ordinance, as amended, which should entitle said Complainants to a declaratory judgment of this Honorable Court. Complainants aver that they have not taken out such licenses, respectively as carpenters, painters or brick masons for the reason that they are advised, informed and believe, and upon such advice, information

and belief allege the fact to be that they are not required to procure and pay for any license for seeking employment and accepting employment at an hourly wage as Painters, Carpenters, or Brick Masons, by reason or on account of said provision of the said ordinance as amended.

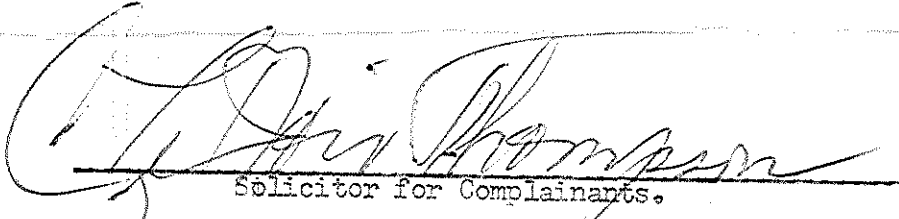
20. Complainants bring this suit in behalf of themselves and or other persons or individuals engaged in earning their livelihood by following the vocations herein named and who may be similarly situated and who may be affected by the construction of said ordinance and who may wish to come in and avail themselves of the belief herein sought in the matter provided by law.

WHEREFORE, the premises considered, Complainants pray that your Honor will take jurisdiction of this cause, that the said Ed Overton, Marvin O. Berglin, Lawrence Blatchford, Richard Macon, Dupree Mason, and Ralph Brown, as Mayor and Council members of the City of Fairhope, County of Baldwin, Alabama, be made parties Respondent hereto; that the usual writ of subpoena issue out of this Honorable Court directed to the said Respondents commanding them to appear in this Honorable Court within the time provided by law, and answer, plead, demur to this bill of complaint as by law and the rules of this Honorable Court they are required to do and in failing therein a decree pro confesso be returned against them.

Complainants further pray that upon a final hearing hereof, your Honor will make and render an appropriate order, judgment, and decree declaring that Complainants and others in their particular class are not liable for the license and tax provided in said Ordinance No. 231 amending schedule 12h of Ordinance No. 221 of the City of Fairhope as enacted on May 14, 1956, and that said Complainants are not required to procure the license provided in said Ordinance, as amended.

AND if Complainants are mistaken in any of the foregoing special prayers for relief they pray in the alternative that your Honors will make such other, further, and different orders, judgments and decrees, and grant them such other, further, different and general relief as to which they may be entitled under the averments of the foregoing bill of complaint and the proof in support thereof.

FILED
AUG 14 1956
ALICE J. DUCK, Register


Solicitor for Complainants.

THE STATE OF ALABAMA,
BALDWIN COUNTY

CIRCUIT COURT, BALDWIN COUNTY

No. 3849

August TERM, 19 56

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You Are Hereby Comanded to Summon ED OVERTON as Mayor, and MARVIN O. BERGLIN, LAWRENCE
BLATCHFORD, RICHARD MACON, DUPREE MASON, and RALPH BROWN, as members of the Council
of the City of Fairhope,

to appear and plead, answer or demur, within thirty days from the service hereof, to the complaint filed in
the Circuit Court of Baldwin County, State of Alabama, at Bay Minette, against ED OVERTON as Mayor, and
MARVIN O. BERGLIN, LAWRENCE BLATCHFORD, RICHARD MACON, DUPREE MASON and
RALPH BROWN, as members of the Council of the City of Fairhope, Defendant....
by ED SHELTON, SR.: ED SHELDON, JR.: J.M. SPENCER: J.P. KLEIN: GLEN KEENE: J. D.
STIMPSON: J. H. BLAIR: AL SCHWANN, Plaintiff....

Witness my hand this 14th day of August 19 56

Alise J. Duck, Clerk

No. 3849

Page

THE STATE OF ALABAMA
BALDWIN COUNTY

CIRCUIT COURT

ED SHELTON, SR. ET AL.

Plaintiffs

vs.

ED OVERTON as Mayor, ET AL.

Defendants

SUMMONS and COMPLAINT

Filed August 14, 19 56

Alice J. Duck

Clerk

Defendant lives at

RECEIVED IN OFFICE

Aug. 13, 19 56

Sheriff

I have executed this summons

this August 20, 19 56

by leaving a copy with

Ed Overton, Sheriff
Manning Boykin, Farmer
P. Blechman, Farmer
Richard Mason, Farmer
Wynne Mason, Farmer
Ralph Brown, Clay Co

Sheriff claims 4.30 miles at

Ten Cents per mile Total \$ 43.00

TAYLOR WILKINS, Sheriff

BY

Deputy Sheriff

CL Thompson

Plaintiff's Attorney

Defendant's Attorney

Sheriff

Deputy Sheriff

430. mi