

FILED

IN THE COURT OF COMMON PLEAS

SEP 07 2022

PROBATE DIVISION

LAKE COUNTY, OHIO

JUDGE MARK BARTOLOTTA  
PROBATE COURT  
LAKE COUNTY, OHIO

1) Theodore Dellas  
33730 Rosewood Trail  
Willoughby Hills, OH 44094

CASE NO. 2022- CW 1174

2) Nancy E. Fellows  
2812 Fowler Drive  
Willoughby Hills, OH 44094

JUDGE MARK BARTOLOTTA

3) Barbara Lynne Blazy  
2616 SOM Center Road  
Willoughby Hills, OH 44094

COMPLAINT PURSUANT  
TO OHIO REVISED CODE 733.72

4) Linda J. Fulton  
2990 Marcum Blvd.  
Willoughby Hills, OH 44092

5) Dale H. Fellows  
2812 Fowler Drive  
Willoughby Hills, OH 44094

JURY DEMAND ENDORSED HEREON

Complainants/Petitioners

vs.

Christopher Hallum  
2937 Lamplight Lane

Willoughby Hills, OH 44094

and

Julie Belich  
37200 Chardon Rd.  
Willoughby Hills, Ohio 44094

and

Michael Kline  
38531 Dodds Landing Dr.  
Willoughby Hills, Ohio 44094

and

Tanya Taylor-Draper  
2909 Stratford Way  
Willoughby Hills, OH 44092

and

Joseph Jarmuszkiewicz  
31301 Eddy Rd.  
Willoughby Hills, OH 44094

and

Daniel Knecht  
29341 Eddy Rd.  
Willoughby Hills, OH 44092

and

G. Andrew Gardner  
39123 Dodds Hills Dr.  
Willoughby Hills, Ohio

and

Michael C. Lucas  
37265 Euclid Avenue  
Willoughby, Ohio 44094

and

John Lillich  
37830 Milann Dr.  
Willoughby Hills, Ohio 44094

and

Thomas Elliott  
2971 Erich Dr.  
Willoughby Hills, Ohio 44092

and

Ronald Lewis  
2594 Som Center Rd.  
Willoughby Hills, Ohio 44094

Respondents

Now come the Petitioners/Plaintiffs and, pursuant to Ohio Revised Code 733.72, state as follows:

#### PARTIES

1. Petitioners one through five are electors in the City of Willoughby Hills, County of Lake, State of Ohio (the "Petitioners")
2. The City of Willoughby Hills (the "City") is a municipal corporation located in Lake County, Ohio, governed by the laws of the State of Ohio and a municipal charter and ordinances.
3. Christopher Hallum is a Councilman for the City of Willoughby Hills, whose term commenced on January 1, 2020 and ends on December 31, 2023.
4. Respondent Hallum is a real estate agent in Ohio.
5. Michael Kline is a Councilman for the City of Willoughby Hills, whose term commenced on January 1, 2020 and ends on December 31, 2023.

6. Tanya Taylor-Draper is a Councilwoman for the City of Willoughby Hills, whose term commenced on January 1, 2020 and ends on December 31, 2023.
7. Joseph Jarmuszkiewicz is a Councilman for the City of Willoughby Hills, whose term commenced on January 1, 2022 and ends on December 31, 2025.
8. Daniel Knecht is a Councilman for the City of Willoughby Hills, whose term commenced on January 3, 2022 and ends on January 2, 2026.
9. Julie Belich is a Councilwoman for the City of Willoughby Hills, whose term commenced when she was appointed by Willoughby Hills City Council ("Council") on May 24, 2021, whose current term commenced on January 2, 2022 and ends on January 1, 2026.
10. Respondent Belich is married to Mark Belich.
11. Belich's father is Cuvier Lukat.
12. Belich and/or Mark Belich (collectively, the "Beliches") own several companies, including Great Lake Crushing, JAB Supply, and Parkview Land Development, LLC.
13. G. Andrew Gardner is the Mayor of the City of Willoughby Hills, whose term commenced on January 1, 2020 and ends on December 31, 2023.
14. Michael C. Lucas is the Law Director for the City of Willoughby Hills, whose term commenced on February 21, 2020.
15. John Lillich is a member of the Planning Commission and Architectural Board of Review for the City of Willoughby Hills and serving a six-year term.
16. Thomas Elliot is a member of the Planning Commission and Architectural Board of Review for the City of Willoughby Hills and serving a six-year term.
17. Ron Lewis, Jr. is a member of the Planning Commission and Architectural Board of Review for the City of Willoughby Hills and serving a six-year term.

#### JURISDICTION

18. This court has jurisdiction and venue over this matter pursuant to Ohio Revised Code Section 733.72, et. seq.:

*733.72 Charges against municipal officers filed with probate judge; proceedings.*



*When a complaint under oath is filed with the probate judge of the county in which a municipal corporation or the larger part thereof is situated, by any elector of the municipal corporation, signed and approved by four other electors thereof, the judge shall forthwith issue a citation to any person charged in the complaint for his appearance before the judge within ten days from the filing thereof, and shall also furnish the accused and the village solicitor or city director of law with a copy thereof. The complaint shall charge any of the following:*

*(A) That a member of the legislative authority of the municipal corporation has received, directly or indirectly, compensation for his services as a member thereof, as a committeeman, or otherwise, contrary to law;*

*(B) That a member of the legislative authority or an officer of the municipal corporation is or has been interested, directly or indirectly, in the profits of a contract, job, work, or service, or is or has been acting as a commissioner, architect, superintendent, or engineer in work undertaken or prosecuted by the municipal corporation, contrary to law;*

*(C) That a member of the legislative authority or an officer of the municipal corporation has been guilty of misfeasance or malfeasance in office.*

19. Each Respondent is either a member of the legislative authority or an officer of the City of Willoughby Hills (the "City").
20. This complaint charges each Respondent that he or she is guilty of misfeasance or malfeasance in office.
21. Pursuant to Ohio Revised Code Section 733.73, because the City's Law Director, Michael C. Lucas, is charged with misfeasance or malfeasance in office, the Lake County prosecuting attorney shall appear on behalf of the complainant to conduct the prosecution of the defendant officers.
22. This court has the authority to remove the defendants from office if the defendants are found guilty of misfeasance or malfeasance in office pursuant to Ohio Revised Code Section 733.76.

#### FACTUAL BACKGROUND

23. Belich's business Great Lakes Crushing LTD is an Ohio limited liability company formed on September 18, 1996 and is an excavation business.
24. Belich's business JAB Supply is an Ohio corporation formed on June 30, 2015.

25. The Northeast Ohio Regional Sewer District awarded Great Lakes Crushing LTD contracts to excavate sewer tunnels pursuant to Great Lakes Crushing's bids, with such work occurring between November 2017 and September 2020 and for at least several years prior to this time period. {EXH A}
26. On November 17, 2017, the Beliches formed Parkview Land Development, LLC, an Ohio limited liability company.
27. On November 30, 2017, the Beliches, through Parkview Land Development LLC, purchased real property consisting of 38.03 acres of land and two small older dwellings, located at 37200 Chardon Road (the "Dump Property") for the purchase price of \$390,000 or approximately \$10,255 per acre.
28. In Lake County, Ohio, property zoned for industrial use, where commercial dumping of sewer tunnel spoils is more likely to be a permitted use than on residential property, sells for hundreds of thousands of dollars more than \$10,255 per acre. {EXH B}
29. The Dump Property is zoned single-family residential.
30. The Dump Property contains land designated by the City as an environmentally sensitive "Protected Area" pursuant to Chapter 1167 of the Codified Ordinances of Willoughby Hills (the "Code"), necessitating additional permitting to modify the land.
31. Pursuant to Section 1167.01 of the Code, the purpose of the Chapter 1167 Protected Area regulations is to "regulate development on hillsides and areas adjacent to watercourses and wetlands while conserving and promoting the public health, safety and general welfare by minimizing storm run-off, soil erosion, and other building and development problems unique to development on hillsides, riparian areas, and adjacent to wetlands" and to "preserve, enhance, and promote the appearance and resources of hillsides, riparian areas, and areas adjacent to wetlands, and to retain the sense of image and identity that the hillside, riparian areas, and areas adjacent to wetlands impart to the City and its residents", and to "recognize the unique and sensitive nature of hillsides, riparian areas, and areas adjacent to wetlands within the community and the need to specifically address development thereon".
32. The Dump Property is characterized by a deep slope from Chardon Road down to the Chagrin River Valley.
33. The Dump Property contains multiple wetlands and streams.
34. At least one stream on the Dump Property flows over adjacent property and into the Chagrin River.



35. Lake Metroparks owns land adjacent to the Dump Property.
36. In the spring of 2018, the Beliches began doing some work on the lower level of the Dump Property which caused some concern by the Lake Metroparks, Lake County Soil and Water and members of the public that the Beliches may have violated laws when they disturbed wetlands on the Dump Property. {EXH C}
37. Also in the spring of 2018, John Niedzialek of Lake County Soil and Water investigated this matter. {EXH C}
38. On May 9, 2018, Niedzialek "received an intimidating and potentially threatening call from Mark Belich". {EXH C}
39. In the summer of 2018, Lake County Soil and Water received calls from the public asking whether the Beliches were complying with the Clean Water Act. {EXH D}
40. Some of the sedimentation appeared to be flowing on to Lake Metroparks property.
41. On July 9, 2018, Mark Belich called Niedzialek and told him he was not allowed on the Dump Property without his permission. {EXH C}
42. As Niedzialek tried to investigate the complaint, one of Belich's employees, Patrick Kral repeatedly demanded to know who at Lake Metroparks was complaining. {EXH D}
43. On December 5, 2018, it was decided that the City of Willoughby Hills alone, without input from Lake County or any other government agency, would oversee the work done on the Dump Property to determine if the Beliches' activity on the Dump Property was legal. {EXH C}
44. On April 2, 2018, the City lost its legal counsel after a Judge ruled the appointment of the City's acting law director was void.
45. On April 19, 2018, Mark Belich appeared before the Willoughby Hills Planning Commission and Architectural Board of Review (the "Commission") for a work session to discuss a "Driveway/Protected Area" project to be conducted on the Dump Property (the "Project"), including the portion of the Dump Property designated a Protected Area. {EXH E}
46. On June 21, 2018, Mark Belich stated about the "driveway" Project, "we will import some fill to improve the driveway so we have access to our two existing homes". {EXH F}

47. On June 21, 2018, with the City still without legal counsel, the Commission, including Respondents Lillich and Kline, approved the "driveway" Project on the Dump Property. {EXH F}
48. Under Section 1121.11 of the City's Zoning Code, the Beliches were required to complete all approved activity for the "driveway" Project within two years of approval, making June 21, 2020 the deadline for completion of the Project.
49. The Beliches did not begin to "import some fill" to the Dump Property for seventeen months after this initial approval. {EXH G}
50. During the seventeen months between the Commission's approval of the "driveway" Project and November 2019, when the Beliches began dumping sewer tunnel spoils under the guise of the residential driveway regrade, Respondents and their political supporters made several additional attempts to block public scrutiny of or remove potential opposition to the Project.
51. In July of 2018, supporters of the Respondents, led by a resident named Tony Miller, began a recall campaign against Council Member John Plecnik along with Council Members David Fiebig, Nancy Fellows, Laura Lenz, Laura Pizmoht and Janet Majka (the "Incumbents") who Respondents Gardner, Jarmuszkiewicz, Hallum, Kline, and Taylor-Draper would respectively oppose in the 2019 general election.
52. The only member of Council at that time not subject to this recall attempt was Respondent Hallum.
53. This recall campaign failed.
54. Tony Miller and his wife Vicki Miller live in Vicki Miller's mother's home, which is on a property adjacent to the Dump Property.
55. The City's Charter and Zoning Code require the Commission to review plans and approve or reject such plans in open public meetings.
56. In September of 2018, Respondents Lillich and Kline, then a member of the Commission, and other members of the Commission, attempted to abdicate this duty by proposing that the City Engineer, who reports directly to the Mayor, unilaterally perform such reviews and make such determinations. {EXH H}
57. This would allow the City Engineer to make determinations on these proposed development plans behind closed doors and without public scrutiny or input in violation of the City's Charter.



58. In October of 2018, the former Mayor, who voted for approval of the Project as a member of the Commission, attempted but failed to illegally remove the Incumbents from office.
59. The City sued successfully to enjoin the former Mayor from locking the Incumbents out of Council chambers and otherwise block them from performing their official duties.
60. After the judge issued a temporary restraining order against the former Mayor, the former Mayor and Council agreed to a settlement (the "Settlement").
61. Gardner and Hallum vigorously expressed their disapproval of the Settlement. {EXH I}
62. In August of 2019, Tony and Vicki Miller, along with three other residents, filed a probate action to remove the Incumbents from office.
63. The City law director, James O'Leary, who was appointed in January 2019 pursuant to the Settlement, moved to dismiss the probate case because one of the petitioners was not a qualified elector as required by statute.
64. After the case was dismissed, the City law director also released the Incumbents from future legal action related to the Millers' complaint, finding their action frivolous because it did not charge the Incumbents with malfeasance or misfeasance as required by Section 733.72 of the Ohio Revised Code. {EXH J}
65. In September and October of 2019, Belich's father, Cuvier Lukat, contributed \$6,050 to the campaigns of the Incumbents' opponents in the 2019 general election: Respondents Gardner, Jarmuszkiewicz, Hallum, and Kline (collectively, the "Candidates") consisting of \$2,000 to Gardner's campaign, \$1,500 to Jarmuszkiewicz's campaign, \$750 to Hallum's campaign, \$500 to Kline's campaign, and \$1,300 to a political action committee supporting the Candidates (the "Contributions"). {EXH K}
66. Lukat did not live in the City at the time of the Contributions and has not lived in the City since he made the Contributions.
67. In October, 2019, O'Leary resigned as City law director after being appointed to a municipal judge seat, leaving the City once again without legal representation.
68. On November 3, 2019, the Lake County Board of Elections reported that the Candidates won their respective elections.
69. O'Leary lost his election to retain the municipal judge seat and offered to return as law director for the City.



70. The Mayor declined O'Leary's offer, leaving the City without legal representation for the remainder of the term when the Incumbents maintained a Council majority.
71. On or about November 15, 2019, JAB Supply dump trucks began dumping sewer tunnel spoils on the Dump Property. {EXH L}
72. The dumping of sewer tunnel spoils continued unabated from mid-November 2019 through September, 2020. {EXH P}
73. As of January 1, 2020, only Incumbents Fiebig, Fellows, and Majka remained on Council.
74. On January 27, 2020, Fiebig resigned citing among other reasons, threatening behavior by resident Tony Miller at the January 23, 2020 Council meeting. {EXH M}
75. After Fiebig resigned, only two Incumbents remained on Council: Majka and Fellows.
76. On February 18, 2020 The remaining Councilmembers appointed Knecht to replace Fiebig.
77. Shortly after Fiebig resigned, Lucas and the City's police prosecutor who reports to Lucas, began threatening Majka with criminal prosecution for voting for herself for an appointment to an open seat on Council.
78. At the time Majka voted for herself for an appointment to an open seat on Council, the City had no law director.
79. The City's Administrative Code adopts Robert's Rules of Order ("Robert's Rules") as the parliamentary rules used by Council.
80. Under Robert's Rules, a member of a body need not abstain from voting for him or herself for an appointment.
81. The Willoughby Hills Council President receives additional compensation for the title.
82. Many Willoughby Hills Council Presidents have voted for themselves to be appointed Council President.
83. Yet, Lucas took the unprecedented step of threatened Majka with a criminal prosecution because she voted for herself to an appointment.
84. In January of 2020, the Beliches installed a commercial truck scale on the Dump Property. {EXH N}

85. The JAB Supply trucks entered the City via Interstate 90 at the Som Center exit, traveled approximately two miles south on Som Center Road and then approximately two miles east on Chardon Road to access the Dump Property.
86. At the February 13, 2020, Respondent Hallum insinuated that the commercial truck scale on the Dump Property was necessary to ensure the dump trucks traveling several miles through the City just to reach the commercial truck scale were not overweight for City roads. {Audio recording of February 13, 2020 Council meeting available on City website.}
87. At the same meeting, the City Engineer, Pietro DiFranco said, referring to Mark Belich, "He gets paid for the shale he removed from the sewer district project, but he has to weigh the trucks as part of that contract." {Audio recording of February 13, 2020 Council meeting available on City website.}
88. On February 18, 2020, the remaining Council members selected Daniel Knecht, a relatively new resident to the City, to replace Fiebig.
89. On February 21, 2020, the Ohio EPA issued a notice of violations to Belich, containing numerous violations including illegally placing "sludge, sludge materials, industrial waste, or other wastes in a location where they cause pollution of any waters of the state" (the "Violation Notice"). {EXH O}
90. The Violation Notice noted that the Beliches had performed "earth disturbing activity" of "approximately 4 to 5 acres".
91. Residential driveway regrading projects do not require earth disturbing activity of that magnitude.
92. The Beliches' "driveway" Project was not a residential driveway regrade, but rather the dumping of sewer tunnel spoils for profit as part of a job the Beliches' company was awarded by the Northeast Ohio Regional Sewer District on relatively cheap residential land (the "Commercial Dump Project").
93. The Commercial Dump Project resulted in many complaints from residents from everything from the diesel fumes to flying debris to traffic jams and slippery roads covered in wet or frozen mud. {EXH P}
94. Pursuant to Sections 1157.01, 1133.02(d), 1135.02(d), 1137.02(d), 1139.02(d), and 1141.02(d) of the City's Zoning Code, for any property zoned residential, commercial, or light industrial in the City, "[a]ny use not specifically listed as a permitted principal, conditional or accessory use shall be a prohibited use in these zoning districts and shall only be permitted upon amendment of this Code and/or the Official Zoning Map."



95. Commercial dumping, or anything remotely similar to dumping sewer tunnel spoils for profit, is not a listed permitted principal, conditional or accessory use for any zone in the City.
96. Commercial dumping of sewer tunnel spoils does not cease to be commercial dumping of sewer tunnel spoils by calling it a residential driveway project.
97. On May 21, 2020, twenty-three months after approval of the "driveway" Project, the Beliches appeared before the Commission asking permission to add an addition onto one of the dwellings on the Dump Property. (EXH Q)
98. At the May 21, 2020 Commission Meeting, the Commission, including respondents Gardner, Lillich, Elliott, Lewis, and Taylor-Draper (the "Commission Members") approved Belich's plan for an addition to a dwelling on the Dump Property with not one question, comment or even mention of the ongoing Commercial Dump Project occurring on the Dump Property.
99. There is no provision of the City Zoning Code such that approval of the home addition project would add additional time under Section 1121.11, even if the Project conformed with the City's Zoning Code.
100. Residential dwelling additions do not require commercial dumping of sewer tunnel spoils to complete.
101. While there are seven seats on the Commission, the Commission Members are the only ones who were serving as commission members at the time plans for projects on the Dump Property came before the Commission and are serving on the Commission presently.
102. On May 27, 2020, after Lucas and the police prosecutor who reports to Lucas continuously intensified their threats to criminally prosecute her, Majka resigned from Council. {EXH R}
103. As of May 27, 2020, Fellows was the sole remaining Incumbent on Council.
104. On June 4, 2020, Tony and Vicki Miller and three other City electors, filed a complaint in Lake County Probate Court against Fellows.
105. The complaint was substantially the same complaint that was filed against the Incumbents in 2019, which was dismissed by the judge and deemed frivolous by the City's former law director O'Leary.
106. Gardner's executive assistant, Gloria Majeski, notarized the Millers' complaint against Fellows.

107. Lucas vigorously pursued the prosecution of Fellows for well over a year despite the previous law director's findings.
108. Despite Lucas's zeal, the judge ultimately dismissed the case against Fellows because the complaint failed to allege any malfeasance or misfeasance even if the allegations were true. {EXH V}
109. Section 1.5 of the City's Charter states "Any public official, employee, volunteer, agent or representative ("Member") of the Municipality, while acting for the Municipality shall not thereby incur personal civil liability and such persons are hereby relieved from all personal civil liability, for any loss, damage, expense and cost including court costs and reasonable and necessary attorney fees, arising from, growing out of, by reason of, or in any way connected with any acts or omissions of such Members in the performance of their official duties. Further, all such indemnification shall extend to all Members in their official duties, which may be professional in nature."
110. The suit against Fellows was brought in her official capacity, yet on August 8, 2022, Hallum, Kline, Jarmuszkiewicz, Tayler-Draper, and Knecht voted to refuse to indemnify Fellows.
111. On June 15, 2020, to fill the vacancy left by Majka's resignation, the remaining Council members selected Daniel Zegarac, who moved into his girlfriends' Willoughby Hills house from Avon, and had never voted in a municipal election in the City.
112. The Beliches continued their Commercial Dump Project in violation of the City's Zoning Code through September of 2020.
113. Under the City Charter, the Mayor oversees all aspects of the City's Administration.
114. Under the City Zoning Code, the Zoning Inspector is a member of the City's Administration and is therefore overseen by the Mayor.
115. Under the City Charter, the Law Director serves as legal counsel and attorney to the directors and officers of the City, including the Mayor, Council, and the Commission.
116. At no time did Respondent Gardner, the Mayor, direct any officer of the City to enforce the Zoning Code and stop the Beliches commercial dumping on protected residential property.



117. At no time did Respondent Lucas, the Law Director, advise any officer of the City that the Beliches commercial dumping on protected residentially-zoned property violated the Zoning Code.
118. At no time did Respondent Lucas advise any officer of the City that the Beliches continuing the "driveway" Project after June 21, 2021 violated Section 1121.02 of the Code.
119. In May, 2021, Daniel Zagarec announced he was resigning from the City Council-at-Large I seat, with a term commencement date of January 1 and ending on December 31, 2021.
120. Several individuals submitted applications to be considered for Council's appointment to the vacant seat (the "Appointment"), including Wayne Ingram and Respondent Belich.
121. At the time of the Appointment, Hallum was Council President.
122. Pursuant to the City Charter, the Council President presides over all meetings of Council.
123. Prior to the Appointment, Council Members Fellows, Jarmuszkiewicz and Knecht communicated to Hallum that they preferred Wayne Ingram, while Kline communicated he preferred Belich for the Appointment.
124. Pursuant to the City Charter, a nominee for the open seat needed four of the remaining six members to vote for him or her to secure the appointment.
125. At the May 24, 2021 special meeting of Council, Hallum asked the members if there were any nominations for candidates to be voted on for the Appointment. {Audio recording of May 24, 2021 Council Meeting available on City website}
126. At the May 24, 2021 meeting, Fellows was the first Council member to indicate she had a nomination. {Audio recording of May 24, 2021 Council Meeting available on City website}
127. At the May 24, 2021 meeting, Hallum ignored Fellows, and recognized Kline to make a nomination. {Audio recording of May 24, 2021 Council Meeting available on City website}
128. At the May 24, 2021 meeting, Kline nominated Belich. {Audio recording of May 24, 2021 Council Meeting available on City website}
129. Fellows voted no on Belich's appointment and Jarmuszkiewicz and Knecht, after hesitating, voted with Hallum, Kline, and Taylor-Draper to appoint Belich to the



- vacant Council-at-Large seat for the term ending on December 31, 2021. {Audio recording of May 24, 2021 Council Meeting available on City website}
130. After Hallum facilitated Belich's appointment, Belich hired Hallum to act as her real estate agent to sell her personal residence for a listing price of \$900,000.
  131. The average real estate agent in Ohio typically earns a certain percentage of the sale price as their compensation for selling a client's home.
  132. Belich also provided Hallum the benefit of advertising his services by posting a sign with his headshot and agency logo in her yard while her home was for sale. {EXH R}
  133. In August of 2021, Belich filed nominating petitions to run for a Council-at-Large seat.
  134. There are four Council-at-Large seats on the Willoughby Hills Council: Council-at-Large I, Council-at-Large II, Council-at-Large III, and Council-at-Large IV.
  135. Each Council-at-Large has a distinct commencement date; for instance, Council-at-Large I commences on January 1, while Council-at-Large II commences on January 2.
  136. On her nominating petitions, Belich wrote that she was running for the Council-at-Large I seat, but entered January 2 for the term commencement date, which is the commencement date for the Council-at-Large II seat. {EXH T}
  137. Belich, in submitting nominating papers and her other activities as a candidate for elected office, was not acting in her official capacity as an officer of the City.
  138. Nevertheless, Lucas intervened on Belich's behalf to ensure Belich's petitions were certified by the Board of Elections despite their defect and also to ensure that Belich was able to run for the Council-at-Large seat she preferred despite the discrepancy on her petitions. {EXH U}
  139. Lucas did not assist any other candidate and did not intervene on any other candidate's behalf.
  140. A municipal law director has never intervened on behalf of a particular candidate before the Lake County Board of Elections prior to Lucas's intervention on behalf of Belich.

#### MALFEASANCE AND MISFEASANCE

Under Section 733.72, when a complaint alleges that a member of the legislative authority or an officer of the municipal corporation is guilty of "misfeasance or malfeasance" in office, the probate judge shall forthwith issue a citation to such charged officials and schedule a hearing. According to the Ohio Supreme Court, "malfeasance" is "the doing of an act which a person ought not to do at all". State ex rel. Neal v. State Civil Service Com., 147 Ohio St. 430 (1947).

According to the Ohio Supreme Court, "misfeasance" is the "improper doing of an act which a person might lawfully do". State ex rel. Neal v. State Civil Service Com., 147 Ohio St. 430 (1947). Stated otherwise, the Ohio Supreme Court has held that perfectly legal conduct that is nonetheless improper constitutes misfeasance.

Even if the Jury were to find the evidence is insufficient to find the Respondents committed malfeasance, the Jury may still find the evidence is sufficient to find the Respondents committed misfeasance. For example, even if the Jury were find the evidence is insufficient to find criminal Bribery, the Jury may still find that large campaign contributions from the Beliches' father were paid in exchange for Respondent Gardner to not enforce the Zoning Code for Belich's benefit, which would be an act of misfeasance.

### CHARGES

#### CHARGE 1: BRIBERY

141. Gardner, Jarmuszkiewicz, Hallum, Kline, and Belich have carried out a bribery scheme during their current term of office, which is an act of malfeasance or misfeasance and must be prosecuted pursuant to Section 733.72 of the Ohio Revised Code.
142. Pursuant to ORC Section 2921.02(A), it is criminal Bribery to, "with the purpose to corrupt a public servant, or improperly to influence a public servant with respect to the discharge of the public servant's official duty, whether before or after the public servant is elected, appointed ... or sworn, shall promise, offer, or give any valuable thing or valuable benefit."
143. Pursuant to ORC Section 2921.02(B), it is also criminal Bribery if a person, "before or after being elected, appointed, employed ... or sworn as a public servant, shall knowingly solicit or accept for self or another person any valuable thing or valuable



benefit to corrupt or improperly influence the person or another public servant with respect to the discharge of the person's or the other public servant's duty."

144. Ohio courts have found that a charge of bribery against members of a public body must go to a jury where it has been shown that an individual paid officials substantial sums of money, such as campaign contributions, and such officials acted in their official capacity to benefit that individual, because, with such a showing, a rational trier of fact could find that the official solicited money from or accepted a bribe from such individual. *State v. Ross*, 2012 WL 440821 (Ohio Ct. App., Lorain County, Feb. 13, 2012); *Cleveland Electric Illuminating Co. v. Hitchens*, 15 Ohio Dec. 522, 523 (Ohio C.P. March 11, 1905).
145. Defendants Gardner, Jarmuszkiewicz, Hallum and Kline accepted the largest campaign contributions from any single donor in the election from Belich's father. {EXH K}
146. After receiving the \$2,000 contribution from Belich's father, Gardner refused to direct the City Engineer who was also acting as the City Zoning Inspector to enforce the Code and order the illegal work stopped on the Dump Property.
147. Even when it was obvious that Belich and her businesses were illegally operating a commercial dump on residential property in contravention of the City's Code and wholly inconsistent with anything remotely resembling a residential improvement, Gardner refused to direct enforcement of the City's Code against her.
148. The price per acre for the Dump property was substantially less than what it would cost to purchase industrial or commercial property, and it is difficult to find property on which dumping sewer tunnel spoils would be permitted. {EXH B}
149. The Beliches and or their companies profited from the Commercial Dump Project and stopping the project would have cost them substantially.
150. Belich, Mark Belich and their companies profited from Gardner's failure to enforce the City's Zoning Code.
151. Belich, Mark Belich and their companies profited from Lucas's failure to enforce the City's Zoning Code.
152. The dumping of sewer tunnel spoils was never a legal use of the Dump Property, even if the Beliches ultimately chose to reside on the Dump Property.
153. Hallum accepted a \$750 contribution from Belich's father for his campaign.
154. After receiving this donation, Hallum ensured Belich was appointed to Council.

155. As Council President, Hallum was the presiding officer for the meeting in which Belich was appointed.
156. The Council is required to run its meetings according to Robert's Rules.
157. At the May 24, 2021 Council meeting, Hallum disregarded Robert's Rules which establish that the first member of the body to address the presiding officer obtains the floor, when he failed to yield the floor to Fellows who addressed him first, and who Hallum knew to prefer the appointment Wayne Ingram, instead yielded the floor to Kline who he knew supported the appointment of Belich. {Audio recording of May 24, 2021 Council Meeting available on City website}
158. Kline voted to appoint Belich after he accepted a \$500 campaign donation from Belich's father.
159. Jarmuszkiewicz voted to appoint Belich after accepting a \$1,500 campaign contribution from Belich's father.
160. Hallum voted to appoint Belich after accepting a \$750 contribution from Belich's father.
161. After Hallum delivered on Belich's appointment, Belich hired Hallum to sell her personal residence.
162. Not unlike FirstEnergy, which sought a "legislative solution" via significant campaign contributions constituting a bribe to the then Ohio Speaker of the House Larry Householder, the Beliches and their companies sought an "administrative solution", whereby Belich's father gave the Respondents unprecedented large campaign contributions, and in return Gardner et al. would look the other way as the Beliches conducting their Commercial Dump Project in contravention of City law and would appoint Belich to Council.
163. Gardner, Hallum, Jarmuszkiewicz, and Kline all received substantial campaign contributions from Belich's father and then used their offices to provide a valuable benefits to Belich and her companies: 1) the ability to profit off the illegal Commercial Dumping Project without threat of enforcement of the Zoning Code to stop them; and 2) a seat on Council.
164. Even if the evidence related to Respondents' conduct outlined above does not rise to the level of illegal bribery, it is at a minimum malfeasance or misfeasance; the evidence certainly demonstrates that the Respondents' conduct as described in this section was improper.

#### CHARGE 2: SOLICITING OR RECEIVING IMPROPER COMPENSATION



165. Hallum and Belich have carried out a scheme involving the solicitation or receipt of improper compensation during their current term of office, which is an act of malfeasance or misfeasance in office and must be prosecuted pursuant to Section 733.72 of the Ohio Revised Code.
166. Pursuant to Section 2921.43(B) of the Ohio Revised Code, it is a crime if a public official "for the public servant's own personal or business use ... solicit or accept anything of value in consideration of ... the appointment of any person to any public office, employment, or agency."
167. On May 24, 2021, Hallum, using his position as Willoughby Hills Council President, assured the appointment of Belich to the vacant Council-At-Large I seat.
168. Shortly thereafter, Belich then awarded Hallum with the real estate listing of her personal residence, potentially earning Hallum tens of thousands of dollars in commission and providing him publicity and marketing opportunities.
169. Put simply, Hallum received improper compensation because he accepted something of value, getting hired to be Belich's selling agent, after he ensured that Belich was appointed to an open Council seat.
170. Even if the evidence related to Respondents' conduct outlined above does not rise to the level of illegal solicitation of improper compensation, it is at a minimum malfeasance or misfeasance; the evidence certainly demonstrates that the Respondents' conduct as described in this section was improper.

### CHARGE 3: DERELICTION OF DUTY

171. Gardner, Lucas, Lillich, Elliott, and Taylor-Draper have been derelict in their duty as public servants, which is an act of malfeasance or misfeasance and must be prosecuted pursuant to Section 733.72 of the Ohio Revised Code.
172. Pursuant to Section 2921.44(E) of the Ohio Revised Code it is a crime if a public official "recklessly fails to perform a duty expressly imposed by law with respect to the public servant's office, or recklessly do any act expressly forbidden by law with respect to the public servant's office."
173. Pursuant to Section 9.22 of the City Charter, every officer of the City, including all Respondents, take an oath and thus have a duty to "support the Constitutions of the United States and of the State of Ohio and the Charter and ordinances of the City of Willoughby Hills, and faithfully, honestly and impartially discharge the duties of the office."



174. As head of the administrative branch of the City's Government pursuant to Section 2.11 of the City Charter, and as the sole appointing authority of the City's Zoning Administrator pursuant to Section 2.21 of the City Charter, Gardner, in his official capacity as mayor, has the duty of overseeing zoning administration in the City.
175. Under Section 1111.12 of the Codified Ordinances of the City, the Commission Members, Gardner, Lillich, Elliott, Lewis, and Taylor-Draper, in their official capacity as commission members, have the duty to approve development plans that conform in all respects to the City's Planning and Zoning Code.
176. Under Section 1167 of the Codified Ordinances of the City, Commission Members, in their capacity as members of the Commission, had the duty to "regulate development on hillsides and areas adjacent to watercourses and wetlands while conserving a promoting the public health, safety and general welfare by minimizing storm run-off, soil erosion, and other building and development problems unique to development on hillsides, riparian areas, and adjacent to wetlands" and to "preserve, enhance, and promote the appearance and resources of hillsides, riparian areas, and areas adjacent to wetlands, and to retain the sense of image and identity that the hillside, riparian areas, and areas adjacent to wetlands impart to the City and its residents", and to "recognize the unique and sensitive nature of hillsides, riparian areas, and areas adjacent to wetlands within the community and the need to specifically address development thereon.
177. Under Section 1107.09 of the Codified Ordinances of the City, the Zoning Administrator must revoke the approval of a project that was issued contrary to the City's Code or based upon false information or misrepresentation in the application.
178. The Commission Members had a direct obligation and duty imposed by the Zoning Code and Charter of Willoughby Hills to deny and withdraw any of the Commission's approvals to continue work on the Dump Property as soon as it became apparent the activity on the Dump Property was commercial in nature and beyond the scope of residential driveway installation or home construction and was instead commercial dumping as part of the execution of a large-scale excavation contract.
179. The above duty may have arisen sooner, but certainly no later than the date the Beliches put a commercial truck scale on the property and when the City Engineer declared the dumping to be a for-profit activity on February 13, 2020. {Audio recording of February 13, 2020 Council Meeting available on City website}
180. At no time did the Commission Members act to stop the Beliches' illegal commercial dumping, and in fact, continued to vote to approve other proposed modifications to the Dump Property while asking no question or otherwise

addressing the fact that the commercial dumping activities on the property were in blatant violation of the City's Zoning Code.

181. Gardner and Lucas had a duty to enforce the laws of the City; specifically, to impose civil and criminal penalties under the Zoning Code to deter, stop and remediate the commercial dumping activity.
182. At no time did Gardner or Lucas impose penalties on the Beliches for operating a for-profit commercial dump on residentially zoned property in violation of Willoughby Hills Law.
183. Respondent Law Director Lucas also had a duty pursuant to Section 4.32 of the City Charter and Rule 1.13 of the Ohio Rules of Professional Conduct to represent the interests of the organization, the City of Willoughby Hills.
184. Specifically, Rule 1.13(b) of the Ohio Rules of Professional Conduct, outlines Lucas's duty to his client, the City of Willoughby Hills. Rule 1.13(B) requires the Law Director to "proceed as is necessary in the best interest of the organization" when he "knows or reasonably should know that its constituent's ... or refusal to act violates a legal obligation to the organization, or is a violation of law that reasonably might be imputed to the organization and that is likely to result in substantial injury to the organization".
185. For months it was clear that the Beliches' dumping operation was not the residential driveway project it was called, but rather a commercial dump for profit which is not a permitted use of any land—industrial, commercial, or residential—in Willoughby Hills.
186. Gardner as Mayor has the duty to oversee enforcement of the City's Zoning Code.
187. Gardner failed to perform his duty of enforcing the City's Zoning Code and ordering the Beliches' illegal commercial dumping work stopped, constituting a dereliction of duty under Section 2921.44(E) of the Ohio Revised Code.
188. Pursuant to Rule 1.13(b), Lucas also had a duty when he was aware or should have been aware of Gardner's failure to enforce the City's Zoning Code "to refer the matter to higher authority, including, if warranted by the circumstances, the highest authority that can act on behalf of the organization under applicable law."
189. At no time did Law Director Lucas so advise his clients on the record and there is no evidence or even allegation that he did so off the record in confidence.
190. Gardner, Lucas, Lillich, Elliott, Lewis, and Taylor-Draper, recklessly failed to perform their respective duties under City and Ohio law.



191. Even if the evidence related to Respondents' conduct outlined above does not rise to the level of illegal dereliction of duty, it is at a minimum misfeasance; the evidence certainly demonstrates that the Respondents' conduct as described in this section was improper..

#### CHARGE 4: INTIMIDATION OF A PUBLIC OFFICIAL

192. Lucas and Hallum have intimidated public officials, which is an act of malfeasance or misfeasance and must be prosecuted pursuant to Section 733.72 of the Ohio Revised Code.
193. Pursuant to 2921.03 of the Ohio Revised Code in relevant part, "No person ... by unlawful threat of harm to any person ... by filing, recording, or otherwise using a materially false or fraudulent writing with malicious purpose, in bad faith, or in a wanton or reckless manner, shall attempt ... intimidate, or hinder a public servant ... in the discharge of the duties of the public servant."
194. Lucas and Hallum took part in the constant and demonstrably illegal attempts to remove any public official who opposed the Beliches
195. While Lucas and Hallum are the only currently serving City officials engaged in these intimidation tactics, the intimidation of public officials who oppose the Respondents has been ongoing unabated for years and has been perpetrated by many others who served prior to this term.
196. Statewide headlines were generated by no less than four failed attempts to remove any official who opposed Respondents and their pattern of corrupt activity. False and fraudulent writings were filed with Willoughby Hills Council and its Clerk, the Lake County Court of Common Pleas, the Lake County Probate Court and maliciously spread through the media.
197. Examples of these false and fraudulent writings and filings include: the former Mayor's attempt to fire Council, which was enjoined by the Lake County Court of Common Pleas; the failed recall petition against Council, which never garnered the necessary signatures and was legally insufficient even if such signatures were garnered; the frivolous lawsuits filed in Probate Court against the Council Members who opposed the Beliches, both of which were substantially "identical" and dismissed by the Judge for, among other reasons, the charges, even if were true, did not amount to malfeasance or misfeasance.
198. There is no question that Lucas, and Hallum have continued the intimidation of the Incumbents that began in the previous administration.

199. Lucas used the threat of criminal prosecution to intimidate Majka. {EXH R}
200. Majka's seat was ultimately appointed to Respondent Julie Belich after briefly being held by a third party.
201. At the time of Majka's appointment, the City was without a law director.
202. At the December 2019 meeting, during which Majka voted, along with three other Council members, for herself to fill a vacant seat, Makja, in good faith and without legal counsel available to advise her, followed Roberts' Rules of Order, which allows members of a body to vote for themselves for appointments.
203. Additionally, many prior members of Council have voted for themselves for appointments to the office of Council President which comes with additional compensation.
204. Nevertheless, Lucas and the City's police prosecutor who reports to Lucas, continued to threaten Majka with criminal prosecution until she finally could not bear it and resigned on May 27, 2020. {EXH R}
205. After Majka resigned, the only remaining Incumbent on Council was Fellows.
206. Eight days after Majka's resignation, on June 4, 2020, the same five people who filed the probate action against the Incumbents in 2019, filed almost the same complaint against Fellows in Lake County Probate Court.
207. The complaint was notarized by Gardner's executive assistant.
208. Under Section 733.72, the complaint was required to charge the official with malfeasance or misfeasance in office.
209. The City's prior law director, James O'Leary, determined the 2019 complaint was frivolous as the charges in the complaint did not amount to malfeasance or misfeasance in office even if the allegations were true. {EXH J}
210. Nevertheless, Lucas vigorously pursued the case against Fellows and refused any attempt at an amicable resolution; he even refused to counsel members of Council to indemnify Fellows, despite her clear right to indemnification.
211. Despite Lucas' commitment to prosecuting the case against Fellows, the judge dismissed the action, once again finding that the charges against Fellows did not amount to malfeasance or misfeasance as required by the Ohio Revised Code. {EXH V}



212. The allegations against Majka and Fellows, that their hard work serving the residents of the City was somehow malfeasance or misfeasance in office, was incredibly hurtful to them.
213. Hallum also had a hand in intimidating his colleagues.
214. Tony Miller regularly came to Council meetings and, prior to Hallum's tenure as Council President, was expelled from Council chambers several times for his aggressive and intimidating tirades and even admonished by the City's Chief of Police for his behavior.
215. At the January 23, 2020 Council meeting, Hallum as Council President and presiding officer permitted Tony Miller, who was one of the five people who filed probate actions and attempted a recall against the Incumbents, to stand before Council and berate and intimidate the three remaining Incumbents then in office. {Audio recording of January 23, 2020 Council Meeting available on City website}
216. In his January 27, 2020 resignation letter, David Fiebig cited Hallum's conduct at the January 23, 2020 meeting as one of the main reasons he was resigning and said about this referring to Hallum allowing Miller's screed:

*No one should go to work and feel threatened and in fear of their life. Sitting in front of a man who was once removed from the chamber for being disruptive, who sued me, threatened to sue me again, and reaching into a large bag visibly shaking and talking with a wavering voice, I genuinely feared for as to what he may pull out of this large bag.*

{EXH M}

217. Hallum, who should have called him out of order and stopped his tirade as presiding officer of the meeting, allowed Tony Miller to threaten Fiebig, Majka and Fellows to the point that Fiebig resigned and again allowed Tony Miller to berate Fellows' husband and enter his personal space and refused to call in a police officer when requested after the Council refused to indemnify Fellows.
218. Gardner sat idly by while Lucas threatened Majka with a wholly unjust criminal prosecution, while his executive assistant notarized the probate action against Fellows, and while Lucas pursued prosecution of Fellows.
219. Respondents would continue any intimidation tactics they could get away with until all the Incumbents were run out of office.
220. Even if the evidence related to Respondents' conduct outlined above does not rise to the level of illegal intimidation, it is at a minimum misfeasance; the evidence



demonstrates that the Respondents' conduct as described in this section was improper.

CHARGE 5: ENGAGING IN A PATTERN OF CORRUPT ACTIVITY

221. Respondents have engaged in a pattern of corrupt activity, which is an act of malfeasance or misfeasance and must be prosecuted pursuant to Section 733.72 of the Ohio Revised Code.
222. Pursuant to Section 2923.32 of the Ohio Revised Code, No person ... associated with, any enterprise shall conduct or participate in, directly or indirectly, the affairs of the enterprise through a pattern of corrupt activity.
223. Pursuant to Section 2923.31 of the Ohio Revised Code, "Pattern of corrupt activity" means two or more incidents of corrupt activity, whether or not there has been a prior conviction, that are related to the affairs of the same enterprise, are not isolated, and are not so closely related to each other and connected in time and place that they constitute a single event.
224. Pursuant to Section 2921.31(C) "Enterprise" includes any individual, sole proprietorship, partnership, limited partnership, corporation, trust, union, government agency, or other legal entity, or any organization, association, or group of persons associated in fact although not a legal entity."
225. Officials of the City, Respondents, as well as others, former officials and political supporters of the Respondents, such as Tony Miller, who make up the "enterprise".
226. This enterprise has spanned the past two mayor's administrations and likely many others.
227. All Respondents have engaged in a pattern of corrupt activity by engaging in bribery, receiving improper compensation, and intimidation.
228. Respondents Gardner, Hallum, Jarmuszkiewicz, and Kline accepted extraordinarily large campaign contributions or real estate contracts from Belich or her father and, in return, provided special and extralegal dispensation to Belich to run a for-profit commercial dump on residentially-zoned property in Willoughby Hills. {EXH K}
229. Those, including the Incumbents, who were not bribed with campaign contributions and/or were not supportive of the Commercial Dump Project, were persecuted, threatened with removal and sued on a continuous basis.
230. Mark Belich even threatened a Lake County official when he was questioned about the Belich's activities on the Dump Property. {EXH D}

- 231. There are many more than two instances of Belich, her husband, or father offering something of value to other Respondents in return for this special dispensation.
- 232. There are many more than two instances of the Beliches and Respondents intimidating public officials who opposed them or the Commercial Dump Project.
- 233. Taken together, the Beliches and Respondents engaged in a pattern of corrupt activity to bribe or intimidate any public official with decision-making authority or the power to enforce the local zoning code against them.
- 234. Even if the evidence related to Respondents' conduct outlined above does not rise to the level of engaging in a pattern of corrupt activity, it is at a minimum misfeasance; the evidence certainly demonstrates that the Respondents' conduct as described in this section was improper.

#### CHARGE 6: USE OF PUBLIC RESOURCES FOR PERSONAL GAIN

- 235. Respondents have used public resources for personal gain, which is an act of malfeasance or misfeasance and must be prosecuted pursuant to Section 733.72 of the Ohio Revised Code.
- 236. Respondents collectively have one indisputable fact in common: Respondents all made use of public resources for personal gain.
- 237. Most egregiously, Lucas and Belich committed malfeasance or misfeasance when Lucas intervened on Belich's behalf, resulting in Belich receiving taxpayer funded legal representation before the Lake County Board of Elections.
- 238. In August, 2021, Belich filed nominating petitions to run for a Council-at-Large seat (the "Petitions").
- 239. Belich's petitions contained a potentially fatal error: she erroneously entered "Council-at-Large I" as the seat she was running for, but entered the term commencement date of January 2, which is not the term commencement date for the Council-at-Large I seat, but rather the commencement date for the Council-at-Large II seat. {EXH S}
- 240. Armen Tovmasyan filed valid petitions for the Council-at-Large I seat.
- 241. Jarmuszkiewicz and Brian Belohlavek filed valid petitions for the Council-at-Large II seat.
- 242. Under Ohio Revised Code 3501.11(k), the Lake County Board of Elections has the exclusive authority to "Review, examine, and certify the sufficiency and validity of petitions and nomination papers".



243. Nevertheless, on August 9, 2021, Lucas reviewed Belich's petitions and concluded they contained a curable defect and demanded the Lake County Board of Elections allow Belich to cure such defect.
244. On August 10, 2021, Lucas emailed the Lake County Prosecutor's office, the legal counsel for the Lake County Board of Elections, that he would file a lawsuit against the Board if it did not allow Belich to run for the seat of her choosing. {EXH U}
245. No other candidate currently running for Council received the benefit of Lucas's review.
246. Lucas did not advise the other candidates running for the Council-at-Large I or II seats, Tovmasyan, Jarmuszkiewicz, or Belohlavek of the implications on their candidacy of Belich's error or potential cure of such error.
247. Lucas did not review any other candidate's petitions for errors.
248. Belich, in her role as candidate for elected office, is not acting in her official capacity, but rather acting in her personal capacity.
249. Lucas, as law director, is the City's attorney and as such, he may provide legal advice to officials of the City only when acting in their official capacity.
250. By providing legal counsel and advocacy to Belich in her capacity as a candidate, Lucas used City resources for Belich's personal interest.
251. Additionally, by not providing the same service to other candidates, particularly Belich's potential opponents, Lucas gave Belich an advantage that is fundamentally unfair.
252. Lucas threatened suit on behalf of the City if the Board of Elections did not allow Belich to cure her petitions according to Lucas's "finding" regarding the petitions; however, Belich getting her way on her defective petitions is not something that is in the City's interest.
253. Even if the City's Charter permits a candidate to cure a defective petition, the City's Charter absolutely does not allow the City's law director to provide legal counsel to a particular candidate, to threaten to have the City sue the Board of Elections to allow a particular candidate to cure her defective petitions, and certainly not assist one candidate to the detriment of one or more other candidates.
254. Lucas's egregious involvement in this matter provided Belich with legal representation paid for by the taxpayers of the City and was detrimental to the other



candidates, which is undeniably improper and constitutes misfeasance or malfeasance.

255. Additionally, Gardner received a large campaign contributions from Belich's father before he used his office to allow the Beliches to violate the Zoning Code.
256. Jarmuszkiewicz, Hallum and Kline received large campaign contributions before they used their office to appoint Belich to an open seat on Council.
257. Hallum also received a large real estate contract from the Beliches after he ensured the appointment of Belich to Council.
258. Belich was appointed to Council on May 24, 2021 and received the title, salary and trust appurtenant thereto.
259. At a minimum the above conduct is improper and therefore misfeasance in office for purposes of Section 733.72.

#### CHARGE 7: RETALIATION AGAINST A PUBLIC OFFICIAL

260. While denying Fellows indemnification was not done by "force" or "unlawful threat of harm" as required to meet the felony threshold of Ohio Revised Code Section 2921.05, it was nevertheless malfeasance or misfeasance to deny Fellows indemnification as required under the City's Charter.
261. Hallum, Belich, Kline, Tayler-Draper, Jarmuszkiewicz, and Knecht voted to disallow Fellows' claim for indemnification despite the fact that the probate suit brought against her was brought against her in her official capacity.
262. These Councilmembers claimed they could not allow Fellows to be indemnified because she did not submit a formal notice to the Mayor of her request to be indemnified within five days of her suit being filed.
263. Lucas never counseled Fellows that she was required to do this to be indemnified.
264. Lucas vigorously prosecuted the claim against Fellows, but did not do his duty to counsel her about what he believed was legally necessary for her to be indemnified.
265. Even if this five day notice is a requirement, it is absurd to conclude it is a fatal error disallowing a claim for indemnification.
266. Moreover, surely Gardner was well aware of Fellows' ensuing request for indemnification as his own administrative assistant, Gloria Majeski, notarized the very suit brought against Fellows.

267. It appears Lucas, Hallum, Belich, Kline, Tayler-Draper, Jarmuszkiewicz, Knecht, and Gardner were coordinating with the electors who brought the suit against Fellows, and after there attempt to remove her from office and humiliate her after twenty years of service were unsuccessful, with Fellows prevailing in the case, they resorted to deny her indemnification as a last ditch effort to retaliate against her for not supporting their agenda.

#### CURRENT TERM OF OFFICE

While some of the activity detailed in this complaint occurred in a prior term of office, as established, there has been an ongoing pattern of corrupt activity that has spanned at most parts of two terms for Jarmuszkiewicz, Knecht, and Belich.

#### MEMBERS OF PUBLIC BODY NOT IMMUNE

The actions of Respondents who serve on Council or the Commission, Hallum, Jarmuszkiewicz, Kline, Taylor-Draper, Knecht, Lillich, Elliott, and Lewis, giving rise to the above charges were not performed in their official capacity. For instance, Ohio courts have found that a charge of bribery against members of a public body must go to a jury where it has been shown that an individual paid officials substantial sums of money, such as campaign contributions, and such officials acted in their official capacity to benefit that individual, because, with such a showing, a rational trier of fact could find that the official solicited money from or accepted a bribe from such individual. State v. Ross, 2012 WL 440821 (Ohio Ct. App., Lorain County, Feb. 13, 2012); Cleveland Electric Illuminating Co. v. Hitchens, 15 Ohio Dec. 522, 523 (Ohio C.P. March 11, 1905. Therefore, each of the above Respondents actions described in this complaint were acts outside the scope of their duties and were performed in their individual capacity and not their official capacity.

#### CITATION, HEARING, AND PROSECUTOR REQUIREMENTS

Pursuant to Section 733.72 of the Ohio Revised Code, a citation to all named parties in this complaint shall be issued within ten days of the filing date of this citation, including a copy of this complaint. Under Section 733.73, within ten days of the filing date of this complaint, a hearing time shall be set. Because the City law director, Michael Lucas, is charged with malfeasance and misfeasance in office, pursuant to Section 733.73, the Lake County prosecuting attorney shall appear on behalf of the complainant to conduct the prosecution at such hearing.

#### WITNESSES

Pursuant to Section 733.75, the Complainants designate all individuals named in this complaint and any individuals named in the attached exhibits as potential witnesses.



INSTRUCTIONS FOR SERVICE

Now come Plaintiffs providing the Lake County Clerk of Courts with the following instructions for service:

TYPE OF SERVICE: Certified Mail

PARTIES TO BE SERVED:

Christopher Hallum  
2937 Lamplight Lane  
Willoughby Hills, OH 44094

Joseph Jarmuszkiewicz  
31301 Eddy Road  
Willoughby Hills, Ohio 44094

Julie Belich  
2476 Parsons Drive  
Willoughby Hills, Ohio 44094

Michael Kline  
38531 Dodds Landing Dr.  
Willoughby Hills, Ohio 44094

Tanya Taylor-Draper  
2909 Straford Way  
Willoughby Hills, Ohio 44092

G. Andrew Gardner  
39123 Dodds Hills Dr.  
Willoughby Hills, Ohio

Michael C. Lucas  
37265 Euclid Avenue  
Willoughby, Ohio 44094

John Lillich  
37830 Milann Dr.  
Willoughby Hills, Ohio 44094

Thomas Elliott  
2971 Erich Dr.  
Willoughby Hills, Ohio 44092

Ronald Lewis  
2594 Som Center Rd.  
Willoughby Hills, Ohio 44094

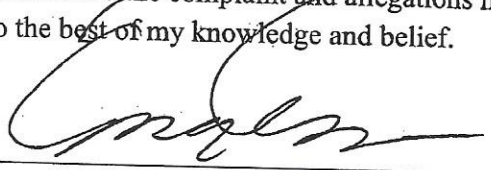
PRAYER AND VERIFICATION:

The Plaintiffs demand as follows:


1. That the named Respondents, jointly or severally, be found guilty of misfeasance or malfeasance during their tenure as Officials for the City of Willoughby Hills, Ohio, for any of the Charges, one through 267.
2. That, in accordance with Ohio Revised Code 733.76, for each Respondent found guilty of misfeasance or malfeasance, an Order be issued removing each Respondent from their respective Office forthwith.
3. That, in accordance with Ohio Revised Code 733.76, that each Respondent found guilty be barred from holding any elected office in the City of Willoughby Hills.
4. That, in accordance with Section 733.77, each the Respondents pay costs of this action and be ordered to reimburse any costs incurred by the City of Willoughby Hills as a result of this action.
5. That this is a Jury Demand pursuant to Ohio Revised Code 733.73.

[signatures on following page]

I hereby do solemnly swear that I am a qualified elector of the City of Willoughby Hills and that I have read the complaint and allegations herein and that the statements contained herein are true to the best of my knowledge and belief.

  
Print name: THEODORE DELLAS

Sworn to and subscribed before me, a Notary Public, this 31 day of August, 2022<sup>2</sup> in Willoughby, Ohio, County of LAKE.

  
Notary Public

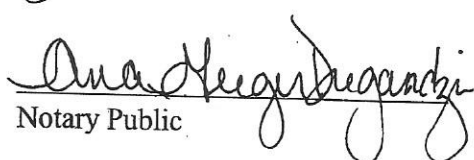


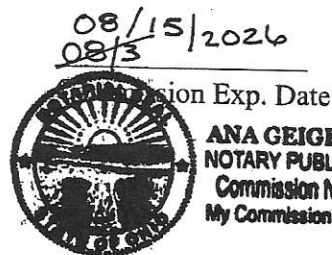
ANA GEIGER-DUGANDZIC  
NOTARY PUBLIC • STATE OF OHIO  
Commission No. 2016-RE-601706  
My Commission Expires Aug. 15, 2026

By signing below, I hereby attest that I am a qualified elector of the City of Willoughby Hills and that I agree with and approve of the filing of this complaint pursuant to Section 733.72 of the Ohio Revised Code:

1. Signature Nancy E. Fellows Date: 8/31/22  
Print Name: Nancy E Fellows

Sworn to and subscribed before me, a Notary Public, this 31 day of August, 2022<sup>2</sup> in Willoughby, Ohio, County of LAKE.

  
Notary Public



ANA GEIGER-DUGANDZIC  
NOTARY PUBLIC • STATE OF OHIO  
Commission No. 2016-RE-601706  
My Commission Expires Aug. 15, 2026

(signatures continue on following page)



2. Signature Barbara Lynne Gray Date: 8/31/2022  
Print Name: BARBARA LYNN GRAY

Sworn to and subscribed before me, a Notary Public, this 31 day of August, ~~2021~~ <sup>2022</sup> in  
Willoughby, Ohio, County of LAKE.

Ana Geiger-Dugandzic  
Notary Public



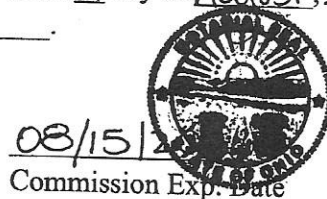
ANA GEIGER-DUGANDZIC  
NOTARY PUBLIC • STATE OF OHIO  
Commission No. 2016-RE-601705  
My Commission Expires Aug. 15, 2026

3. Signature Linda J. Fulton Date: 8/31/22

Print Name: Linda J. FULTON

Sworn to and subscribed before me, a Notary Public, this 31 day of August, ~~2021~~ <sup>2022</sup> in  
Willoughby, Ohio, County of LAKE.

Ana Geiger-Dugandzic  
Notary Public



ANA GEIGER-DUGANDZIC  
NOTARY PUBLIC • STATE OF OHIO  
Commission No. 2016-RE-601705  
My Commission Expires Aug. 15, 2026

4. Signature Dale H. Fellows Date: 8-31-22

Print Name: Dale H. Fellows

Sworn to and subscribed before me, a Notary Public, this 31 day of August, ~~2021~~ <sup>2022</sup> in  
Willoughby, Ohio, County of LAKE.

Ana Geiger-Dugandzic  
Notary Public

08/15/2026  
Commission Exp. Date



ANA GEIGER-DUGANDZIC  
NOTARY PUBLIC • STATE OF OHIO  
Commission No. 2016-RE-601705  
My Commission Expires Aug. 15, 2026

LAKE COUNTY PROBATE COURT  
MARK J. BARTOLOTTA, JUDGE  
25 N. PARK PLACE  
PAINESVILLE, OH 44077  
(440) 350-2626

Receipt Type Non-Case  
Outstanding Amount 0.00  
Receipt Number 179684  
Receipt Date 09/12/2022  
Description Receipt for: COPIES (CERT. INCLUDED)

Action  
Judge  
Received From BRIAN MASSIE, LOBBYISTS FOR CITIZENS  
On Behalf of

Total Received	3.40
Net Received	3.40
Change	0.00

Receipt Payments CASH  
Amount Reference Description 3.40

Receipt Applications COST  
Amount 3.40

Deputy Clerk: KMURRAY  
Transaction Date 09/12/2022  
13:47:41.38

Comments COPIES