

COMMONWEALTH OF KENTUCKY
FRANKLIN CIRCUIT COURT
DIVISION II
NO. 15-CI-687

INTERNATIONAL ASSOCIATION OF CERTIFIED
HOME INSPECTORS, ET AL.

PLAINTIFFS

v.

**ORDER GRANTING PLAINTIFFS' MOTION
FOR TEMPORARY INJUNCTION**

COMMONWEALTH OF KENTUCKY, CABINET
HEALTH AND FAMILY SERVICES, ET AL.

DEFENDANTS

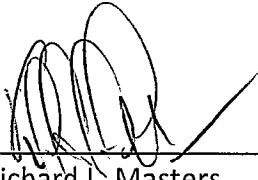
The Plaintiffs, having moved for temporary injunction, the Defendants having responded and the Court being sufficiently advised,

IT IS ORDERED, ADJUDGED AND DECREED that, pending further order of this Court, the Defendants, their respective officers, agents, representatives, employees and successors, and all other persons in active concern and participation with them, are hereby restrained and enjoined from implementation, administration or enforcement of 902 KAR 95:040 concerning the Radon Contractor Certification Program (hereinafter "Radon Control Regulations") until such time as this Court can make and determine the rights and duties of the parties as requested hereinabove, including the making of a final and binding decision as to the constitutionality of the challenged regulations as well as whether they are ultra vires the statutes under which they were allegedly promulgated and whether such regulations are violative of the anti-trust laws of the Commonwealth of Kentucky.

IT IS SO ORDERED this ____ day of _____, 2015.

Thomas Wingate
Judge, Franklin Circuit Court

TENDERED BY:



Richard L. Masters
MASTERS, MULLINS & ARRINGTON
1012 South Fourth Street
Louisville KY 40203
502.582.2900
Email: lawsaver@aol.com
Counsel for Plaintiffs

Distribution:

Richard L. Masters, 1012 South Fourth Street, Louisville, Kentucky 40203
Christina Heavrin & D. Brent Irvin, Cabinet for Health and Family Services, 275 E. Main Street, 5W-
B, Frankfort KY 40621
Jack Conway, Attorney General, 700 Capitol AVE Ste 118, Frankfort KY 40601-3449

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NOTICE

COMMONWEALTH OF KENTUCKY, CABINET
HEALTH AND FAMILY SERVICES, ET AL.

DEFENDANTS

Please take notice that on the 1st day of July, 2015 at 10:00 a.m. in Courtroom E, the undersigned will make and renew the following Motion and tender the attached Order.

PLAINTIFFS' MOTION FOR A TEMPORARY INJUNCTION

RELIEF SOUGHT

Come the Plaintiffs, by counsel, and hereby respectfully move this Court, pursuant to Kentucky Rule of Civil Procedure 65.04 and all other applicable law, for a temporary injunction enjoining Defendants from implementation, administration or enforcement of 902 KAR 95:040 concerning the Radon Contractor Certification Program (hereinafter "Radon Control Regulations") until such time as this Court can make and determine the rights and duties of the parties as requested hereinabove, including the making of a final and binding decision as to the constitutionality of the challenged regulations as well as whether they are ultra vires the statutes under which they were allegedly promulgated and whether such regulations are violative of the anti-trust laws of the Commonwealth of Kentucky.

Plaintiffs further move that the requested temporary injunction continue in effect until further order of this Court or the Court's final judgment in this matter is issued, whichever occurs first.

GROUNDS FOR MOTION

In support hereof, Plaintiffs hereby reiterate and affirm each and every allegation contained in numerical paragraphs 1-17 of the Complaint for Declaration of Rights and Temporary and Permanent Injunctive Relief filed with this Court on June 25, 2015;

Plaintiffs further state that they will suffer immediate and irreparable harm if the Defendants are permitted to proceed further to implement, administer, or seek to enforce the challenged administrative regulations before this Court can determine the rights and duties of the parties as requested in the Complaint filed herein, including the making of a final and binding decision as to the constitutionality of the challenged administrative regulations as well as whether they are ultra vires the statutes to which such regulations were allegedly promulgated and whether such regulations are violative of the anti-trust laws of the Commonwealth of Kentucky.


Plaintiffs further state that there is no other adequate remedy at law available to them, and that if the Defendants are permitted to continue to implement, administer or enforce the challenged regulations, irreparable injury, loss, and damage to the Plaintiffs, as well as the public, will occur.

Defendants will not suffer substantial harm as a result of the Court issuing a temporary injunction because, on information and belief, Defendants are not prepared to implement said regulations in any event and the relief requested simply maintains the

status quo concerning the conduct of Plaintiffs' respective business activities which has been the case since before July 1, 2015.

WHEREFORE, Plaintiffs respectfully request that the Court grant this motion and enter a temporary injunction in the form submitted herewith. Plaintiffs further request that the Court set a hearing date for argument on their motion as soon as practicable.

Respectfully submitted,




Richard L. Masters
MASTERS, MULLINS & ARRINGTON
1012 South Fourth Street
Louisville, Kentucky 40203
502.582.2900/502.587.0931 (fax)
Counsel for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing PLAINTIFFS' MOTION FOR A PRELIMINARY INJUNCTION and proposed Order have this 26th day of June, 2015, been mailed via email and first class, postage prepaid, to:

Christina Heavrin, General Counsel
D. Brent Irvin, Deputy General Counsel
Cabinet for Health and Family Services
275 E. Main Street, 5W-B
Frankfort KY 40621
Phone: (502) 564-7905
E-mail: Brent.Irvin@ky.gov

Jack Conway, Attorney General
Office of the Attorney General
700 Capitol AVE Ste 118
Frankfort KY 40601-3449
Phone: 502-696-5300
E-mail: Jack.Conway@ky.gov



Richard L. Masters