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**IN THE CIRCUIT COURT OF COOK COUNTY  
COUNTY DEPARTMENT, CHANCERY DIVISION**

JASON HOUSE, BRITTNEY NORWOOD, )  
KIANA BELCHER, and TAMMY BROWN, )  
as Village Trustees and as residents of )  
the Village of Dolton, and ALISON KEY, )  
as Village Clerk, )  
 )  
Plaintiffs, )  
 )  
v. )  
 )  
TIFFANY HENYARD, as Mayor of the Village )  
of Dolton, )  
 )  
Defendant. )

Case No. 2023 CH 10204  
  
Calendar 5

**MEMORANDUM OF LAW IN SUPPORT OF  
MOTION FOR TEMPORARY RESTRAINING ORDER AND/OR  
PRELIMINARY INJUNCTION**

Plaintiffs Jason House, Brittney Norwood, Kiana Belcher, Tammy Brown and Alison Key, by their attorneys, Odelson, Murphey, Frazier & McGrath, Ltd., for their Memorandum of Law in Support of their Motion for Temporary Restraining Order and/or Preliminary Injunction, state as follows:

**I. INTRODUCTION AND FACTUAL BACKGROUND**

The Village of Dolton is a municipal corporation located in Cook County. Plaintiffs Jason House, Brittney Norwood Kiana Belcher and Tammy Brown are each duly elected Trustees and members of the corporate authorities of the Village of Dolton, as well as residents and taxpayers of the Village of Dolton. Plaintiff Alison Key is the elected Clerk for the Village of Dolton. Defendant Tiffany Henyard is the Mayor of the Village of Dolton. As Mayor, Henyard is the chief executive officer of the Village, and is charged with the responsibility of enforcing all ordinances,

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orders and resolutions enacted by the corporate authorities, as well as supervising the conduct of the officers of the Village, other than the Village Trustees.

Defendant Henyard has access, and controls all access, to the financial records of the Village of Dolton. Plaintiff Trustees require their own access to the Village's financial records in order to carry out their broad duties relating to the Village's finances. Defendant, however, has refused to allow the Plaintiff Trustees access to the Village's financial records, including but not limited to the Village's bank statements; payroll records; credit card statements; check registers; documents concerning the Village budget; and documents concerning tax revenue and tax levies. Defendants have also repeatedly ignored the Trustees' requests to review specific financial documents.

Further, despite checks requiring payment approval by the corporate authorities of the Village of Dolton as well the signatures of both the Defendant and Plaintiff Clerk Key, Defendant has issued checks from Village accounts that were not approved by the corporate authorities and containing only her signature in violation of State law and Village Code. Defendant Henyard has also refused to issue checks to pay invoices that were approved for payment by the corporate authorities. Further, Defendant Henyard has violated a Village Resolution by removing Clerk Key from the Village's bank accounts.

As a result of the Defendant's actions, Plaintiff Trustees are unable to perform their broad duties relating to the Village's finances, including the ability to review and approve all payments from Village accounts, to pass a budget, to know the amount contained in Village accounts and how such funds are being spent, and to cause payment on invoices approved by the corporate authorities. As a result of the Defendant's actions, Plaintiff Clerk is unable to access the Village's bank accounts and unable to exercise her duty to sign all warrants to ensure that they are lawfully

approved by the Village Board of Trustees. Thus, Plaintiffs were compelled to take legal action herein against the Defendant in order for the Plaintiffs to perform their statutorily required duties.

## II. APPLICABLE LAW

An injunction “is justified if necessary to maintain the status quo and prevent irreparable harm.” *Travelport, LP v. American Airlines, Inc.*, 2011 IL App (1st) 111761, ¶ 33 (1<sup>st</sup> Dist. 2011) (citing *Gold v. Ziff Communications Co.*, 196 Ill.App.3d 425, 432 (1<sup>st</sup> Dist. 1989)). A court may use an injunction to compel compliance with a contract, especially where the plaintiff seeks merely a continuation of the contract, not a creation of a new contractual relationship.” (*Id.* citing *Gold*, 196 Ill.App.3d at 432). A “party seeking a preliminary injunction or temporary restraining order must establish that it has a protectable right, that it will suffer irreparable harm if injunctive relief is not granted, that its remedy at law is inadequate, and that there is a likelihood of success on the merits.” *In re Estate of Wilson*, 373 Ill.App.3d 1066, 1075 (1<sup>st</sup> Dist. 2007).

“An applicant for a preliminary injunction need not make out a case which will entitle him to the ultimate relief he seeks, but need only raise a fair question as to the existence of the right claimed, making it appear advisable that the positions of the parties should remain the same until the court has an opportunity to consider the case on its merits.” *Cameron v. Bartels*, 214 Ill.App.3d 69, 73 (4<sup>th</sup> Dist. 1991).

“The decision to grant or deny a preliminary injunction rests within the sound discretion of the trial court, and, on review, the decision will not be disturbed absent abuse of discretion.” *Callis, Papa, Jackstadt & Halloran, P.C. v. Norfolk and Western Ry. Co.*, 195 Ill.2d 356, 366 (2001).

### III. ARGUMENT

#### A. The Plaintiffs have a Protectable Right to Perform their Statutory Duties.

Illinois courts have held that an elected municipal official's statutory powers and authority represent a protectable right. *Village of Westmont v. Lenihan*, 301 Ill. App. 3d 1050, 1059, 704 N.E.2d 891, 898 (2<sup>nd</sup> Dist. 1998) (mayor's appointment power was a clearly ascertained right deserving of protection).

1. Plaintiff Trustees require access to the Village's financial records and information to perform their duties and must approve all expenditures from Village accounts.

The Plaintiff Trustees have a protectable right to access the Village's financial records and information in order to perform their duties, including all duties relating to managing the finances of the Village, and approving all expenditures of the Village.

The Illinois Municipal Code imposes broad duties upon the Plaintiffs as Village Trustees with respect to controlling the Village finances. Section 8-1-1 states, "[t]he corporate authorities<sup>1</sup> may control the finances of the corporation." (65 ILCS 5/8-1-1). A majority of the corporate authorities must also approve any expenditure or appropriation of Village funds. (65 ILCS 5/3.1-40-40).

Plaintiff Trustees have the right to access the records of the Village as are needed to carry out their duties. See 1980 Op. Ill. Atty. Gen. S-1484, p. 4, citing *People ex rel. Better Broadcasting Council, Inc. v. Keane*, 17 Ill.App.3d 1090 (1973) ("Public officials must be able to gather a maximum of information and discharge their official duties . . ."). The Illinois Municipal Code further vests the Plaintiff Trustees with the power to inspect financial records of the Village:

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<sup>1</sup> The members of the Board of Trustees and the Defendant comprise the corporate authorities for the Village of Dolton. 65 ILCS 5/1-1-2.

65 ILCS 5/3.1-35-40. Treasurer; duties.

(a) The municipal treasurer shall receive all money belonging to the municipality and shall keep the treasurer's books and accounts in the manner prescribed by ordinance. **These books and accounts shall always be subject to the inspection of any member of the corporate authorities.** The municipality may, however, by ordinance designate a person or institution which, as bond trustee, shall receive from the county collector amounts payable to the municipality as taxes levied pursuant to a bond issuance.

...

Additionally, the Defendant has no independent power to issue or refuse to make payments without approval by the Village Board. Instead, all expenditures must first be approved by the Village Board, and if the Mayor does not veto the action, or the Board overrides the veto, the approval of the payment becomes effective. Section 3.1-40-45 of the Illinois Municipal Code states:

All resolutions and motions (i) that create any liability against a city, (ii) that provide for the expenditure or appropriation of its money, or (iii) to sell any city or school property, and all ordinances, passed by the city council shall be deposited with the city clerk. Except as provided in Articles 4 and 5 of this Code, if the mayor approves an ordinance or resolution, the mayor shall sign it. Those ordinances, resolutions, and motions which the mayor disapproves shall be returned to the city council, with the mayor's written objections, at the next regular meeting of the city council occurring not less than 5 days after their passage. The mayor may disapprove of any one or more sums appropriated in any ordinance, resolution, or motion making an appropriation, and, if so, the remainder shall be effective. However, the mayor may disapprove entirely of an ordinance, resolution, or motion making an appropriation. If the mayor fails to return any ordinance or any specified resolution or motion with his written objections within the designated time, it shall become effective despite the absence of the mayor's signature. (65 ILCS 5/3.1-40-45).

Section 1-5-4(B)(2) of the Dolton Village Code mirrors this language. (Ex. A).

Based on the foregoing, it is clear the Plaintiff Trustees' access to the Village's financial records and the right to approve all expenditures from Village funds are rights that are afforded protection under the law.

2. Plaintiff Clerk Key is required to be a signatory to all Village accounts and must sign all checks issued from Village accounts.

Upon approval by the Village Board as set forth above, Section 8-1-8 of the Illinois Municipal Code provides that the mayor and clerk sign the Village warrants:

All warrants drawn upon the municipal treasurer must be signed by the mayor or president and countersigned by the municipal clerk, or the city comptroller if there is one, stating the particular fund and the appropriation to which the warrant is chargeable, and the person to whom payable. No money shall be paid otherwise than upon such warrants so drawn, except as otherwise provided. (65 ILCS 5/8-1-8).

In May 2021 Resolution 21-009 was passed that stated (1) the Defendant and Clerk Key were the signatories for all city accounts, and any other prior signatories were removed from said accounts; and (2) after the Village Board approved payment, each check was required to be signed by both the Defendant and Clerk. (Ex. B). During 2021 and 2022, however, Defendant used a stamp containing the Clerk's signature without the Clerk's permission to issue checks for payments not approved by the Village Board. (Ex. F). In 2022, Defendant also issued checks containing only her signature for payments not approved by the Village Board. (Ex. G).

In an effort to curb these significant account abuses by the Mayor, and pursuant to its home rule powers, at a special board meeting on July 11, 2022 the Village Trustees passed Ordinance 22-04, which provided that the most senior Trustee (instead of the Mayor) and the Village Clerk will sign all warrants.<sup>2</sup> The Defendant filed suit against the Plaintiff Trustees seeking, in part, a declaratory judgment that the Ordinance amending the signatories on the Village's accounts was invalid. (*Henryard v. Village of Dolton Trustees*, 22 CH 8292, Circuit Court of Cook County, Ill.). The Court agreed with the Defendant, issuing an order on September 26, 2023, that declared the

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<sup>2</sup> The Village also amended this ordinance on December 14, 2022, but the amendment did not change the signatories on the Village warrants.

check signing ordinance invalid in violation of the Illinois Municipal Code and Constitution. (Ex.

C). The Court further stated with respect to the Defendant's authority to sign checks:

the signature power also serves as a check and balance insofar as the Mayor is the one empowered to sign all warrants, stating the particular fund and appropriation to which it is chargeable. No money shall be paid otherwise than the warrants she signs. By signing, she binds the Village. This is power indeed, and a form of government codified by statute. (*Id.*, p. 3).

Since the Court ruled Ordinance 22-04 was invalid, Resolution 21-009 is now again in effect, requiring the signatures of both the Defendant and Clerk on checks following approval by the Village Board. In accordance with the *Henyard* Court's reasoning set forth in the September 26, 2023 order quoted above, the Clerk is similarly empowered to sign all warrants, no warrants shall be paid other than the warrants she signs, her signature is a requirement to bind the Village, and this power is codified by statute.

**B. The Plaintiffs Will Suffer Irreparable Injury Without Injunctive Relief.**

“Once a protectable interest is established, irreparable injury is presumed if that interest is not protected.” *Cameron*, 214 Ill.App.3d at 73. See also *Arpac Corp. v. Murray*, 226 Ill.App.3d 65, 74 (1<sup>st</sup> Dist. 1992); *Donald McElroy, Inc. v. Delaney*, 72 Ill.App.3d 285, 295 (1<sup>st</sup> Dist. 1979). Illinois courts have held that usurping the powers of a branch of government results in irreparable harm to the governmental entity. *Village of Westmont v. Lenihan*, 301 Ill. App. 3d 1050, 1059 (2<sup>nd</sup> Dist. 1998).

In the present case, if injunctive relief is not granted, Defendant will continue to:

- a) deny the Plaintiff Trustees access to the financial records of the Village, which prevents them from exercising their statutory duties to control the Village finances;
- b) refuse to issue checks to pay expenses of the Village approved by the corporate authorities, thereby subjecting the Village to legal action for unpaid invoices;

c) use Village funds for expenses not approved by the corporate authorities, thereby financially harming the Village and its residents; and

d) deny the Plaintiff Clerk access to Village financial accounts and deny her the statutory right to sign checks to ensure they were lawfully approved by the corporate authorities.

Defendant's actions that prevent the Plaintiffs from performing their statutory duties and cause financial harm to the Village result in irreparable harm to the Plaintiff in their elected positions as well as in their capacities as residents and taxpayers of the Village. Moreover, an accounting is necessary to determine the current state of the Village finances, including but not limited to fund balances, outstanding debt, and information as to how Village funds have been spent.

**C. The Plaintiffs Do Not Have an Adequate Remedy At Law**

A plaintiff's remedy at law is inadequate when it is not clear, complete and efficient. *McArdle v. Rodriguez*, 277 Ill.App.3d 365, 377-78 (1<sup>st</sup> Dist. 1995). "Several courts have held that it is not necessary that a party seeking an injunction wait until an injury occurs before relief will be granted." *Gannett Outdoor of Chicago v. Baise*, 163 Ill.App.3d 717, 722 (1<sup>st</sup> Dist. 1987). Threat of harm is sufficient. *Id.*

As discussed above, the Plaintiff Trustees and Village Clerk will suffer harm if they cannot perform their statutory duties as elected officials, and no remedy at law is adequate to compensate the Plaintiffs.

Additionally, Defendant's actions in refusing to issue payments approved by the corporate authorities and issuing unlawful payments not approved by the corporate authorities results in financial harm to the Plaintiffs as residents and taxpayers. The Defendant's actions are taken in her official capacity as Mayor of the Village of Dolton. Any monetary judgment entered against her in



her official capacity is a debt to be paid by the Village, yet it is the Village and its residents that are suffering the financial effects of her improper spending. The Mayor is controlling the Village's finances and spending Village money at her sole discretion and as if they were her own personal funds. Clearly state law provides for a checks and balances system to protect public municipal funds and does not provide for unilateral control like the Defendant is exercising. Consequently, no remedy at law is adequate to compensate for Defendant's wrongful misconduct.

**D. The Plaintiffs Will Likely Prevail on the Merits.**

“In order to show a likelihood of success on the merits ... a party need raise only a fair question as to the existence of the right claimed.” *Arpac Corp. v. Murray*, 226 Ill.App.3d 65, 72.

In this case, as set forth above, the right and authority of (1) the Plaintiff Trustees to access all of the Village's financial records and information; (2) the Plaintiff Trustees to control the finances of the Village and approve or veto all expenditures of Village funds in accordance with state statute; and (3) the Plaintiff Clerk to access all Village financial accounts and sign all checks issued from Village accounts is straightforward and unequivocal.

**V. CONCLUSION**

The elements necessary for a temporary restraining order and a preliminary injunction clearly exist in this case.

WHEREFORE, Plaintiff Trustees respectfully pray this Honorable Court for relief as follows:

- a) directing the Mayor to immediately take all necessary action to add Clerk Key as a signatory on all Village accounts with Fifth Third Bank and any other banking institution, and remove all other individuals other than the Defendant;
- b) directing the Mayor to cause the Trustees to have access to view all monthly banking statements of all Village accounts, either via online access or providing printed or emailed copies every month;

- c) directing the Mayor to cause the Trustees to have access to My Viewpoint; or alternatively provide Trustees with printed or emailed copies of all invoices and receipts for every expenditure to be approved by the Board, at least 48 hours prior to the start of the Board meeting where the expenditure is listed on the agenda for approval;
- d) directing the Mayor to provide all statements for all Village credit cards from May, 2023 going forward;
- e) directing the Mayor to cause payroll reports to be provided to the Village Trustees on a monthly basis, and at least 48 hours prior to the start of the Board meeting where approval of payroll is listed on the agenda;
- f) directing the Mayor to cause the Trustees to receive monthly financial reports;
- g) enjoining the Mayor from issuing any check for payment from Village funds unless (1) payment been approved by the Village Board; and (2) the check contains the signature of both the Defendant and Clerk Key;
- h) directing the Mayor to sign checks for all invoices approved for payment by the corporate authorities and give them to the Clerk for her signature;
- i) directing that the Village undertake an accounting of all Village accounts, including all payments issued from said accounts since 2021; and
- j) granting all such further relief to the Plaintiffs that the Court deems just.

Respectfully submitted,

**HOUSE, NORWOOD, BELCHER,  
BROWN and KEY**

By: /s/ Michael J. McGrath  
One of their attorneys

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# EXHIBIT A

A) devote as much of his time to the duties of his office as a faithful and efficient discharge thereof may require. He shall perform all duties prescribed by law, including the Village ordinances, and shall take care that the laws and ordinances are faithfully executed.

B. Approval and Veto of Ordinances, Resolutions and Motions:

1. Ordinances: The President shall carefully inspect all ordinances passed by the Board of Trustees and fix his official signature to such as he may approve, and return them to the Village Clerk. Such ordinances as he shall not approve he shall return to the Board of Trustees with his objections thereto in writing, at the next regular meeting of the Board of Trustees occurring not less than five (5) days after the passage thereof. Such veto may extend to any one or more items or appropriations contained in any ordinance making appropriations, or to the entire ordinance. In case the veto only extends to a part of such ordinance, the residue thereof shall take effect and be in force. In case the President shall fail to return any ordinance with his objections thereto by the time aforesaid, he shall be deemed to have approved such ordinance and the same shall take effect accordingly.

2. Resolutions and Motions: All resolutions or motions:

a. Which create any liability against the Village, or

b. Which provide for the expenditure or appropriation of the Village's money, or

c. To sell any Village property

passed by the Board of Trustees, shall be deposited with the Village Clerk. If the Mayor approves of them, he shall sign them. Those of which he disapproves he shall return to the Board of Trustees, with his objections thereto in writing, at the next regular meeting of the Board of Trustees, occurring not less than five (5) days after the passage thereof. Such veto may extend to any one or more items or appropriations contained in any resolution and motion making appropriations, or to the entire resolution and motion. In case the veto only extends to a part of such resolution and motion, the residue thereof shall take effect and be in force. In case the President shall fail to return any resolution and motion with his objections thereto by the time aforesaid, he shall be deemed to have approved such resolution and motion and the same shall take effect accordingly.

C. Signature:

1. Sign Commissions: The President shall issue certificate of appointment to all persons appointed to office. The certificates shall be issued under the Corporate Seal to the Village Clerk and shall also be signed by the Village Clerk.

2. Sign Warrants: The President shall sign all warrants drawn upon the Village Treasurer. The warrant shall state the particular fund and the appropriation to

# EXHIBIT B

**VILLAGE OF DOLTON  
COOK COUNTY, ILLINOIS**

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**RESOLUTION NO. 21-009**

**A RESOLUTION AMENDING THE AUTHORIZED SIGNATORIES  
FOR THE CHECKING AND DEPOSITORY  
ACCOUNTS OF THE VILLAGE OF DOLTON**

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**ADOPTED BY THE  
VILLAGE BOARD  
VILLAGE OF DOLTON  
THIS 12th DAY OF MAY, 2021**

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Published in pamphlet form by authority of the Village Board of the Village of Dolton,  
Cook County, Illinois, this \_\_\_\_ day of \_\_\_\_\_, 2021.

**EXHIBIT B**

**RESOLUTION NO. 21-009**

WHEREAS, The Village of Dolton is an Illinois unit of local government organized and operating pursuant to the Illinois Municipal Code (“Code”); and

WHEREAS, following the 2021 consolidated elections, the Village desires to change the authorized signatories for the Village’s bank accounts (hereafter “Accounts”).

NOW THEREFORE BE IT RESOLVED by the Mayor and Village Board of the Village of Dolton, Cook County, Illinois, pursuant to and in accordance with its constitutional and statutory powers, THAT:

Section 1. AUTHORIZED SIGNERS.

The following persons are hereby authorized to be added as signatories for all city accounts:

Mayor Tiffany Henyard  
Village Clerk Alison Key

Any prior signatories or individuals authorized are hereby removed from the accounts and prior authorization is hereby revoked.

Section 2. NUMBER OF SIGNATURES REQUIRED/COMBINATION OF SIGNATURES.

After approval for payment by the Village Board, each check manual shall be signed by the Mayor and Village Clerk as indicated in Section 1 herein.

For checks that may process by electronically printing checks after approval by the Village Board, the checks may be issued bearing the signatures of the Mayor and Clerk in lieu of issuing a manual check requiring the signatures as specified above, provided the Mayor and Village Clerk provides consent and authorization.

Section 3. NOTICE TO FINANCIAL INSTITUTIONS.

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The Village Clerk will make sure that each financial institution which has any financial account for the Village of Dolton will be provided with a copy of this Resolution.

Section 4. SEVERABILITY.

If any section, subsection, sentence, clause, phrase of this Resolution is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereof.

Section 5. CONFLICT.

All prior Resolutions in conflict or inconsistent herewith are hereby expressly repealed only to the extent of such conflict or inconsistency.

Section 6. EFFECTIVE DATE.

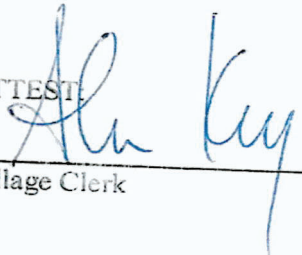
This Resolution shall be in full force and effect upon passage, approval and publication in pamphlet form as provided by law.

PASSED by the Mayor and Village Board of the Village of Dolton, Cook County, Illinois on the day of May 12, 2021 by the following roll call vote:

	YES	NO	ABSENT	PRESENT
Belcher	✓			
Brown	✓			
Holmes	✓			
House	✓			
Norwood	✓			
Steave	✓			
Mayor Henyard	✓			

Approved by the Mayor on this 12th day of May, 2021.

ATTEST

  
Village Clerk

  
Mayor



# EXHIBIT C

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, CHANCERY DIVISION**

MAYOR TIFFANY HENYARD,	)	
<i>Plaintiff,</i>	)	
	)	
v.	)	Case No. 22 CH 8292
	)	
VILLAGE OF DOLTON TRUSTEES, et al.,	)	Cal 6
<i>Defendant(s).</i>	)	

**SUMMARY JUDGMENT ORDER**

This matter comes on Plaintiff Mayor Tiffany Henyard’s Motion for Summary Judgment on Counts I and V of her Verified Amended Complaint for Declaratory Judgment. The court, having considered the briefs, pleadings, exhibits, and affidavits on file, and after conducting oral argument, GRANTS summary judgment in Mayor Heynard’s favor.

**BACKGROUND**

The Village of Dolton is a home rule municipality. Plaintiff Tiffany Henyard is the Mayor of the Village of Dolton. The Village of Dolton Board of Trustees is the Defendant(s). Mayor Heynard is the executive officer for the Village. The Board of Trustees is the legislative department. By law, each branch has separate duties, powers, and authority to do certain things.

Pursuant to 65 ILCS 5/8-1-8 and Village Code § 1-5-4(C)(2), the Mayor and the Municipal Clerk, in this case Alison Key, must sign warrants drawn upon the Village. The Village of Dolton is a home-rule municipality, meaning that, according to the Illinois Constitution, it “may exercise any power and perform any function pertaining to its government and affairs . . .” Ill. Const., Art. VII, § 6(a). Further, it “shall have the power subject to approval by referendum to adopt, alter, or repeal a form of government provided by law.” Ill. Const., Art. VII, § 6(f). It may not adopt, alter, or repeal a form of government by ordinance, which is what Mayor Heynard alleges the Board has done.

After a series of Special Board Meetings, the Board purported to pass Ordinance No. 22-04 (“the Check Signing Ordinance”), which would amend § 1-5-1(c), eliminating the Mayor’s authority to sign Village warrants and giving that power to the Village Clerk and “the most senior Trustee[.]” In the face of this Ordinance, Mayor Henyard filed this declaratory judgment action, asking the court to declare the Ordinance invalid and unenforceable.

The Board claims the Ordinance is necessary to curb Mayor Henyard’s alleged spending abuses and refusal to sign warrants approved by the Board. Mayor Henyard claims the ordinance is a “power grab” and impermissible attempt to strip the Mayor of her duties and violate the fundamental principles of democracy and separation of powers. Setting the reasons aside, the court agrees that the Board cannot disrupt the balance between the executive and legislative branches of government by way of ordinance, without a referendum.

**LEGAL STANDARD**

The elements for a declaratory judgment action are: “(1) the plaintiff has a tangible legal interest; (2) the defendant has an adverse interest; and (3) an actual controversy regarding that

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interest exists.” *Excelsior Garage Parking, Inc. v. 1250 N Dearborn Condominium Ass’n*, 2015 IL App (1st) 133781, ¶ 23. There is no real dispute that the elements for a declaratory judgment are met in this case. Mayor Henyard has a tangible legal interest in ensuring that the form of government is kept in place and in accordance with the law; the Board’s actions to pass the Check Signing Ordinance demonstrate an adverse interest; and an actual controversy exists as to the lawfulness of the Ordinance.

A motion for summary judgment shall be granted “if the pleadings, depositions, and admissions on filed, together with affidavits, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law.” 735 ILCS 5/2-1005(c). The court should view the facts in the light most favorable to the non-moving party. *Soderland Brothers, Inc. v. Carrier Corp.*, 278 Ill.App.3d 606, 613-14 (1st Dist. 1995). The purpose of summary judgment is not to try questions of fact, but to determine whether genuine issues of material fact exist. *Watkins v. Schmitt*, 172 Ill.2d 193, 203 (1996). At oral argument, the parties agreed, as does this court, that there is no genuine issue of material fact and that the questions raised in Counts I and V of the Complaint may be decided as a matter of law.

## ANALYSIS

### ***Count I: Declaratory Judgment – Check Signing Ordinance***

The overarching question in this case is whether the Check Signing Ordinance constitutes a change to the form of government. If so, it is invalid and may be done only by way of referendum. Although there is no case directly on point, the court is persuaded that a referendum is required based on *Dunne v. County of Cook*, 108 Ill.2d 161 (Ill. 1985), *Dunne v. County of Cook*, 164 Ill.App.3d 929 (1<sup>st</sup> Dist. 1987), and *Pechous v. Slawko*, 64 Ill.2d 576 (Ill. 1976).

A form of government as used in Ill. Const., Art. VII, § 6(f), includes the relative powers and functions of the chief executive officer and the legislative branch of a county or village. *Dunne*, 108 Ill.2d at 166. Where there is an augmentation of power or transfer of authority from the executive branch to the legislative branch or vice versa, this affects the form of government and relative powers of the two branches. *Id.*; see also *Kotte v. Normal Bd. of Fire*, 269 Ill.App.3d 517, 521 (4th Dist. 1995). Such a change must be done by referendum, not by ordinance.

In *Dunne I*, the Cook County Board passed a resolution that attempted to reduce the number of votes necessary to override the President’s veto. The Supreme Court held the Board’s resolution was unconstitutional because it altered the form of government without referendum approval.

In *Dunne II*, the Appellate Court invalidated two ordinances: one that gave commissioners the power to hire, supervise, and fire their own staff; and two that gave them the power to approve or disprove compensation of the staff. These efforts by the legislative branch to transfer these powers from the executive officer to itself were “unconstitutional attempts to alter the form of government and [were] therefore invalid.” *Dunne*, 164 Ill.App.3d at 933.

In *Pechous*, the Supreme Court invalidated an ordinance that attempted to transfer power from one branch to the other. Specifically, the Board enacted an ordinance that eliminated the office of village attorney from the list of officers to be appointed by the Village Manager. The Supreme Court held the Board’s encroachment upon the statutory authority of the Village Manager and attempt to appropriate the power to the Board itself, constituted a change in the form of government in violation of the Constitution. *Pechous*, 64 Ill.2d at 588. The Court also found that the ousting of the Village Manager from the liquor control commission was “invalid because it constitutes another

effort on the part of the members of the board of trustees of a village operating under the village manager to inject themselves into matters of administration . . .” *Id.* at 590.

The Board argues these cases are inapplicable because they each involve diminishing the executive officer’s discretionary authority, rather than a ministerial duty. In the Board’s view, there is no executive “power” in signing warrants. It is simply a ministerial act. As such, there is no upset to the balance between the two branches of government. The court disagrees.

First, there is no case law cited to support the proposition that a power conferred by statute ceases to be a power if no discretion is exercised. Second, 65 ILCS 5/8-1-8 and Village Code § 1-5-4(C)(2) deliberately give the power or authority of signing warrants to the executive branch, Mayor Henyard, not to the Board. This separation of powers is designed as an important check on the legislative branch, who otherwise enjoys the power of the purse. The Illinois Municipal Code is careful and deliberate in parsing out control of a government’s finances between the corporate authorities, including the mayor or president under 65 ILCS 5/8-1-8. The legislative branch may not encroach on this statutory authority to sign warrants without a referendum.

The court acknowledges that the real check and balance involving Village finances is at the veto stage, which is key in defining the fundamental relationship between the Board and the Mayor. However, the signature power also serves as a check and balance insofar as the Mayor is the one empowered to sign all warrants, stating the particular fund and appropriation to which it is chargeable. No money shall be paid otherwise than the warrants she signs. By signing, she binds the Village. This is power indeed, and a form of government codified by statute.

If, as alleged, Mayor Henyard is not doing her duty, the right of mandamus perhaps will lie. But the remedy is not for the Board to exercise self-help and enact an ordinance to strip the Mayor of her statutory authority to sign warrants and state the particular fund and the appropriation to which the warrant is chargeable.

The court is not persuaded by the Board’s argument that the power to sign warrants is lesser than the powers stripped away in *Pechous* and *Dunne*. Yet, even if it is, it is still a clear delineation of powers between the two branches of government. Stripping one branch of its power or authority to act and giving it to the other is a shift in balance. This amounts to a change in form of government no matter if the power is discretionary or ministerial.

Notably, the Check Signing Ordinance does not just strip the Mayor of her power to sign warrants, but it vests the power in the legislative branch. However, both the Municipal Code and the Village Code only allow the Village Board to “perform such duties and have such powers as may be delegated by statute to it.” Village Code § 1-6-4(A); *see also* 65 ILCS 3.1-45-5. The Board cannot delegate a duty or power unto itself that is not provided by statute. Yet, this is precisely what the Ordinance purports to do.

The fact the Village is a home-rule unit of government is of no moment. While home-rule units of government may legislate their own local matters, their powers are not unbridled. They may not change the basic nature of government without referendum approval. *Pechous*, 64 Ill.2d at 581-82.

The Board’s reliance on *Allen v. County of Cook*, 65 Ill.2d 281 (1976), is misplaced. In *Allen*, the Board enacted an ordinance to supersede appropriation statute and change the number of votes needed to appropriate funds from two-thirds to a simple majority. This was not a change in the form of government because it did not change the method of electing Board members or the number of members elected, all within the same legislative branch. Here, however, the Check

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Signing Ordinance does change the form of government by shifting powers between two different branches. *Dunne II* distinguishes *Allen* on this same basis, and so must the court. See *Dunne*, 164 Ill.App.3d at 934.

In sum, the court finds the change of power or transfer of authority to sign warrants from Mayor Henyard to the Board directly affects the form of government and relative powers of the two branches. Whether the authority is ministerial or not, it is still a form of power and authorization vested in Mayor Henyard pursuant to statute. Under *Dunne* and *Pechous*, such power or authority may not be transferred to the Board by ordinance without referendum approval. "Because the relative powers of the county board and chief executive are affected, a change in the form of government has taken place." *Dunne*, 164 Ill.App.3d at 935. The court declares the Checking Signing Ordinance invalid and, therefore, grants summary judgment to Mayor Henyard on Count I.

***Count V: Injunction***

Based on the holding above, the court also grants summary judgment for Mayor Henyard on Count V. The elements for a permanent injunction to prevent enforcement of the unlawful Check Writing Ordinance have been met and Mayor Henyard is entitled to judgment as a matter of law on Count V.

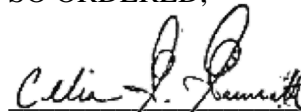
IT IS ORDERED:

1. Summary judgment is granted in favor of Plaintiff Mayor Henyard and against the Village Board Defendants on Counts I and V of the Verified Amended Complaint.
2. The court declares the Check Signing Ordinance of July 11, 2022, invalid in violation of the Illinois Municipal Code and Constitution, and the Proposed Ordinance in the December 14, 2022 Agenda amending the signature requirements on warrants is invalid in violation of the Illinois Municipal Code and Constitution.
3. The Clerk shall not certify the Ordinances, and all steps shall be taken to ensure the form of government remains unchanged by the purported Ordinances and that relevant financial institutions be notified of this decision.
4. This Order is without prejudice to an attempt to pass the same or similar law by way of a referendum.
5. Status on the remaining Counts of the Verified Amended Complaint is set for October 17, 2023 at 9:15 AM via Zoom.
6. The previously set date of December 6, 2023 is stricken.

Judge Celia G. Gamrath

SO ORDERED,

SEP 26 2023  
Circuit Court-2031

  
\_\_\_\_\_  
Judge Celia G. Gamrath

Calendar 6 Contact Information:  
Chambers Phone: 312.603.4890  
Email: ccc.chancerycalendar6@cookcountyil.gov  
Zoom: ID - 928 4730 2982  
Password - 411367

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# EXHIBIT F

---

**From:** Alison Key <akey@vodolton.org>

**Sent:** Tuesday, March 8, 2022 3:59 PM

**To:** Tiffany Henyard <thenyard@vodolton.org>; Keith Freeman <kfreeman@vodolton.org>; Janice Johnson <jjohnson@vodolton.org>; Tanjnique Miller <tmiller@vodolton.org>

**Cc:** Aris Montgomery <amontgomery@vodolton.org>; Jason House <jhouse@vodolton.org>; Kiana L. Belcher <kbelcher@vodolton.org>; Edward Steave <esteave@vodolton.org>; Brittney Norwood <bnorwood@vodolton.org>; Tammie Brown <tbrown@vodolton.org>; Andrew Holmes <aholmes@vodolton.org>; mmcgrath@osmf.com <mmcgrath@osmf.com>; James Vasselli <vasselli@dlglawgroup.com>

**Subject:** Signature on Checks

As mentioned before in the attached memorandum dated September 22, 2021, all bills payable by the Village must be first submitted to the **President and Board of Trustees for approval and vote. I did/do not authorize my signature to be utilized if said expenditures have NOT been approved by the Board of Trustees.**

**Effective immediately,** do not stamp my signature on any checks that have not been presented to me or the board of trustees for approval. I am requesting that the dual signature

**EXHIBIT F**

stamp be destroyed and individual stamps be purchased for myself and the Mayor.

Please feel free to contact me should you have any questions or concerns.

**ALISON KEY**

**CLERK, VILLAGE OF DOLTON**

**14122 DR. MARTIN LUTHER KING DRIVE**

**DOLTON, ILLINOIS 60419**

**EMAIL: AKEY@VODOLTON.ORG**

**OFFICE PHONE: (708)201-3295**



---

**From:** Alison Key

**Sent:** Wednesday, September 22, 2021 12:23 PM

**To:** Jason House <jhouse@vodolton.org>; Edward Steave <esteave@vodolton.org>; Andrew Holmes <aholmes@vodolton.org>; Kiana L. Belcher <kbelcher@vodolton.org>; Brittney Norwood <bnorwood@vodolton.org>; Tammie Brown <tbrown@vodolton.org>; Tiffany Henyard <thenyard@vodolton.org>

**Cc:** Dorothy Brown <dbrown@vodolton.org>; Raines, ShawnTe <sraines@ancelglink.com>; James Vasselli <vasselli@dlglawgroup.com>; mmcgrath@osmf.com <mmcgrath@osmf.com>

**Subject:** Signature

***Alison Key***

***Clerk - Village of Dolton***

***14122 Martin Luther King Jr. Dr.***

***Dolton, Illinois 60419***

***Email: akey@vodolton.org***

***Office:(708) 201-3295***





# VILLAGE OF DOLTON

Tiffany A. Henyard.....Mayor  
Alison Key.....Village Clerk

## TRUSTEES

Kiana L. Belcher	Tammie Brown	Andrew Holmes
Jason House	Brittney Norwood	Edward Steave

DATE: September 22, 2021

TO: Mayor Henyard, Trustee Jason House, Trustee Andrew Holmes, Trustee Ed, Steave, Trustee Brittany Norwood, Trustee Kiana Belcher and Trustee Tammie Brown.

CC: Village Administrator Brown, Attorney ShawnTe Raines, James Vasselli

As the Village Clerk I am responsible for countersigning all warrants for the payment of bills, salaries, or any other purpose. (§1-10-5). However, all bills payable by the Village must be first submitted to the President and Board of Trustees for approval and vote. (§1-10-5; §1-6-8; 65 ILCS 5/3.1-40-40). Therefore, I cannot countersign a warrant for expenditure of Village monies if said expenditure has not been approved by the Board of Trustees.

Let me know if you have any questions or concerns.

Sincerely,

Alison Key  
Village of Dolton Clerk

# EXHIBIT G

# Oakk Construction Co., Inc

Date: 26-Sep-22

Roofing

INVOICE

1422SDOLTON

Oakk Construction Co., Inc 7742 W. 61st Place Summit IL, 60501 (708) 594-9363

<b>Contractor:</b>	Hackett Shealy 14225 Woodlawn Dolton IL, 60419 (708) 201-6336	<b>Est. To:</b>	The Village of Dolton 14122 Chicago Rd Dolton IL, 60419
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<b>Project ID</b>	<b>Contractor</b>	<b>Date of Request</b>	<b>Start Date</b>	<b>Completion Date</b>
1422SDOLTON	Oakk Construction Co., Inc	26-Sep-22		23-Sep-22

<b>Location</b>	<b>Task</b>	<b>Quantity</b>	<b>Unit Price</b>	<b>Labour</b>	<b>Estimated Price</b>
Architectural					
Roof TL	Re-roof over (1) layer over existing shingles	1	\$3,000.00	Supervisor: OAKK	\$5,000.00

<b>Project:</b>	1422SDOLTON	<b>Architectural Class Total</b>	
<b>Application ID</b>		<b>Materials</b>	\$3,000.00
<b>Manufacture</b>		<b>Labour</b>	\$2,000.00
<b>Model</b>		<b>Total</b>	\$5,000.00
<b>Serial Number</b>			

# Oakk Construction Co., Inc

Date: 26-Sep-22

Roofing

INVOICE

14613DOLTON

Oakk Construction Co., Inc 7742 W. 61st Place Summit IL, 60501 (708) 594-9363

Invoice

**Customer:** Henderson Searcy  
14613 Michigan  
Dolton IL 60419  
(812) 262-0042

**Bill To:** The Village of Dolton  
14122 Chicago Rd  
Dolton IL, 60419

Project ID	Contractor	Date of Request	Start Date	Completed Date
14613DOLTON	Oakk Construction Co., Inc	26-Sep-22		23-Sep-22

Location	Task	Quantity	Unit Price	Labor	Extended Price
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Architectural Supervisor: OAKK

Re-R-1L	Re-roof over (1) layer over existing shingles	1	\$3,000.00	\$2,000.00	\$5,000.00
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Architectural Class Total

Materials	\$3,000.00
Labor	\$2,000.00
<b>Total</b>	<b>\$5,000.00</b>

Project: 14613DOLTON

Application ID

Manufacture

Model

Serial Number

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Sequence Number: 71401165 Paid Date: 10/11/2022

83615



**VILLAGE OF DOLTON**  
14122 MARTIN LUTHER KING JR. DR  
DOLTON, ILLINOIS 60419

FIFTH THIRD BANK  
70-2390/719

DATE  
10/07/2022

AMOUNT  
\$ 2,000.00

\*\*\*Two Thousand and 00/100 Dollars\*\*\*

PAY  
TO THE  
ORDER  
OF

OAKK CONSTRUCTION CO. INC.  
7742 W. 61ST PL.  
SUMMIT IL 60501

  
AUTHORIZED SIGNATURE

FILED DATE: 10/2022 12:24 PM 20220110201

Photo Safe Deposit®  
Details on Back.



Sequence Number: 71401165 Paid Date: 10/11/2022

PAY TO THE ORDER OF  
FOREST PARK NATL BANK  
FOREST PARK, IL 60130  
>071921668<  
FOR DEPOSIT ONLY  
OAKK. CONSTRUCTION CO.  
171631900



FILED DATE: 1/3/2024 12:21 PM 2023CH10204

Sequence Number: 71401164 Paid Date: 10/11/2022

83616



**VILLAGE OF DOLTON**  
14122 MARTIN LUTHER KING JR. DR  
DOLTON, ILLINOIS 60419

FIFTH THIRD BANK  
70-2390/719

\*\*\*Five Thousand and 00/100 Dollars\*\*\*

DATE	AMOUNT
10/07/2022	\$ 5,000.00

PAY  
TO THE  
ORDER  
OF

**OAKK CONSTRUCTION CO. INC.**  
7742 W. 61ST PL.  
SUMMIT IL 60501

*Clifford Henry*  
\_\_\_\_\_  
AUTHORIZED SIGNATURE

FILED DATE: 10/2022 12:24 PM 20220110204

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Sequence Number: 71401164 Paid Date: 10/11/2022

FILED DATE: 1/3/2024 12:21 PM 2023CH10204



PAY TO THE ORDER OF  
FOREST PARK NATL BANK  
FOREST PARK, IL 60130  
>071921668<  
FOR DEPOSIT ONLY  
OAK K-CONSTRUCTION CO.  
171631900  
ELECTRONIC DEPOSIT



Sequence Number: 71401163 Paid Date: 10/11/2022

83617



**VILLAGE OF DOLTON**  
14122 MARTIN LUTHER KING JR. DR  
DOLTON, ILLINOIS 60419

FIFTH THIRD BANK  
70-2390/719

DATE  
**10/07/2022**

AMOUNT  
**\$ 5,000.00**

\*\*\*Five Thousand and 00/100 Dollars\*\*\*

PAY  
TO THE  
ORDER  
OF

**OAKK CONSTRUCTION CO. INC.**  
7742 W. 61ST PL.  
SUMMIT IL 60501

*Christina Hengeman*  
AUTHORIZED SIGNATURE

FILED DATE: 10/20/2022 12:24 PM 2022GH140204

Photo Safe Deposit®

Details on Back.

Sequence Number: 71401163 Paid Date: 10/11/2022

PAY TO THE ORDER OF  
FOREST PARK NATL BANK  
FOREST PARK, IL 60130  
#071921668<  
FOR DEPOSIT ONLY  
OAKK CONSTRUCTION CO.  
171631900  
LIB 10X104 CONSTRUCTION DEPOSIT  
THE FIRST NATIONAL BANK OF CHICAGO



FILED DATE: 1/3/2024 12:21 PM 2023CH10204