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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 PRELIMINARY
	:	INJUNCTION

This matter came before the Court for a Preliminary Injunction Hearing on February 21, 2023. The Plaintiff was present and represented at the hearing by Attorney John Spon. The Defendants were present at the hearing and represented themselves pro se. The Defendants requested a continuance of the Preliminary Injunction Hearing which was denied by the Court prior to the hearing going forward.

The hearing went forward and each side called witnesses to testify and both sides offered exhibits. Both sides made opening statements and closing arguments. The Court has considered the testimony of the witnesses, the exhibits offered, the arguments of the parties and the relevant statutes and case law.

The burden is on the Plaintiff to establish by clear and convincing evidence that the preliminary injunction relief requested is necessary to prevent future irreparable harm prior to determination on the merits. The Plaintiff seeks to prevent both Defendants from voting as Metropolitan Housing Authority Board Members until the declaratory judgment complaint can be heard on the merits.

The Plaintiff must show by clear and convincing evidence that there is a substantial likelihood that the Plaintiff will prevail on the merits, that the Plaintiff will suffer irreparable harm if the injunction relief is not granted, no third party will be unjustifiably harmed if the injunction is granted and finally that the public interest will be served by the injunction. See *Gionion's Pizzeria Inc v. Reynolds*, 2021-Ohio-1289.

As to Defendant Debra Chase, the Plaintiff argues that since she is no longer a resident member of the Metropolitan Housing Authority, that she no longer qualifies to continue to serve as a Metropolitan Board Member and another resident member must be appointed to serve out the remainder of her unexpired term. See R.C. 3735.27(F)(1). Defendant Chase does not dispute that she currently is not a resident member of the Metropolitan Housing Authority and has not been for a long time.

Based on this the Court finds in favor of the Plaintiff and hereby grants a preliminary injunction preventing Defendant Debra Chase from serving and voting as Metropolitan Housing Authority Board Member going forward until a trial on the merits can be heard. The Court finds by clear and convincing evidence that it is likely that the Plaintiff will prevail on the merits, that allowing Defendant Debra Chase to vote as a board member when she is not statutory qualified could cause irreparable harm, that no third party will be unjustifiably harmed by preventing Defendant Chase to serve as a board member and vote and finally that public interest is served by not letting a board member vote if she is not qualified to do so under the law.

As to Defendant Isoleen Dunn, Plaintiff seeks to prevent her from voting and serving as a board member at upcoming Metropolitan Board meetings as part of the preliminary injunction and ultimately seeks her removal from the board at a trial on the

merits. Plaintiff states Defendant Dunn has failed to approve minutes, but also failed to make corrections so the minutes could be approved. Plaintiff also says Defendant Dunn failed to approve expenditures already made by the agency and monthly financial reports for several months.

The Court cannot find any statutory authority governing the removal of a Metropolitan House Authority Board member by the appointing authority. The Plaintiff has provided some limited case law indicating that in the absence of any statutory guidance that the appointing authority has the ability to remove previously appointed individuals. If it is correct that the Plaintiff has the authority to remove Defendant Dunn as a board member, then allowing her to continue to vote as a current board member could cause future irreparable harm.

As such the Court finds by clear and convincing evidence that the Plaintiff has shown that allowing Defendant Dunn to serve and vote as a Metropolitan Board Member prior to a hearing on the merits could cause future irreparable harm. It appears that there is a substantial likelihood that the Plaintiff can prevail on its efforts to removed Defendant Dunn as a board member if there is no statutory authority preventing it. No third party will be unjustifiably harmed and it is in the public interest to prevent a person from voting on a board after that have been removed as a board member.

For the foregoing reasons, the Court hereby grants the Plaintiff's request for injunctive relief. Both Defendants are ordered not to serve or vote as board members at any future Metropolitan House Authority Board meetings going forward. This matter shall be set for a trial on the merits regarding the Plaintiff's declaratory judgment complaint on March 17, 2023 at 9:00 a.m. The evidence already received shall become

part of the record at trial. Therefore the evidence already presented at the preliminary injunction hearing will not need to be repeated at the trial on the merits.

SO ORDERED.

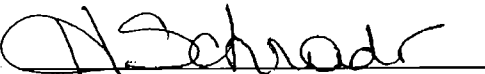


JUDGE BRENT N ROBINSON

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 Feb 28 ~~2023~~ to the following:

John Spon, Esq.
Debra Chase
Isoleen Dunn



Clerk of Courts