

RULE 58 (B) NOTICE
THIS JUDGMENT WAS ENTERED ON THE
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2023 MAR 27 P 2:01
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IN THE COMMON PLEAS COURT OF RICHLAND COUNTY, OHIO

TIMOTHY THEAKER,	:	CASE NO. 2023 CV 0068
PLAINTIFF,	:	JUDGE BRENT N ROBINSON
vs.	:	
DEBRA CHASE, ET AL.,	:	JUDGMENT ENTRY
DEFENDANTS.	:	ON BENCH TRIAL

This matter came before the Court for a Bench Trial on March 17, 2023. The Plaintiff was present and represented at the trial by Attorney John Spon. The Defendants were present at the trial and represented themselves pro se.

The trial went forward and each side called witnesses to testify and the plaintiff offered additional exhibits. Both sides made closing arguments. The Court has considered the testimony of the witnesses, the exhibits offered, and the arguments of the parties offered at both the preliminary injunction hearing and at the bench trial. The court has also considered any relevant statutes and case law.

The burden is on the Plaintiff to establish by a preponderance of the evidence that the declaratory judgment relief requested in his complaint is proven after a trial on the merits. The Plaintiff must present a real and substantial controversy to be afforded relief through the special remedy of a declaratory judgment. The resolution of the controversy must also confer certain rights or status upon the litigants. Finally, speedy relief must be

necessary to preserve the rights of the parties. The court may not issue a declaratory judgment constituting advisory opinion upon a hypothetical state of facts.

The plaintiff has the statutory authority to appoint two (2) board members to serve on the Metropolitan Housing Authority Board. The plaintiff seeks declaratory judgment to remove both defendants from the board so he can appoint new board members. The defendants have refused to voluntarily step down from the board. These facts are not in dispute. Accordingly, the plaintiff has proven and the court finds that there exists a real and substantial controversy between the parties and further that the resolution of the controversy will confer certain rights or status upon the parties. The court also finds that the plaintiff has shown that speedy relief is necessary to preserve the rights of the parties for the board to continue to operate and function.

The court finds in favor of the plaintiff and against defendant Debra Chase. The plaintiff has proven that Debra Chase no longer qualifies to be a Metropolitan Board member as appointed by the plaintiff since she no longer resides in housing owned by the Metropolitan Housing Authority. Under R.C. 3735.27 (F)(1) the plaintiff has the statutory authority to remove defendant Debra Chase as a board member and appoint a new board member who does reside in Metropolitan housing. Accordingly Debra Chase is hereby removed from the Metropolitan Housing Authority Board pursuant to the plaintiff's authority to do so.

Likewise the court finds in favor of the plaintiff and against defendant Isoleen Dunn. The plaintiff seeks to remove Isoleen Dunn from her position on the Metropolitan Housing Board for failing to perform her duties to approve meeting minutes or make necessary corrections so the minutes could be approved. The plaintiff also seeks to

remove defendant Isoleen Dunn as a board member for refusing to approve expenditures already paid by the agency and refused to approve monthly financial reports. The court has not found any statutory authority or case law which prevents the plaintiff from removing Defendant Dunn as a board member. As such the court finds the plaintiff does have the authority to remove Defendant Dunn from the board. Accordingly Isoleen Dunn is hereby removed from the Metropolitan Housing Authority Board pursuant to the Plaintiff's authority to do so.

This is a final appealable order and there is no just cause for delay.

SO ORDERED.




JUDGE BRENT N ROBINSON

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served according to local rules and sent by Regular Mail, box in Clerk's Office on Mar. 27 2023, to the following:

John Spon, Esq.
Debra Chase
Isoleen Dunn



Clerk of Courts