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KRIS Y. MARTINEZ
CIRCUIT CLERK
COOK COUNTY, IL
2022CH08292
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**IN THE CIRCUIT COURT OF COOK COUNTY ILLINOIS
CHANCERY DIVISION**

Mayor TIFFANY HENYARD,)
in her official capacity as Mayor of)
Village of Dolton,)
)
Plaintiff,)
)
v.)
)
Village of Dolton Trustees JASON HOUSE,)
BRITTNEY NORWOOD, KIANA L.)
BELCHER, EDWARD STEAVE,)
and TAMMY BROWN, in their)
official and individual capacities,)
ALISON KEY, Clerk for the Village of)
Dolton, in her official capacity,)
)
Defendants.)

2022CH08292
Case No. _____

**COMPLAINT FOR DECLARATORY JUDGMENT, MANDAMUS AND
INJUNCTIVE RELIEF**

NOW COMES the Mayor TIFFANY HENYARD of the Village of Dolton and complains against Trustees JASON HOUSE, BRITTNEY NORWOOD, KIANA L. BELCHER, EDWARD STEAVE, and TAMMY BROWN, as follows:

PARTIES AND JURISDICTION

1. TIFFANY HENYARD is the Mayor of the Village of Dolton, duly elected in April of 2021 and Mayor at all times relevant hereto.
2. The Village of Dolton is a home rule municipal corporation located in the Cook County, Illinois.
3. At all times relevant Defendants JASON HOUSE, BRITTNEY NORWOOD,

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KIANA L. BELCHER, EDWARD STEAVE, and TAMMY BROWN were Trustees on the Board of Trustees for the Village of Dolton and residents of the County of Cook.

4. ALISON KEY, is the duly elected Clerk for the Village of Dolton and is named only in her official capacity.

5. All relevant acts alleged herein occurred in the County of Cook, giving this Court personal jurisdiction. Thus, venue is also appropriate.

6. Additionally, this Court has subject matter jurisdiction as Illinois courts are courts of general jurisdiction and the complaint concerns violations of the Illinois Constitution and Illinois statutes.

FACTS APPLICABLE TO ALL COUNTS

7. The Village of Dolton's form of municipal government is under the general provisions of Section 3.1 of the Illinois Municipal Code. *See* 65 ILCS 5/Art. 3.1.

8. The Mayor's powers are executive as she is the Chief Executive Officer of the Village. *See* 65 ILCS 5/3.1-15-10. The Board of Trustees' powers are purely legislative.

9. As the Village is an Illinois municipal corporation, the Illinois Open Meetings Act applies to all Village meetings.

10. As has been repeatedly covered and commented upon by the media and members of the public, the Defendants do not get along with the Mayor.

11. However, while dissent occurs in politics, the actions of the Defendants are a vast overreach and have violated the separation of powers between the Mayor and the Board, attempted to change the form of government in violation of the Illinois

Constitution, violated mandatory provisions of the Illinois Municipal Code, and violated the Open Meetings Act.

12. Despite multiple warnings by the mayor and complaints by the public, the Defendants continue to engage in violations, forcing the Mayor to bring this Complaint for these violations to stop.

13. Pursuant to, 65 ILCS 5/3.1-35-5, the “mayor or president shall perform all the duties which are prescribed by law, including ordinances, and shall take care that the laws and ordinances are faithfully executed of the Illinois Municipal Code.” The Municipal Code goes on to further detail the powers of the Mayor, such as the power of appointment, which further elaborate and illustrate that the powers of the Mayor are executive. *See* 65 ILCS 5/3.1-30-5(a); 3.1-35-10.

14. 65 ILCS 5/3.1-45-5 of the Illinois Municipal Code, sets forth the primary duties of the Village’s Trustees, which are legislative.

15. Under the Illinois Constitution, the form of a government of a home rule unit of local government cannot be changed without a referendum. *See* Ill. Const. Art. VI(f).

16. Pursuant to the Village Code, the Mayor, as the executive for the Village, has the power of signing off on checks and reviewing ordinances for appropriate spending. The Code also says that the “President shall sign all warrants drawn upon the Village Treasurer.” *See* Village Code Section 1-5-4(B)(1), (2), (C). Further, the Illinois Municipal Code likewise provides that the President shall sign warrants

drawn upon the Village and the Municipal Clerk shall countersign same. *See* 65 ILCS 5/8-1-8.

17. In contrast, with respect to the Trustees, the Code identifies them as the “legislative department of the Village government and shall perform such duties and have such powers as may be delegated by statute to it.” *See* Village Code Section 1-6-4(A).

18. Further, under the Illinois Municipal Code, the budget can only be passed subsequent to a budget being presented by the “corporate authorities.”

19. The “corporate authorities” is defined by the Illinois Municipal Code as “the president and trustees or similar body when the reference is to villages or incorporated towns” *See* 65 ILCS 5/1-1-2(2)(b)

20. The Open Meetings Act (“OMA”) requires that “[a]ll meetings required by this Act to be public shall be held at specified times and places which are convenient and open to the public.” 5 ILCS 120/2.01.

21. The OMA further requires that “[p]ublic notice of any special meeting...shall be given at least 48 hours before such meeting, which notice shall also include the agenda...” 5 ILCS 120/2.02(a).

22. The OMA also provides, in pertinent part, that “[p]ublic notice shall be given by posting a copy of the notice at the principal office of the body holding the meeting or, if no such office exists, at the building in which the meeting is to be held. In addition, a public body that has a website that the full-time staff of the public body maintains shall post notice on its website of all meetings of the governing body of

the public body...The body shall supply copies of the notice of its regular meetings, and of the notice of any special, emergency, rescheduled or reconvened meeting, to any news medium that has filed an annual request for such notice. Any such news medium shall also be given the same notice of all special, emergency, rescheduled or reconvened meetings in the same manner as is given to members of the body provided such news medium has given the public body an address or telephone number within the territorial jurisdiction of the public body at which such notice may be given. The failure of a public body to post on its website notice of any meeting or the agenda of any meeting shall not invalidate any meeting or any actions taken at a meeting.” 5 ILCS 120/2.02(b).

23. The OMA also provides that “[a]ny agenda required under this Section shall set forth the general subject matter of any resolution or ordinance that will be the subject of final action at the meeting. The public body conducting a public meeting shall ensure that at least one copy of any requested notice and agenda for the meeting is continuously available for public review during the entire 48-hour period preceding the meeting. Posting of the notice and agenda on a website that is maintained by the public body satisfies the requirement for continuous posting under this subsection (c). If a notice or agenda is not continuously available for the full 48-hour period due to actions outside of the control of the public body, then that lack of availability does not invalidate any meeting or action taken at a meeting.” 5 ILCS 120/2.02(c).

July 11, 2022 Purported Meeting

24. Without a referendum and in violation of the separation of powers between the Mayor and the Board, the Defendants purported to pass an ordinance on July 11, 2022, taking away the power of the mayor to sign checks and instead placing it with the Trustees.

25. By attempting to take the power from the Mayor and place it with the Trustees, the Trustees are altering the form of government by taking the power from the executive and placing it with the legislature.

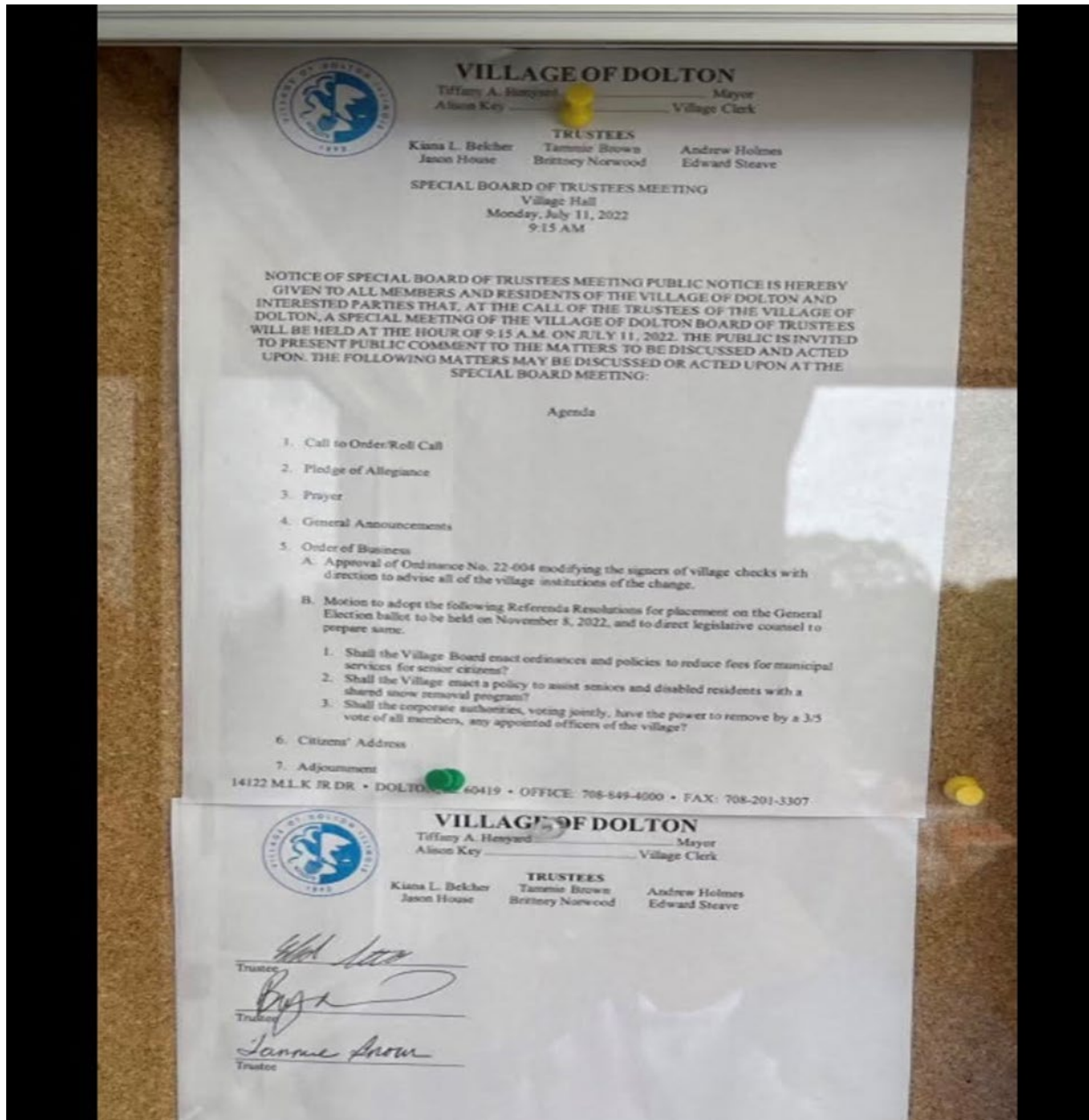
26. The Defendants also purported to submit three (3) referenda at the July 11, 2022 meeting, one of which likewise tries to illegally change the form of government by removing the Mayor's appointment and approval powers through a trick question that fails to advise the public that its vote would alter the form of government, making the form of government more akin to a managerial form of government or a commission form of government, where the board retains certain appointment and removal powers different from the power balances enumerated under Section 3.1 of the Illinois Municipal Code

27. Not only did the Board pass an ordinance on July 11, 2022 in an attempt to alter the form of government without a referendum, it also violated the Open Meetings Act in several respects.

28. Upon information and belief, the agenda was not posted forty-eight (48) hours in advance of the meeting as required by law.

29. A picture of the agenda taken on July 11, 2022, shows that the agenda

appeared as follows:



30. Notice of the special meeting was not sent to the Mayor.

31. Notice of the special meeting was not sent to the media that had registered with the Village.

32. The agenda fails to state where the meeting will occur. While the Village's

main office address appears at the bottom of page one (1) of the agenda, the agenda does not advise the public where the meeting will be held. The Board of Trustees may hold the meeting anywhere open and accessible to the public within the corporate limits of the Village so the agenda must specify where the meeting will be held. This is particularly so because in the last year or so, the Board has held meetings in parking lots and other places throughout the Village that were not the Village's main office. The notice of the meeting was required to state where the meeting was to be held, and it did not.

33. Agenda item 5(A) is improper as it fails to sufficiently apprise the public of the nature of the business being conducted. The agenda item states “[a]pproval of Ordinance No. 22-004 modifying the signers of village checks with direction to advise all of the village institutions of the change.” As stated, this agenda item does not advise the public who the current signers are and who those signers might be changed to if this ordinance is approved. Members of the public may have wanted to attend if they had noted that the Board was trying to usurp certain duties that traditionally and legally belong to the Mayor. Further, this item directs to advise all of the Village institutions of the change, but it does not state who should be advising the institutions and it likewise fails to state which institutions should be advised. Merriam-Webster defines an institution as “a: an established organization or corporation (such as a bank or university) especially of a public character; b: a facility or establishment in which people (such as the sick or needy) live and receive care typically in a confined setting and often without individual consent; c: a

significant practice, relationship, or organization in a society or culture the institution of marriage; 2: an act of instituting.” <https://www.merriam-webster.com/dictionary/institution#:~:text=1%20%3A%20the%20beginning%20or%20establishment,an%20established%20organization%20business%20institutions.>

Throughout the Village of Dolton, there are numerous places that fall within the definition of “institution.” Further, what are the “village institutions” that need to be advised? Does the police department need to be advised? What about the fire department? Do the local school districts and colleges need to be advised? What about barber and beauty schools – do they need to be advised?

34. Agenda item 5(B) is both confusing and does not comply with the OMA. Item 5(B) provides as follows: “Motion to adopt the following Referenda Resolutions for placement on the General Election ballot to be held on November 8, 2022, and direct legislative counsel to prepare same:

1. Shall the Village Board enact ordinances and policies to reduce fees for municipal services for senior citizens?
2. Shall the Village enact a policy to assist seniors and disabled residents with a shared snow removal program?
3. Shall the corporate authorities, voting jointly, have the power to remove by a 3/5 vote of all members, any appointed officers of the village?”

35. There are a multitude of issues with this set of agenda items. First, and most

apparent, is that the agenda item fails to state whether the referenda questions are advisory or binding. Whether the proposed referenda questions are binding or advisory is extremely important, especially given that the third question related to the removal of appointed officers is a question that advances an arguably illegal change in the form of government by removing the Mayor of the Village's powers and duties related to the removal of an appointed officer. The public should have been advised whether the referenda questions were binding or not and as stated, this agenda item fails to provide that notice.

36. Further, this agenda item is confusing. First the agenda item purports to "adopt the following Referenda Resolutions[,]” but then it instructs to “direct legislative counsel to prepare same.” How could resolutions be approved that have not been drafted?

July 23, 2022 Purported Meeting

37. On July 23, 2022, the Defendants purported to pass an appropriations ordinance at a meeting held via Zoom on a Saturday.

38. The agenda only states the following as to how it was going to be held:

Notice of Special Meeting of the Board of Trustees
Virtual Meeting Via Zoom-Livestream on YouTube
Saturday July 23, 2022@ 12:00 pm

39. There is no website provided. No Zoom meeting number was included. No phone number was provided. There was nothing other than a statement that the meeting will be held via some seemingly secret Zoom meeting number and on some

mystery YouTube livestream that only the Defendants supporters would know how to find.

40. However, the July 23, 2022 meeting, violated both the Open Meetings Act and the Illinois Municipal Code in several respects.

41. First, the appropriations ordinance purportedly passed was an unlawful ordinance in that the ordinance reduced the salaries of the Village Administrator and the Chief and Deputy Chiefs of Police, all of which are properly appointed officers within the meaning of 65 ILCS 5/3.1-50-5. Specifically, the Trustees reduced salaries line item of the Village's administration by \$45,000 and the salaries line item of the Village's Chief of Police and Deputy Chief of Police by \$107,032.00. The Illinois Municipal Code only allows for the salaries, of an appointed municipal officer be increased, not diminished.

42. Decreasing the Village Administrator's salary, Chief Collins' salary, Deputy Chief Staples' and Deputy Chief McInerney's salary expressly violates the Municipal Code.

43. In addition, Deputy Chief McInerney is subject to a collective bargaining agreement, thus, under the express terms of that agreement and the Village Code, her salary cannot be reduced.

44. Second, Section 7(e)(2) of the Open Meetings Act requires that the head of the public body, which is the Mayor, find that an in-person meeting or a meeting is not practical or prudent because of a disaster. Further, Section 7(e)(5) of the Open

Meetings Act provides that at least one member of the public body, or certain other persons, be present at the normal meeting location.

45. In addition, Section 7(e)(4) of the Open Meetings Act provides:

(4) for open meetings, members of the public present at the regular meeting location of the body can hear all discussion and testimony and all votes of the members of the body, unless attendance at the regular meeting location is not feasible due to the disaster, including the issued disaster declaration, in which case the public body must make alternative arrangements and provide notice pursuant to this Section of such alternative arrangements in a manner to allow any interested member of the public access to contemporaneously hear all discussion, testimony, and roll call votes, such as by offering a telephone number or a web-based link.

46. The Public Access Counselor has recently opined that a meeting agenda that fails to include a web-based link or other information describing how members of the public could attend the virtual meeting violates Section 7(e) of the OMA. *See* Public Access Opinion 22-007.

47. Section 2.06 of the Open Meetings Act requires that “[a]ny person shall be permitted an opportunity to address public officials under the rules established and recorded by the public body.” 5 ILCS 120/2.06.

48. The meeting violated the Open Meetings Act, in that it was held virtually without the authorization of the Mayor. In addition, no member of the Board was physically present at the normal meeting location. This is particularly troubling in this instance as the budgetary process as set forth in the Illinois Municipal Code is structured to allow maximum public participation so that the citizens can have

their say. The Village of Dolton is an economically disadvantaged area that has lesser access to the internet and lesser opportunities to participate.

49. It further violated the Open Meetings Act in that no Zoom link, phone number, or YouTube link was provided on the agenda for the public to participate.

50. Further still, again troublingly considering they were purporting to pass a budget, during the public comment portion of the purported meeting Trustee STEAVE was asked if there was any public comment. He stated: “there are no...there’s some comments but there are no questions. Uh, no no questions. A few comments but no questions.” In this case, there were clearly comments in the margin or the chat box that were not read into the record. Trustee STEAVE even acknowledged this and failed to read the comments into the record at the meeting. He never asked the commenters if they wanted their comment read as public comment – he simply ignored the comments.

51. Prior to the meeting of July 23, 2022, the Defendants were warned and made expressly aware on both July 20th and 22nd that their actions would violate the Illinois Municipal Code and the Open Meetings Act via written correspondence delivered via email.

52. As detailed above, this is not the first time that the Defendants have violated the Open Meetings Act.

COUNT I – DECLARATORY JUDGMENT (Check Signing Ordinance)

53. The Plaintiff repeats and realleges Paragraphs 1-51 as if fully stated here.

54. The Mayor, as the chief executive officer of the Village, has a tangible legal

interest in ensuring that the form of government is kept in place in keeping with the Illinois Constitution and the Illinois Municipal Code.

55. The Defendants have acted in derogation of both the Illinois Constitution and the Illinois Municipal Code in attempting to pass this ordinance.

56. The Defendants have an adverse interest to the mayor in that they, as legislators, are attempting to unlawfully usurp the rights of the executive.

57. This is an active controversy in that the Defendants have purported to pass this ordinance and seek to implement it.

WHEREFORE, Mayor TIFFANY HENYARD, respectfully requests that this Court declare the purported check signing ordinance of July 11, 2022 invalid in violation of the Illinois Municipal Code and the Illinois Constitution, that Clerk ALISON KEY not certify the ordinance, for costs, and for such further relief as this Court deems equitable and just.

COUNT II – DECLARATORY JUDGMENT (Appropriations Ordinance)

58. The Plaintiff repeats and realleges Paragraphs 1-51 as if fully stated here.

59. “The salaries, fees, or other compensation of any appointed municipal officer, not including those appointed to fill vacancies in elective offices, may be increased but not diminished so as to take effect during the term for which the officer was appointed.” 65 ILCS 5/3.1-50-5.

60. The Mayor, as the chief executive officer of the Village, has a tangible legal interest in ensuring that the mandatory budget process of the Illinois Municipal Code followed.

61. The Defendants have an adverse interest to the mayor in that they are seeking to circumvent the mandate of the Illinois Municipal Code and decrease salaries of the Village Administrator, Chief of Police, and Deputy Chief of Police during the term of their appointment.

62. This is an active controversy in that the Defendants have passed an ordinance confirming these salary changes.

WHEREFORE, Mayor TIFFANY HENYARD, respectfully requests that this Court declare the July 23, 2022 appropriations ordinance invalid in violation of the Illinois Municipal Code, that Clerk ALISON KEY not certify the ordinance or submit it, for costs, and for such further relief as this Court deems equitable and just.

COUNT III – OPEN MEETINGS ACT VIOLATION (July 11, 2022 meeting)

63. The Plaintiff repeats and realleges Paragraphs 1-51 as if fully stated here.

64. Pursuant to 5 ILCS 120/3(a) of the Illinois Open Meetings Act, any person may bring a cause of action for a violation of the Illinois Open Meetings Act, within sixty (60) days of said violation having occurred. This Complaint is brought within that timeframe.

65. For all the reasons outlined in the preceding paragraphs, the Defendants violated the Open Meetings Act in multiple ways in attempting to conduct a meeting on July 11, 2022.

WHEREFORE, Mayor TIFFANY HENYARD, respectfully requests that the Court declare that the meeting conducted on July 11, 2022 was conducted in

violation of the Open Meetings Act, that any purported final action taken on any ordinance with respect to check signing and the three referenda referenced herein, was null and void, that Clerk ALISON KEY not certify the ordinance, for costs and for attorney fees, and for any further relief that this Court deems equitable and just.

COUNT IV – OPEN MEETINGS ACT VIOLATION (July 23, 2022 meeting)

66. The Plaintiff repeats and realleges Paragraphs 1-51 as if fully stated here.

67. Pursuant to 5 ILCS 120/3(a) of the Illinois Open Meetings Act, any person may bring a cause of action for a violation of the Illinois Open Meetings Act, within sixty (60) days of said violation having occurred. This Complaint is brought within that timeframe.

68. For all the reasons outlined in the preceding paragraphs, the Defendants violated the Open Meetings Act in multiple ways in attempting to conduct a meeting on July 23, 2022.

WHEREFORE, Mayor TIFFANY HENYARD, respectfully requests that the Court declare that the meeting conducted on July 11, 2022 was conducted in violation of the Open Meetings Act, that any purported final action was null and void with respect to the purported appropriations ordinance, that Clerk ALISON KEY not certify or submit the ordinance, for costs and for attorney fees, and for any further relief that this Court deems equitable and just.

COUNT V – INJUNCTIVE RELIEF

69. The Plaintiff repeats and realleges Paragraphs 1-51 as if fully stated here.

70. The Mayor has no adequate remedy at law for the repeated violations of the Open Meetings Act, the Illinois Constitution, and the Illinois Municipal Code.

71. She has a clear and ascertainable right in ensuring that any meetings are properly noticed and held, that the form of government is not changed in violation of the Illinois Constitutions, and that an appropriations ordinance is passed in compliance with all applicable statutes.

72. Both the Mayor and the citizens of the Village, will suffer irreparable harm if relief is not granted.

WHEREFORE, Mayor TIFFANY HENYARD, respectfully requests that this Court affirmatively and permanently enjoin the Defendants from conducting any meetings in violation of the Open Meetings Act, from attempting to change the form of government in violation of the Illinois Constitution, from passing any budget in violation of the Illinois Municipal Code, waive any bond requirement as the mayor is a public official, and for such further relief as this Court deems equitable and just.

Respectfully submitted,

By: /s/ Cynthia S. Grandfield

Michael T. Del Galdo
Cynthia S. Grandfield
Tiffany Nelson-Jaworski
DEL GALDO LAW GROUP, LLC (Cook County ID No. 44047)
grandfield@dlglawgroup.com/(312) 222-7000 (t)
1441 S. Harlem Avenue
Berwyn, Illinois 60402