

STATE OF NORTH CAROLINA
COUNTY OF DURHAM


IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
File No. 7 CVS 6365

SEAN HAUGH, ET AL.,)
Plaintiffs,)
)
v.)
)
COUNTY OF DURHAM, ET AL.,)
Defendants.)

MOTION TO DISMISS
(County of Durham)
(DISM)

NOW COMES the Defendant, County of Durham, by and through its undersigned attorney, and moves to dismiss the action for lack of jurisdiction over the subject matter, as the Plaintiffs are not the real parties in interest, and for failure to state a claim upon which relief can be granted pursuant to Rules 12(b)(1) and (6), Rule 17(a) of the North Carolina Rules of Civil Procedure, and N.C. Gen. Stat. § 1-57 on the grounds that the Court lacks subject matter jurisdiction as the Plaintiffs lack standing to bring this action, that the Court lacks subject matter jurisdiction due to the Political Question Doctrine, that the Plaintiffs are not taxpayers in the County of Durham, the Plaintiffs are not the real parties in interest, and that the Plaintiffs have failed to state a claim under existing North Carolina jurisprudence.

This the 17th day of January, 2008.


S. C. Kitchen
Durham County Attorney
N.C. Bar No. 9309
P.O. Box 3508
Durham, NC 27702
Telephone: (919) 560-0707
Fax: (919) 560-0719
Email: ckitchen@co.durham.nc.us


CERTIFICATE OF SERVICE

This is to certify that I have this date served a copy of the foregoing Motion to Dismiss on the following persons, by depositing a copy hereof in a postpaid wrapper in a post office or official depository under the exclusive care and custody of the United States Post Office properly addressed as listed below, or by hand delivering a copy hereof as indicated below:

Jeanette K. Doran
225 Hillsborough Street, Suite 245
Raleigh, NC 27603

Sarah M. Johnson
Wyrick Robbins Yates & Ponton LLP
4101 Lake Boone Trail, Suite 300
Raleigh, NC 27607

This the 17th day of January, 2008.


S. C. Kitchen
Durham County Attorney