

BEFORE THE TENNESSEE HISTORICAL COMMISSION

IN THE MATTER OF:	)	
	)	
CITY OF FOREST HILLS,	)	
TENNESSEE	)	DOCKET NO. 04.47-222480A
<i>Petitioner,</i>	)	
	)	THC CASE NO. THC22-0009
RE:	)	
	)	
REQUEST TO CHANGE	)	
STREET NAMES	)	

CORRECTED FINAL ORDER DENYING PETITION FOR DECLARATORY ORDER

This matter came to be heard on September 16, 2022, before the Tennessee Historical Commission (the “Commission”). L. Marshall Albritton represented the City of Forest Hills (the “City”). After hearing argument from the City, and considering exhibits entered including a previously filed Petition for Waiver and its attachments, the Commission finds the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. The City of Forest Hills is a municipality under Tennessee law, having been chartered in 1956 pursuant to Tennessee Code Annotated section 6-18-101, *et seq.*
2. Among the scope of the functions that the City provides is the maintenance of public streets.
3. The Subject Streets were not in existence when Forest Hills was chartered.
4. The Subject Streets were mapped and named on plats prepared by private developers. These developers were building subdivisions on privately owned land within the City.
5. The plats with the named Subject Streets were prepared by the developers in 1962, 1964, 1965, 1967, and 1981.

6. The private developers selected the names for the Subject Streets. When the developers named the Subject Streets, the land was privately owned.
7. The Subject Streets were not named by the City. The City had no standards or requirements for the names of streets. The City never dedicated the Subject Streets. The City did not construct the Subject Streets.
8. The Subject Streets were named before the land was owned or maintained by the City. When the Subject Streets were named, the property was privately owned and was not subject to control by the City as a City street.
9. The City's Planning Commission approved the plats submitted by the developers. When the plats were approved, the City did not own or control the land over which the Subject Streets were located. The land was not public property.
10. The City did not advise the developer or otherwise participate in the selection of the names of the Subject Streets. The City did not have any standards or guidelines regarding the names of streets in the City.
11. The City Planning Commission approved the plats submitted by the developers for the subdivision of land in the City for residential development.¹ These plats already contained the named Subject Streets at the time of approval.
12. The City stipulates that the Subject Streets are now public property.
13. All of the Subject Streets relate to a “historic conflict,” the Civil War (also known as the War Between the States) as defined by Tennessee Code Annotated section 4-1-412(a)(2), or a name for historical figures who were involved in the War Between the States.

¹The Planning Commission's approval of the plats was not an acceptance by the City of the dedication of the Subject Streets shown upon the plat. T.C.A. § 13-4-305.

14. The City wants to change the name of the following Subject Streets:

- A. Confederate Drive
- B. Robert E. Lee Drive
- C. Robert E. Lee Court
- D. Jefferson Davis Drive
- E. Jefferson Davis Court
- F. General Forrest Court

These Subject Streets are located within the corporate limits of the City. The City has filed this Petition for Declaratory Order asking the Commission to hold that the Tennessee Heritage Protection Act, T.C.A. § 4-1-412 (the “Act”), does not apply to the Subject Streets in the City that were owned and named by private parties and included on plats that were submitted to an approved by the City’s planning commission. *See* T.C.A. 4-1-412(a)(7). If such relief is granted, the Petition for Waiver will be moot.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction to make a declaratory order pursuant to Tennessee Code Annotated section 4-5-223(a).

2. The City contends that as private developers named the Subject Streets after the historical conflict of the War Between the States; a historical entity, the Confederacy; and historical figures, Jefferson Davis and Generals Lee and Forrest while they were still private property, and that the Act does not apply to the City’s mere acceptance of the Subject Streets named by private developers.

3. The definition of “memorial,” found at Tennessee Code Annotated 4-1-412(a)(7)(A) and (B), has no requirement that the memorial be named or dedicated by the public entity. By the terms

of the statute, it is sufficient that the named memorial be located on public property. The City has stipulated that the Subject Streets are now public property.

4. Based on the foregoing findings of fact and conclusions of law, Confederate Drive, Robert E. Lee Drive, Robert E. Lee Court, Jefferson Davis Drive, Jefferson Davis Court, and General Forrest Court located within the corporate limits of the City are “memorials” as defined by the Act.

5. The legislature has mandated that the Act is remedial in nature and should be construed liberally in factor of historical preservation.

6. The Declaratory Order sought by the City is denied.

POLICY REASON

The construction of the Act is in the public interest.

The City’s Petition for Declaratory Order is hereby **DENIED** this 26th day of October, 2022.

TENNESSEE HISTORICAL COMMISSION

By:



Derita Coleman Williams

Chairperson

Tennessee Historical Commission

Approved as to form and legality:



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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document and Attachment A was emailed to Judge Michael Begley at Michael.begley@tn.gov and L. Marshall Albritton at malbritton@plcslaw.com on this 26th day of October, 2022.



TN SOS-APD Wed, Oct 26, 2022 11:15 AM : 5 of 6 pages received

ATTACHMENT A
NOTICE OF APPEAL PROCEDURES – DECLARATORY ORDERS

REVIEW OF FINAL ORDER

1. PETITION FOR STAY – T.C.A. § 4-5-316

A party may submit to the agency a petition for stay of effectiveness of an initial or final order within seven (7) days after its entry unless otherwise provided by statute or stated in the initial or final order. The agency may take action on the petition for stay, either before or after the effective date of the initial or final order.

2. PETITION FOR RECONSIDERATION – T.C.A. § 4-5-317

(a) Any party, within fifteen (15) days after entry of an initial or final order, may file a petition for reconsideration, stating the specific grounds upon which relief is requested. However, the filing of the petition shall not be a prerequisite for seeking administrative or judicial review.

(b) The petition shall be disposed of by the same person or persons who rendered the initial or final order, if available.

(c) The person or persons who rendered the initial or final order that is the subject of the petition, shall, within twenty (20) days of receiving the petition, enter a written order either denying the petition, granting the petition and setting the matter for further proceedings; or granting the petition and issuing a new order, initial or final, in accordance with § 4-5-314. If no action has been taken on the petition within twenty (20) days, the petition shall be deemed to have been denied.

(d) An order granting the petition and setting the matter for further proceedings shall state the extent and scope of the proceedings, which shall be limited to argument upon the existing record, and no new evidence shall be introduced unless the party proposing such evidence shows good cause for such party's failure to introduce the evidence in the original proceeding.

(e) The sixty-day period for a party to file a petition for review of a final order shall be tolled by granting the petition and setting the matter for further proceedings, and a new sixty-day period shall start to run upon disposition of the petition for reconsideration by issuance of a final order by the agency.

3. JUDICIAL REVIEW OF PETITIONS FOR DECLARATORY ORDER – T.C.A. § 4-5-223

A person who is aggrieved by a final order on a petition for declaratory order of the Tennessee Historical Commission as is entitled to judicial review under this chapter, which shall be the only available method of judicial review. Proceedings for review are instituted by filing a petition for review. Venue for appeals of final orders on a petition for declaratory order shall be in the chancery court of Davidson County. Petitions seeking judicial review shall be filed within sixty (60) days after the entry of the agency's final order thereon.