

CITY OF CHARLOTTESVILLE

"A World Class City"

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April 17, 2017

Hand-Delivered

Llezelle Agustin Dugger
Clerk of Court
Charlottesville Circuit Court
315 East High Street
Charlottesville, VA 22902

Re: Payne, et al. v. City of Charlottesville, Virginia, et al.,
Case No. CL17-145

Dear Llezelle:

Enclosed for filing please find the Defendants' Demurrer to the Complaint and Answer to Plaintiffs' Motion for Temporary Injunction. Thank you in advance for your assistance.

Sincerely,

S. Craig Brown
City Attorney

Enclosures (2)

cc: City Council
Maurice Jones
Ralph E. Main, Jr.
S. Braxton Puryear
Elliot Harding

VIRGINIA: IN THE CIRCUIT COURT OF THE CITY OF CHARLOTTESVILLE

FREDERICK W. PAYNE, <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	
v.)	Case No. CL17-145
)	
CITY OF CHARLOTTESVILLE, VIRGINIA, <i>et al.</i> ,)	
)	
Defendants.)	

ANSWER TO PLAINTIFFS' MOTION FOR TEMPORARY INJUNCTION

Defendants City of Charlottesville, Virginia and Charlottesville City Council, and individual Defendants Signer, Bellamy, Fenwick, Szakos and Galvin, by counsel, for their Answer to the Motion for Temporary Injunction filed in this action hereby state as follows:

1. Defendants deny that the Plaintiffs have no adequate remedy at law, as alleged in paragraph (1) of Plaintiffs' Motion. Plaintiffs have alleged a violation of Virginia Code § 15.2-1812. While Defendants have denied that allegation, a remedy for a violation of that statute is provided in Virginia Code § 15.2-1812.1.

2. Defendants deny that the Plaintiffs and the public will suffer irreparable harm if the Temporary Injunction is not granted, as alleged in paragraph (2) of Plaintiffs' Motion. Plaintiffs have not identified any imminent action by the Defendants which poses a threat of irreparable harm to the Plaintiffs.

3. Defendants deny that the harm to be suffered by the Defendants, if an injunction is granted, does not outweigh the harm to be suffered by the Plaintiffs if the Motion for a Temporary Injunction is denied, as alleged in paragraph (3) of Plaintiffs' Motion. If an

injunction is granted, the Court would be temporarily suspending presumptively valid legislative action taken by the elected representatives of the citizens of Charlottesville, which would far outweigh any alleged harm to the Plaintiffs from the denial of an injunction.

4. Defendants deny that the balancing of the equities between Plaintiffs and the Defendants weighs in Plaintiffs' favor, as alleged in paragraph (4) of Plaintiffs' Motion, and further allege that the balancing of the equities is the same factor as identified in paragraph (3) of Plaintiffs' Motion.

5. Defendants deny that the Plaintiffs will be able to demonstrate a substantial likelihood of succeeding on the merits of its Complaint, as alleged in paragraph (5) of Plaintiffs' Motion, in that the only known court decision on Plaintiffs' statutory claim is adverse to the Plaintiffs on a question of law.

WHEREFORE, Defendants City of Charlottesville, Virginia and Charlottesville City Council, and individual Defendants Signer, Bellamy, Fenwick, Szakos and Galvin deny that the Plaintiffs are entitled to a temporary injunction as requested, and move that their Motion be denied and dismissed, and that the Defendants recover of Plaintiffs their costs expended in replying to this Motion.

Respectfully submitted,

DEFENDANTS CITY OF CHARLOTTESVILLE,
VIRGINIA, *et al.*

By counsel:

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S. Craig Brown (VSB # 19286)

City Attorney

Lisa Robertson (VSB # 32486)

Chief Deputy City Attorney

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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Answer to the Plaintiffs' Motion for Temporary Injunction was mailed first class postage prepaid this 17th day of April, 2017 to the following counsel for Plaintiffs:

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