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IN THE COMMON PLEAS COURT  
RICHLAND COUNTY, OHIO  
CIVIL DIVISION

TIMOTHY THEAKER,  
MAYOR OF THE CITY  
OF MANSFIELD, OHIO  
30 N DIAMOND STREET  
MANFIELD, OH 44902,

Plaintiff,

v.

DEBRA CHASE  
89 ELEANOR AVENUE  
MANSFIELD, OHIO 44906

AND

ISOLEEN DUNN  
70 CAROL LANE  
MANSFIELD, OHIO 44906,

Defendants.

Case No. 23 CV 68

JUDGE \_\_\_\_\_

COMPLAINT FOR DECLARATORY  
JUDGMENT AND INJUNCTIVE  
RELIEF

COMPLAINT FOR DECLARATORY JUDGMENT

Plaintiff, Timothy Theaker, in his official capacity as the Mayor of Mansfield, Ohio, states the following for his complaint of Declaratory Judgement:

A. PARTIES, JURISDICTION, AND VENUE

1. Plaintiff Timothy Theaker is the Mayor of the City of Mansfield, Ohio. This suit is brought by the Mayor in his official capacity.

2. Defendant Debra Chase is a person who resides at 89 Eleanor Avenue, Mansfield, Ohio, and was appointed to the Mansfield Metropolitan Housing Board by Timothy Mayor Theaker on May 1, 2021.

3. Defendant Isoleen Dunn is a person who resides at 705 Carol Lane, Mansfield, Ohio, and was appointed to the Mansfield Metropolitan Housing Authority by Mayor Theaker on May 1, 2022.

4. The Mansfield Metropolitan Housing Authority is a political subdivision of the State of Ohio and is governed by five-members of the authority who are each appointed to five-year terms by local elected officials.

5. The creation and continuous establishment of a Metropolitan Housing Authority is governed by Ohio Revised Code Section 3735.27 (B)(1)(b). Ohio Revised Code Section 3735.27 (B)(1)(b) reads in pertinent part as follows:

“In any district other than one described in division (B)(1)(a) of this section one member shall be appointed by the probate court, one member shall be appointed by the court of common pleas, one member by the board of county commissions, and two members shall be appointed by the chief executive officer of the most populous city in the district.”

6. In the case at bar, Debra Chase and Isoleen Dunn were the two (2) appointees to the housing authority for the present terms, by Timothy Theaker, as authorized by Ohio Revised

Code Section 3735.27 (B)(1)(b) acting in his capacity as “chief executive officer of the most populous city in the district.”

7. This court has jurisdiction over this matter pursuant to the Ohio Revised Code Section 2721.02 (A) and Ohio Civil Rule of Procedure 57.

8. Throughout this lawsuit, Mayor Timothy Theaker seeks a declaratory judgment pursuant to Ohio Revised Code Section 2721.02 (A); and emergency ex parte injunctive relief.

9. The circumstances giving rise to this Complaint have arisen in Richland County, making this Court an appropriate venue for this Complaint.

**B. BACKGROUND**

10. Ohio Revised Code Section 3735.27 (F)(1) further requires that:

“One resident member shall be appointed to a metropolitan housing authority when required by federal law. The chief executive officer of the most populous city in the district shall appoint that resident member for a term of five years. Subsequent terms of that resident member also shall be for five years, and any vacancy in the position of the resident member shall be filled by the chief executive officer of the most populous city in the district. Any member appointed to fill such a vacancy shall hold office as a resident member for the remainder of that term. If, at any time, a resident member no longer qualifies as a resident, another resident member shall be appointed by the appointing authority who originally appointed the resident member to serve for the unexpired portion of that term.”

11. Pursuant to that statute, Mayor Timothy Theaker mistakenly appointed Debra Chase on May 1, 2021 to the Mansfield Metropolitan Housing Authority, mistakenly believing that at the time of her appointment, she was a resident of property owned or managed by the authority. Debra Chase was not a resident when appointed and remains a non-resident. Plaintiff Mayor Timothy Theaker submits that Debra Chase was never qualified to be a member of the authority, still does not qualify, and should be removed from the authority.

12. During approximately January 2023, Mayor Theaker obtained and received credible information that for a sustained period of time, appointees Debra Chase and Isoleen Dunn, as authority members, had willfully and knowingly engaged in acts of misfeasance, malfeasance, unprofessionalism, failure to comply with Ohio law, and other objectionable conduct. These objectionable acts included but were not limited to failure to approve meeting minutes, failure to approve purchase orders, destroying original meeting minutes, violating the Ohio Open Meetings Law, jeopardizing substantial monetary grants, and other acts.

13. The failure of board members Debra Chase and Isoleen Dunn to act in accordance with law and ethics seriously jeopardizes the City of Mansfield's ability to receive millions of dollars in housing grants and aid.

### **COUNT I – DECLARATORY JUDGMENT**

14. Mayor Timothy Theaker incorporates by reference the other paragraphs of this complaint.

15. Under Ohio Revised Code Section 2721.02 (A) in a case of actual controversy within its jurisdiction, this court may declare the rights and other legal relations of an interested party seeking a declaratory judgment, whether or not other relief is or could be sought or granted.

16. There is an actual controversy within this Court's jurisdiction, but the Ohio Revised Code provides no guidance and is silent on the legal questions presented in this case at bar.

17. The legal questions presented at bar are: 1. "Does the Mayor retain the authority to rescind the appointment of a person who does not qualify as a member of the Housing Authority because the appointee was not and is not a resident of a property owned or managed by the Authority?" (i.e. "Is the appointment null and void ab initio, and as such, may the Mayor appoint a new substitute member to the authority?")

18. And 2. "Does the Mayor retain the right to remove an appointed Board member for cause when the Board member has engaged in misfeasance, malfeasance, or willfully failed to comply with Ohio laws?"

19. Plaintiff Mayor Timothy Theaker submits that all of the postulated issues should be answered in the affirmative. The said Mayor seeks a ruling so that he can remove both Debra Chase and Isoleen Dunn as members of the Mansfield Metropolitan Housing Authority Board, and in doing so, avoid the risk of the City of Mansfield of losing millions of dollars in local housing assistance.

#### **COUNT II – INJUNCTIVE RELIEF**

20. Plaintiff Mayor Timothy Theaker re-alleges each and every prior allegation as if fully re-written herein.

21. On January 23, 2023 Mayor Theaker as chief executive officer of the most populous city in the district notified (1) Debra S. Chase that he has removed her as a member of the Mansfield Metropolitan Housing Authority for reason that she is not a resident of property owned or managed by the authority and (2) also notified Isoleen Dunn of his request that she resign from the Mansfield Metropolitan Housing Authority and his intent to take legal action to remove her if she refused to resign. A copy of both letters is attached hereto as Exhibits A and B respectively.

22. There is presently a meeting of the Mansfield Metropolitan Housing Authority scheduled for February 13, 2023 at 10:00 A.M.

23. For reason of the dispute and for reason that it is uncertain and unknown as to what present members actually lawfully, presently, constitute a lawful duly appointed authority capable of lawfully conducting business, the Mayor herein respectfully requests an ex parte emergency temporary restraining order, preliminary injunction, and permanent injunction until a court can determine the proper membership of the authority.

24. In support of said request for immediate ex parte emergency injunctive relief, plaintiff Mayor Timothy Theaker submits his affidavit attached hereto as Exhibit C, with possibly other affidavits.

25. Unless immediate injunctive relief is granted, there is no adequate remedy at law and the City of Mansfield may suffer a loss of irreparable harm totaling a million dollars or more.

26. Until and unless a proper determination of the authority is made the authority cannot lawfully conduct business, or its actions may be possibly without clear legal efficacy upon which necessary third parties can rely.

**RELIEF REQUESTED**

27. The plaintiff Mayor Timothy Theaker states that time is of the essence in this matter and that any delay in resolving this matter may cause irreparable harm, loss, and injury to the City of Mansfield. The said Mayor Theaker therefore respectfully requests that this matter proceed on an expedited calendar and the questions postulated herein are answered by this Court in the affirmative. The Plaintiff further requests an immediate emergency temporary restraining order and temporary injunctive relief. The said plaintiff further requests reimbursement of costs, as well as any other appropriate relief.



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