

**IN THE CIRCUIT COURT FOR THE CITY OF CHARLOTTESVILLE, VIRGINIA**

FREDERICK W. PAYNE, JOHN BOSLEY )  
YELLOTT, JR., et al., )  
Plaintiffs, )  
 )  
v. )  
 )  
CITY OF CHARLOTTESVILLE, )  
VIRGINIA, CHARLOTTESVILLE CITY )  
COUNCIL, et al., )  
Defendants. )

Case No. CL17-000145-000

**PLEA IN BAR**

COME NOW your Defendants, by counsel, and submit this Plea in Bar to the Amended Complaint filed by the Plaintiffs in this action, as follows:

1. Plaintiffs' claims for monetary damages under Virginia Code § 15.2-1812.1(A) and (B) are barred by the ruling set forth within ¶ 3 of the Court's October 4, 2017 Order, because the Amended Complaint contains no allegations different than the original Complaint in relation to such claims.

2. Count Three of the Amended Complaint is barred by the ruling set forth within ¶ 1 of the Court's October 4, 2017 Order, because the Amended Complaint contains no allegations different than the original Complaint in relation to Count III.

3. Count Three of the Amended Complaint (as to the re-naming of Jackson Park) is barred because the terms of the gift of Jackson [now Justice] Park by Paul Goodloe McIntire to the City do not require that the park be named Jackson Park, or that it must remain so in perpetuity.

11/1/17 FILED 1:15  
(Date & Time)

City of Charlottesville  
Circuit Court Clerk's Office  
Liezelle A. Dugger, Clerk  
By [Signature]  
Deputy Clerk

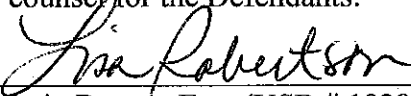
4. The Defendants City of Charlottesville and the Charlottesville City Council are immune from suit pursuant to the common law doctrine of sovereign/ governmental immunity.

5. Defendants Atri Michael Signer, Wesley Jomont Bellamy, Robert Francis Fenwick, Jr., Kristin Layng Szakos and Kathleen Mary Galvin are each immune from suit pursuant to the common law doctrines of legislative immunity and/or official immunity, and the statutory provisions of Virginia Code § 15.2-1405.

5. The allegations set forth within the Amended Complaint, as a matter of law, do not constitute intentional or willful misconduct or gross negligence.

Respectfully submitted,  
**CITY OF CHARLOTTESVILLE, VIRGINIA,  
CHARLOTTESVILLE CITY COUNCIL, et al.,**

By counsel for the Defendants:



S. Craig Brown, Esq. (VSB # 19286), City Attorney

Lisa A. Robertson, Esq. (VSB# 32486)

Chief Deputy City Attorney

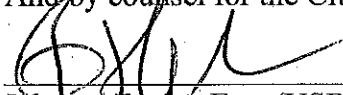
P.O. Box 911, 605 E. Main Street, 2<sup>nd</sup> Floor (City Hall)

Charlottesville, Virginia 22902

Tel. (434)970-3131

Email: [brownc@charlottesville.org](mailto:brownc@charlottesville.org) ; [robertsonl@charlottesville.org](mailto:robertsonl@charlottesville.org)

And by counsel for the City of Charlottesville, Virginia and the Charlottesville City Council:



John W. Zunka, Esq. (VSB # 14368)

Richard H. Milnor (VSB #14177)

Ashleigh M. Pivonka, Esq. (VSB# 89492)

Zunka, Milnor & Carter, Ltd.

P.O. Box 1567, 414 Park Street

Charlottesville, Virginia 22902

Tel. (434) 977-0191

Facsimile: (434) 977-0198

**CERTIFICATE OF SERVICE**

I certify that on the 15<sup>th</sup> day of November, 2017, pursuant to the provisions of Rule 1:12 of the Rules of the Supreme Court of Virginia, on or before the date of filing I served a true copy of the foregoing document, by electronic mail (where an e-mail address is indicated below) and also by U.S. Mail, first-class, postage pre-paid, to counsel of record, as follows:

Ralph E. Main, Jr., Esq.  
[rmain@charlottesvillelegal.com](mailto:rmain@charlottesvillelegal.com)  
Dygert, Wright, Hobbs & Heilberg  
415 4<sup>th</sup> St., N.E.  
Charlottesville, VA 22902

S. Braxton Puryear, Esq.  
P.O. Box 291, 121 S. Main St.  
Madison, VA 22727  
[sbpuryear@verizon.net](mailto:sbpuryear@verizon.net)

Elliott Harding, Esq.  
3373 Worth Crossing  
Charlottesville, VA 22911

Signature:   
Counsel for Defendants