

VIRGINIA: IN THE CIRCUIT COURT OF THE CITY OF CHARLOTTESVILLE

FREDERICK W. PAYNE, *et al.*,
Plaintiffs,

v.

Case No. CL 17 - 145

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

ORDER: PERMANENT INJUNCTION

This cause having come on for trial before this Court on September 11, 12, and 13, 2019, Plaintiffs having appeared by Counsel, Ralph E. Main, Jr., and S. Braxton Puryear, and Defendants City of Charlottesville and Charlottesville City Council having appeared by Counsel, Lisa Robertson and Richard H. Milnor, and the Court having received evidence including exhibits and testimony and having heard argument, and the Court having stated its ruling as to the Permanent Injunction on the bench, the Court doth

Therefore, **ADJUDGE, ORDER, AND DECREE** that the Court's previous rulings interpreting Va. Code §§15.2-1812, 1812.1 and 18.2-137 and the Court's previous grant of temporary injunctive relief are merged with and incorporated into this permanent injunction order; including specifically the Court's May 2, 2017 ruling from the bench and Order of June 6, 2017 (granting temporary injunction that prohibits *inter alia* "removing or selling the statue of General Robert E. Lee from Lee Park"); the Court's October 3, 2017 Opinion letter and December 6, 2017 Order (confirming *inter alia* the applicability of Va. Code §§15.2-1812, 1812.1 and 18.2-137 to the Lee statue); the Court's October 24, 2017 Order and second December 6, 2017 Order (expanding the applicability of the injunction to "apply, *mutatis mutandis*, to the Thomas J. 'Stonewall' Jackson statue located in Jackson Park;" and extending duration until the "entry by

this Court of a final order in this case"); the Court's February 23, 2018 letter opinion and June 19, 2018 Order (finding tarps were a "disturbance or interference with" both the Lee and Jackson statues, and ordering their removal); the Court's June 13, 2018 letter opinion and November 9, 2018 Order (stating tarps were an encroachment that "interfered with [the statues] and blocked their view"); the Court's November 17, 2018 letter opinion and January 8, 2019 Order (stating changes within parks permitted "unless such involves screening, concealment, obstruction, encroachment, or interference with the statues," or "obscures or interferes with" the statues); the Court's April 25, 2019 Opinion letter and July 3, 2019 Order (granting to Plaintiffs summary judgment that the Confederate General Lee and Confederate Lt. General Jackson statues are each "a monument or memorial to a veteran of the Civil War, or the War Between the States," one of the "wars listed in Va. Code §15.2-1812"); and the Court's rulings from the bench as to the Permanent Injunction and the Declaratory Judgment, and Damages on September 11, 12, and 13 2019 (interpreting what is allowed or prohibited under Va. Code §§15.2-1812, 1812.1 and 18.2-137, including the proscription on interfering with the public's right to view a monument); and it is,

Further, **ADJUDGED, ORDERED, AND DECREED** that Plaintiffs' summary judgment motion for a permanent injunction be, and hereby is, **GRANTED**, and the Court doth specifically **ADJUDGE, ORDER** and **DECREE** that Defendants City of Charlottesville and Charlottesville City Council are hereby permanently enjoined and barred from disturbing, interfering with, violating, or encroaching upon, the monuments of Confederate General Robert E. Lee, located in what is now known as Market Street Park (formerly Lee Park) and of Confederate Lt. Gen. Thomas Jonathan "Stonewall" Jackson, located in what is now known as Court Square

Park, formerly Jackson Park, at issue in this matter, this injunction to include removal of, damaging or defacing, violating or encroaching upon the monuments at issue.


The Clerk will forward certified copies of this Order to Counsel.

It is so Ordered:

ENTER: *Audrey E. Meoy*

DATE: 10/15/19

WE ASK FOR THIS:




Ralph E. Main, Jr., VSB # 13320
Dygart, Wright, Hobbs & Heilberg
415 4th Street, NE
Charlottesville, Virginia 22902
(434) 979-5515

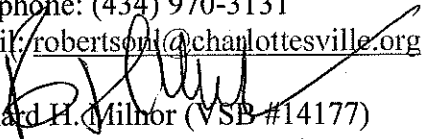
S. Braxton Puryear, VSB #30734
Attorney at Law
121 South Main Street
Post Office Box 291
Madison, Virginia 22727
(540) 948-4444

Counsel for Plaintiffs

The preceding “**Order: Permanent Injunction**” is Seen and Agreed as to the Court’s findings, rulings, orders and decrees favorable to the Defendants, but is **SEEN AND OBJECTED TO** for the reasons set forth following below:

By:  _____

John C. Blair, City Attorney (VSB#65274)
Lisa A. Robertson, Chief Deputy City Attorney (VSB#32486)
605 East Main St., P.O. Box 911
Charlottesville, VA 22902
Telephone: (434) 970-3131
Email: robertsonl@charlottesville.org


Richard H. Milnor (VSB #14177)
Zunka, Milnor & Carter, Ltd.
P.O. Box 1567 (414 Park Street)
Charlottesville, Virginia 22902
Tel. (434) 977-0191
Email: rmilnor@zmc-law.com

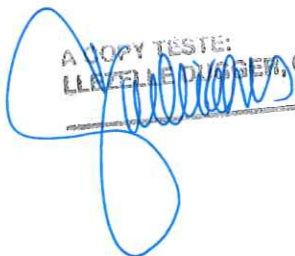
Counsel for Defendants City of Charlottesville and Charlottesville City Council (entity)

**DEFENDANTS’ OBJECTIONS AND EXCEPTIONS TO
ORDER: PERMANENT INJUNCTION**

In accordance with Va. Code §8.01-384, *Chawla v. Burger Busters*, 255 Va. 616, 622 (1998):

- (1) The City of Charlottesville and Charlottesville City Council (Def’s) object and take exception to the Court’s grant of permanent injunctive relief against Def’s. Def’s are not subject to this action for injunctive relief, because (i) Va. Code §15.2-1812 and §15.2-1812.1 do not apply in the circumstances of this case, and (ii) Def’s have sovereign immunity from this suit for injunctive relief—all, as more specifically set forth within:
 - a. Def’s 4/17/2017 Demurrer and the Brief (7/10/2017) filed in Support of Def’s Demurrer, the oral arguments presented in support of the Demurrer, and Def’s exceptions/objections noted within the Court’s Orders entered 10/4/2017 and 12/6/2017 (said Demurrer, Brief and arguments having been incorporated into Def’s 5/6/2019 Plea in Bar, Demurrer, Answer, Affirmative and other Defenses to Plaintiffs’ Revised Second Amended Complaint (“RSAC Response”));
 - b. Def’s 11/1/2017 Demurrer and Plea in Bar (PIB) to the Amended Complaint, Def’s 2/20/2018 Brief in Support of Def’s Demurrer to the Amended Complaint, Def’s 3/9/2018 Brief in Support of the PIB to the Amended Complaint, the oral arguments presented in support of the Demurrer and PIB, and Def’s exceptions/objections noted within the Court’s Orders entered 6/19/2018 and 11/9/2018 (said Demurrer, PIB, Briefs and arguments having been incorporated into Def’s 5/6/2019 RSAC Response);

- c. Def's 12/10/2018 Notice and Cross-Motion for Partial Summary Judgment, and their 8/28/2019 "Motion for Reconsideration of the Court's Ruling On Whether or Not the City did "Authorize and Permit" the Statues to be Erected as any of the Categories of Monuments Referenced in Va. Code §15.2-1812"; and
 - d. Def's 7/24/2019 Notice and Cross-Motion for Summary Judgment on Count I of the RSAC, (*ref.* Cross-Motion sections (4) and (6)); and Def's 7/24/2019 Notice and Cross-Motion for Summary Judgment on Counts II and III of the RSAC, (*ref.* Cross-Motion sections (1), (3), and (4)); and Def's exceptions/ objections noted within the Court's Order entered 9/11/2019.
- (2) Def's object and take exception to any rewording, paraphrasing or re-characterization of the Court's prior letter opinions and Orders referred to within the second paragraph of this Order (beginning on p. 1, continuing on p. 2). (*See also* Def's similar objection to the Order entered by the Court on 9/11/2019).
- (3) The provisions of Va. Code §18.2-137 have no applicability to this civil case, and should not be referenced in the Order as having been interpreted or applied by the Court.

A COPY TESTE:
LLEVELLE D. WEN, CLERK

_____, DEP. CLERK