

DISTRICT COURT, LARIMER COUNTY, COLORADO 201 LaPorte Avenue, Fort Collins, CO 80521 Telephone (970) 494-3500	<p style="text-align: center;">▲ COURT USE ONLY ▲</p>
<p>Plaintiffs: PETER M. GAZLAY, an individual and resident of the City of Loveland, Ward I</p> <p>v.</p> <p>Defendant: CITY OF LOVELAND</p>	
<p><i>Attorneys for Plaintiff:</i> Russell W. Sinnett SINNETT LAW OFFICE, LLC P.O. Box 644 Loveland, CO 80539-0644 Phone: 970-800-3751 russell.sinnett@russell970.com Attorney Registration No.: 32723</p>	<p>Case No:</p>
<p>VERIFIED COMPLAINT</p>	

COMES NOW, Plaintiff Peter M. Gazlay, (“Plaintiff”), to hereby submit this *Verified Complaint* against the Defendant, City of Loveland, (hereinafter, “the City”), and in support thereof, states and alleges as follows:

I. PARTIES

1. Plaintiff Peter M. Gazlay, at all times relevant hereto, was and is a resident of the City (specifically Ward I), was an eligible voter who cast a ballot in the general elections held November 7, 2023, and is currently an eligible voter.

2. Defendant, the City of Loveland, is a home-rule municipal government situated in Larimer County, Colorado. Defendant acts, in part, through its employees and agents, including executive staff and personnel appointed by the City Council. At all times relevant hereto, employees of the City are or were authorized to act on behalf of the City under the Municipal Charter of the City of Loveland (hereinafter, the “Charter”), ordinances, regulations, directives, and internal policies and procedures, in addition to the decision-making authority inherent with executive staff, including the City Manager, City Clerk, and also including legal advice and directives of the City Attorney. As is relevant to this action, the City (through its employees) has

authority, *inter alia*, to enforce reasonable requirements of candidates for the elected offices of City Council, and the Mayor of Loveland. Also, as is relevant to this action, the City has a fiduciary duty to the Plaintiff and citizens of Loveland that candidates for elected offices meet the requirements of the Charter, ordinances, regulations, instructions, policies, and directives of or from the City.

3. At all times relevant hereto, members of City Council are elected officials and employees of the City.

II. JURISDICTION and VENUE

4. On February 16, 2024, Plaintiff Peter M. Gazlay filed his *Verified Complaint* in the Municipal Court for the City of Loveland. Case No. 24CV002.

5. On February 21, 2024, the presiding judge for the Loveland Municipal Court entered an order of recusal for the presiding judge and all five (5) municipal court deputy judges (citing personal or professional conflicts) and ordered that pursuant to the Intergovernmental Agreement for Judicial and Administrative services (IGA), the case be presided over by the Greeley Municipal Court and the Honorable Mark C. Gonzales, Municipal Court Judge.

6. On February 27, 2024, On February 8, the Greeley Municipal Court issued its *Order Accepting Appointment via I.G.A. and Setting Status Conference*. In said order, the case was given a separate case number by the Greeley Municipal Court (Case No. SP24-002) and set the matter for a status conference on March 29, 2024.

7. On March 4, 2024, the Municipal Court filed a *Notice of Hearing* for a status conference in the *Gazlay* case to be held concurrently with the status conference in the *Ball et. al. v. City of Loveland* Case No. 24CV001 (Greeley case no. SP24-001).

8. At the status conference held March 29, 2024,¹ the Municipal Court first inquired of Plaintiffs' counsel as to the jurisdiction of the Court to hear the case. After hearing argument from both parties' counsel, the Municipal Court set the matter for a one-hour hearing on April 26, 2024, and ordered the parties to submit a legal memorandum in support of their position prior to the hearing. Plaintiffs' memorandum on jurisdiction is attached to this *Verified Complaint* as **Exhibit 1**. Defendant's memorandum on jurisdiction is attached to this *Verified Complaint* as **Exhibit 2**.

9. The claims in this case arise, first and foremost, under the provisions of the Loveland City Charter.

¹ This case was heard together with *Gazlay v. City of Loveland*, Loveland Municipal Court civil action no. 24CV002, Greeley Municipal Court case number SP-24-002.

10. The Loveland Municipal Court is vested with original jurisdiction to hear matters arising under the Charter² or City Ordinances and as they may be subject to, or otherwise not violate, the United States Constitution and the Constitution of the State of Colorado.³

11. On April 26, 2024, after receiving the parties' briefs and hearing argument from both parties, the Court issued its verbal findings and order wherein it declined to exercise subject matter jurisdiction over the *Ball* and *Gazlay* cases. The Municipal Court relied heavily on the opinion *Town of Frisco v. Baum*, 90 P.3d 845 (Colo. 2004), and in particular footnote five (5)⁴ to that opinion regarding a requirement of a "mechanism" ordinance similar to a C.R.C.P. Rule 106 proceeding. *Cf.*, *Price Haskell v. Denver Dept. of Excise & Licenses*, 694 P.2d 364 (Colo. App. 1984) (constitutional challenges are not within scope of review under section (a)(4)); *People ex rel. Orcutt v. District Court*, 445 P.2d 887 (1968) (contentions of unconstitutionality under this rule provide no basis for jurisdiction in the district court under this rule); *see, also, Two G's, Inc. v. Kalbin*, 666 P.2d 129 (Colo. 1983).

12. The District Court, being a court of general jurisdiction and superior to the Municipal Court, may exercise original jurisdiction⁵ in this case. "It is the settled practice of this court not to exercise its original jurisdiction except in cases *public juris*, or in cases where it is shown that a refusal to take jurisdiction would practically amount to a denial of justice." *In re Rogers*, 22 P. 1053, syllabus (Colo. 1890).

13. Venue is appropriate in this Court as the actions of the Council which are the subject matter of this case occurred in the City of Loveland, County of Larimer, State of Colorado and involve Urban Renewal Development in Loveland, Colorado.

14. Venue is appropriate in this Court pursuant to C.R.C.P. Rule 98.

² SECTION 9-2 -- MUNICIPAL COURT; MUNICIPAL JUDGE

(a) There shall be a Municipal Court vested with jurisdiction over matters arising under the Charter and ordinances of the City. The Municipal Court shall be a court of record.

³ SECTION 2-4 -- POWERS OF THE CITY

(a) The City shall have all the power of local self-government and home rule and all power possible for the City under the State Constitution. All such powers shall be exercised in a manner consistent with the United States Constitution, the State Constitution, and this Charter.

⁴ 5. Apparently attempting to provide a procedure for review of civil actions, the Town of Frisco adopted C.R.C.P. 106, which allows for review of governmental action as well as other types of review. Although the town merely adopted C.R.C.P. 106 without change, which renders its application somewhat ambiguous, it appears that the town's intent was to adopt the rule so as to provide a mechanism for review of civil actions in its municipal courts. To the extent that it attempts to do more than provide for review of a civil action such as the one before us, we do not address its application.

⁵ *Original jurisdiction*. Jurisdiction to consider a case in the first instance. Jurisdiction of court to take cognizance of a cause at its inception, to try it, and pass judgment upon the law and facts. BLACK'S LAW DICT., 6th Ed. (West Pub. 1990).

III. FACTUAL ALLEGATIONS

15. Plaintiff incorporates the allegations set forth above in the paragraphs one (1) through fourteen (14) above as if fully set forth herein.

16. This case arises from the election of Troy Krenning to City Councilor for Ward I in the City of Loveland on November 7, 2023.

17. Troy Krenning was elected to the office of Loveland City Council in 2014, and served a complete term as City Councilor from 2015 to 2019.

18. The City held elections on November 7, 2023, for candidates running for City Council Member representing the City's Ward I.

19. The deadline for candidates to submit their initial Acceptance of Nomination, Candidate Affidavit, Petition with citizen signatures, and other documentation was August 30, 2023.

20. Troy Krenning became a candidate for City Council on August 28, 2023, when the City Clerk issued its Candidate Petition Certification letter to Mr. Krenning.

21. Each person who became a candidate through the initial procedures for the 2023 election received an 83-page Candidate Packet, with appendices and forms. The packet included notifications, necessary directives, and unambiguous instructions at pages 11 and 12 regarding a required background check, stating in pertinent part, as follows:

Background Check

A background check is required prior to confirming a candidate. City Charter, Section 3-3(c), states that no person who has been convicted of embezzlement of public funds, bribery, perjury, solicitation of bribery, subornation of perjury, or a willful violation of the Charter shall be nominated or elected as Mayor or Council member. This must be done before the City Clerk will offer an Acceptance of Nomination form to a candidate who receives a sufficient number of signatures on the Nomination Petition form that is filed. The background check is initiated filling out the Affidavit of Status and Release form (Attachment F).

(emphasis added)

See, **EXHIBIT 3**, Requirements at pgs. 11-12 and Attachment F, at page 48,⁶ attached.

⁶ The form identifies "American Databank" as the company to perform the background check. However, the City used the company "Sterling" for the 2023 elections. See, *infra*.

22. The background check obligation originates from the requirements of the Charter regarding candidates for Mayor or Council members, which Charter provides, in pertinent part, as follows:

**SECTION 3-3 -- MAYOR AND COUNCIL MEMBERS –
QUALIFICATIONS**

* * *

(c) No person who has been convicted of embezzlement of public funds, bribery, perjury, solicitation of bribery, subornation of perjury, or a willful violation of this Charter, shall be nominated or elected as Mayor or Council member.
(emphasis added)

23. The City has a duty, including a fiduciary duty, to Plaintiff and Loveland’s citizens to ensure that a nominee or elected Council member has not violated Section 3-3(c), particularly by election day (in this case, November 7, 2023).

24. The City Manager, City Clerk, City Attorney, and other city executive staff or employees are directly or inherently authorized to ensure compliance by candidates with the Charter, ordinances, regulations, instructions, policies, and directives regarding candidate eligibility, but must not do so in an arbitrary, capricious, inconsistent, improperly subjective, or unfair manner.

25. On September 6, 2023, the Loveland City Clerk sent an email to all candidates stating, in part, “You should have received an email from a company called Sterling who is conducting background checks for us. Please check your email to make sure that you received this (check your junk mail if you don’t see anything). You will need to follow the process outlined in the email so that the required background checks can be conducted.”

26. Two days later, on September 8, 2023, Candidate Krenning sent a response email to the City Clerk and all other Candidates proclaiming he would not consent to a background check as instructed by the City Clerk. The email claimed, *inter alia*, the following:

- a. Candidate Krenning had previously had his identity and personnel records stolen while working at the U.S. Department of Justice, and was cautious about handing over sensitive, confidential personal information.
- b. Candidate Krenning would not agree to the Terms of Use requirements at the Sterling website (before a person can enter their information for the background check).
- c. The potential scope of the personal information sought was beyond that required for a simple background check.

- d. The City should accept results for a criminal background check completed by the Loveland Police Department (or other law enforcement).
- e. The Candidates include two lawyers, a Realtor, the Mayor, and two current members of the Council.
- f. Lawyers cannot have felony convictions and Candidate Krenning believed that to be true for Realtors as well.
- g. Unless the City has reason to believe that the three current members of Council who were running for re-election had committed a felony, the City's "data mining" request is unnecessary.
- h. Conducting a review for anything other than the enumerated crimes that are outlined in the Charter is a stretch of the City's current background check requirements.
- i. Candidate Krenning has "strong feelings" about the City of Loveland's mismanagement of public records and that he has no confidence in the City's ability to safeguard his personal information.
- j. Candidate Krenning would not participate in the currently required background check, but "welcomes any reasonable alternative."

27. On September 12, 2023, the City Clerk responded via email which stated, in pertinent part, the following:

"Thank you for your feedback on an alternate way to conduct Council background checks to ensure compliance with the City's Charter. However, the City has an established process for conducting these checks through Sterling that protects candidates by limiting access to the information provided. This is the same process used for potential City employees and generally takes only a few minutes to complete. For candidate checks data only has to be provided for the past 7 years. While there may be other methods to conduct these checks, the City's process is reasonable and will provide the information needed.

Many of the current candidates have already completed the process. This is all done through the City's HR [D]epartment and it handles this confidential information as it does for all other employee information, being careful not to release any more than necessary. In this case, the Clerk's Office only receives notification on whether the individual has submitted their information and eventually whether or not they have cleared. No other details are provided.

We hope you will reconsider your position related to this. Any elected Council Member who has not completed this process will not be seated at the November 14, 2023 meeting.”

28. Krenning responded via email the next day, on September 13, 2023, stating, “My position remains unchanged. I look forward to seeing how this plays out.”

29. Prior to November 7, 2023, Candidate Krenning made no effort to seek redress through the Courts, or any possible process of administrative appeal regarding the decision of the City Clerk.

30. Prior to November 7, 2023, Krenning did not provide his consent to the City for a background check to be conducted or otherwise complete the process with Sterling.

31. Prior to November 7, 2023, the City had not conducted a background check on Candidate Krenning.

32. Prior to November 7, 2023, all other Candidates had completed their background checks with Sterling as instructed by the City Clerk.

33. A candidate who has not completed the requirements of the City regarding a candidate’s eligibility is not a valid candidate on election day.

34. Candidate Troy Krenning willfully and intentionally failed to complete the City’s candidate requirements by November 7, 2023, and therefore was ineligible as a candidate to be validly elected for the office of City Council on election day.

35. On November 7, 2023, the city-wide elections indeed were held. Candidate Troy Krenning received the most votes (2,762). Candidate Dan Anderson came in close second with 2,326 votes.

36. Plaintiff did not vote for Candidate Krenning.

37. After the November 7, 2023, elections the City had a serious problem: the voters had just elected Candidate Krenning, but no background check had been performed to ensure he met the requirements of the Charter, and Candidate Krenning had not and would not provide his consent for a background check.

38. Upon information and belief, the City Clerk sought the advice, counsel, and direction of the City Attorney as to what should be done. The City Attorney directed or otherwise advised the City Clerk to have a background check conducted without Candidate Krenning’s permission, that the background check would only consist of questions to the research company as to only convictions for the crimes enumerated in the Charter, and nothing

more. The City Attorney further directed or advised the City Clerk to hire a different company to conduct the background check for Candidate Krenning—a company other than Sterling.

39. Upon information and belief, during the week of November 5, 2023, Candidate Krenning provided a Colorado Bureau of Investigation report to the City which he had obtained himself but was not directly requested by or transmitted to the City by the Bureau (there is no established chain of custody or valid certification of that record). As is more fully explained below, the City did not accept Candidate Krenning’s submission of the CBI report and directly hired a third party vendor to conduct the background check.

40. Following the November 7, 2023, election, the City Clerk directly hired Advanced Professional Investigations (“API”) to perform a background check for Candidate Krenning. This action was an exception to the usual procedures for background checks as these are usually done by the Human Resources (“HR”) Department. As such, the City Clerk did not receive, at any time, the actual background check information obtained by HR for any Candidate. The HR department simply informed the City Clerk that as to each Candidate, whether each Candidate was “clear” or “not clear.”

41. Upon information and belief, in the instance of Candidate Krenning, the City Clerk directly submitted to API only his full name, date of birth, current address, and the language contained in the City Charter, § 3-3(c), requesting a “clear” or “not clear” from API.

42. At the next regularly-scheduled meeting of the Council, on November 14, 2023, all of the newly-elected Candidates were sworn in by the City Clerk with the exception of Candidate Krenning because the City had not yet received the background check response from API for Candidate Krenning.

43. On November 17, 2023, API conducted its background check on Candidate Krenning, based on the criteria provided by the City Clerk. On that date, API informed the City Clerk directly that Candidate Krenning was deemed “clear.”

44. At the following regularly-scheduled meeting of the Council on November 21, 2023, Candidate Krenning was sworn in by the City Clerk.

45. During the November 21 meeting (which is a public record), when Mayor Marsh asked for Councilor comments according to the agenda, Mr. Krenning began asking questions of the City Attorney in defense of allegations that Mr. Krenning’s candidacy was invalid because of the lack of a background check, which Mr. Krenning self-described as a “cross-examination” of the City Attorney. Specifically, Mr. Krenning asked the City Attorney about the source of the City’s authority to conduct a background check and sought an admission from the City Attorney that the term “background check” is not included anywhere in the Charter.⁷

⁷ This “defense” is an invalid application of Constitutional and government law. Mr. Krenning’s argument is akin to a claim that speed limits may not be imposed anywhere in the United States because the term “speed limit” is not *Gazlay v. City of Loveland*
Verified Complaint
Page 8 of 14

46. Also during the exchange between Mr. Krenning and the City Attorney at the November 21 meeting, Mr. Krenning stated, “. . . all this hysteria about me not complying with a background check appears to be just that—hysteria. I didn’t submit to the background check and yet here I am.”

47. Troy Krenning was not a valid Candidate for the office of City Councilor for Ward I on November 7, 2023.

48. Dan Anderson was the valid Candidate with the most votes in the November 7, 2023, election, and therefore should be declared the winner.

IV. FIRST CLAIM FOR RELIEF (Declaratory Judgment)

49. Plaintiff incorporates the allegations set forth above in the paragraphs one (1) through forty-eight (48) above as if fully set forth herein.

50. Pursuant to the Charter, as well as C.R.S. § 13-51-106⁸, the Court has jurisdiction and the power to declare the rights of the Plaintiff through Declaratory Judgment.

51. Plaintiff seeks declaratory judgment on the issue of whether Troy Krenning was a valid candidate on November 7, 2023, after having failed to submit to a background check required of all Candidates prior to said election as those actions are governed by the Charter and applicable rules, ordinances, other laws, or policies and procedures utilized by the City, and as prayed for in this Verified Complaint.

52. Because the questions presented in this Complaint must be answered in favor of Plaintiff and against the City, the relevant actions or inactions by the City as they pertain to the eligibility rules and uniform enforcement thereof, require that the City’s acceptance of Troy Krenning as the valid elected Candidate and sworn into office as such, be declared invalid, void, and of no effect because those actions directly violated the Charter, applicable rules, ordinances, other laws, or policies and procedures utilized by the City.

53. Plaintiff further seeks an injunction against the Council, and particularly Mr. Krenning, from allowing Mr. Krenning to participate in any further action by the Council

found in the U.S. Constitution. Mr. Krenning’s argument does not consider granting clauses, and other legal means by which a government grants authority to act upon its laws.

⁸ *See, also*, § 13-51-105. **Power and force of declaration**

Courts of record within their respective jurisdictions have power to declare rights, status, and other legal relations whether or not further relief is or could be claimed. No action or proceeding shall be open to objection on the ground that a declaratory judgment or decree is prayed for. The declaration may be either affirmative or negative in form and effect; and such declarations shall have the force and effect of a final judgment or decree.

regarding City business and matters within the authority of the Council, until such time as the Court can rule upon the Plaintiff's claims.

**V. SECOND CLAIM FOR RELIEF
(Violation of Due Process)**

54. Plaintiff incorporates the allegations set forth above in the paragraphs one (1) through fifty-three (53) above as if fully set forth herein.

55. The United States Constitution and the Bill of Rights, specifically the Fourteenth Amendment therein, provide as follows:

U.S. Const. amend. XIV, § 2.

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

56. The Constitution of the State of Colorado provides as follows:

Art. II, § 25. Due process of law

No person shall be deprived of life, liberty or property, without due process of law.

57. Due process of law is deemed to be a guaranty against the exercise of arbitrary power. The exercise of arbitrary power by any department of government, or agency thereof, is inconsistent with democracy.

58. Due process of law is summarized as a constitutional guarantee of respect for those personal immunities which are so rooted in the traditions and conscience of the people as to be ranked as fundamental or are implicit in the concept of ordered liberty.

59. Denial of "due process" includes a denial of "equal protection of the law." The contention that a governmental action may abridge the privileges and immunities of citizens and denies equal protection of the law is included within the objection that it denies "due process". They stand or fall together.

60. "Liberty", as used in the Due Process Clause, connotes far more than mere freedom from physical restraint; it is broad enough to protect one from governmental interference in the exercise of his intellect, in the formation of opinions, in the expression of them and in action or inaction dictated by his judgment, or choice in countless matters of purely

personal concern. “Liberty” includes the right to vote. Accordingly, the failure of the City to demand Candidate Krenning’s authority for a background check before the November 7, 2023 election, then for the City to utilize a separate background check with specific and limited points of inquiry, and to swear in a candidate who was treated differently than the other candidates under the applicable rules, ordinances, other laws, or policies and procedures utilized by the City as they pertain to Candidate Krenning’s eligibility (compared to all other Candidates) is likewise a violation of Plaintiff’s due process rights, as well as those of the other candidates and the citizens of Loveland for the election of a valid candidate under the established City requirements for candidates in which Candidate Krenning did not participate to the same extent as the valid candidates who received votes of Loveland citizens.

61. As is pertinent in this action, for the evaluation of fairness in procedural due process, Plaintiff alleges: (1) Plaintiff’s private interests have been and will be affected by the official action; (2) Plaintiff was deprived of his protected interests through the procedures used by the Council and the probable value or likelihood, if any, of additional or substitute procedural safeguards that will not remedy the deprivation of rights which has already occurred; and (3) the City’s interest in the function involved and the fiscal and administrative burdens that any additional or substitute procedural requirement would entail do not supersede the City’s ability and obligation to act in accordance with the requirements of due process already established under the Charter, its amendments, ordinances, policies and procedures, and other applicable law.

62. The acceptance of Candidate Krenning as a legitimate candidate on November 7, 2023, swearing him in as a new Council member on that date, and the failure of the City to enforce the candidate requirements uniformly and fairly violated the due process rights of Plaintiff in at least two ways:

(1) an invalid or otherwise ineligible candidate was declared the winner of the election where Plaintiff voted for a valid and eligible Candidate; and

(2) Plaintiff, as well as the citizens of Loveland, were denied the fair, uniform, and consistent treatment of all candidates in the November 7, 2023, election in violation of their Fourteenth Amendment rights to due process and equal protection under the law.

VI. THIRD CLAIM FOR RELIEF

(Per Se Violation of C.R.S. § 24-18-103; Breach of Fiduciary Duty by a Public Officer)

63. Plaintiff incorporates the allegations set forth in the paragraphs one (1) through sixty-four (64) above as if fully set forth herein.

64. Defendant had a duty to the Plaintiff and to the public in general to carry out its duties for the benefit of the people based on the public’s trust and the confidence which the

electorate reposes in the integrity of the City, its public officers, elected members of the City government, and employees of the City who must carry out their duties to and for the benefit of the Plaintiff and the citizens of Loveland.

65. Defendant breached the duty of care it owed to the Plaintiffs when: (1) the City failed to enforce the requirements of the Charter through its policies and procedures before the November 7, 2023, election; (2) used a separate and lesser scope of background check for Candidate Krenning than all other Candidates were required to do (and actually complied) after the election; and (3) when the City swore in a Candidate who was not eligible for office. Such conduct departed from the City's fiduciary duties, and the City is liable to the Plaintiff and the citizens for their actions under official color or right or authority, and provided unfair and inconsistent allowances for an ineligible Candidate under the Charter's requirements and the City's own rules, policies, and procedures.

66. Defendant's conduct in failing to adhere to Charter requirements or consistently and fairly enforce its eligibility rules for Candidates constitutes liability per se under C.R.S. § 24-18-103, which provides as follows:

§ 24-18-103. Public trust - breach of fiduciary duty

(1) The holding of public office or employment is a public trust, created by the confidence which the electorate reposes in the integrity of public officers, members of the general assembly, local government officials, and employees. A public officer, member of the general assembly, local government official, or employee shall carry out his duties for the benefit of the people of the state.

(2) A public officer, member of the general assembly, local government official, or employee whose conduct departs from his fiduciary duty is liable to the people of the state as a trustee of property and shall suffer such other liabilities as a private fiduciary would suffer for abuse of his trust. The district attorney of the district where the trust is violated may bring appropriate judicial proceedings on behalf of the people. Any moneys collected in such actions shall be paid to the general fund of the state or local government. Judicial proceedings pursuant to this section shall be in addition to any criminal action which may be brought against such public officer, member of the general assembly, local government official, or employee.

67. The conduct of the City, through its elected officers and employees, has in the past and will in the future result in damages to the Plaintiff, including but not limited to violation of his due process rights, and the requirements of the Charter to which the City is obligated.

VII. REMEDIES

68. Plaintiff incorporates the allegations set forth above in the paragraphs one (1) through sixty-seven (67) above as if fully set forth herein.

69. Plaintiff does not seek monetary damages from Defendant.
70. Plaintiff seeks remedies consistent with the provisions of the Charter, the United States Constitution, and the Constitution of the great State of Colorado.
71. Plaintiff seeks equitable relief for the claims set forth above, as follows:
- a. *Declaratory Judgment.*
Plaintiff seeks a judgment declaring that Troy Krenning was an ineligible candidate on November 7, 2023, when City elections were held, after having failed to submit to a background check required of all Candidates prior to said election as those actions are governed by the Charter and applicable rules, ordinances, other laws, or policies and procedures utilized by the City.
 - b. *Fourteenth Amendment- Due Process and Equal Protection.*
Plaintiffs seek a judgment declaring the actions and inactions of the City to be in violation of Plaintiff's rights under the Fourteenth Amendment, including denial of due process and equal protection under the law when: (1) the City failed to enforce the requirements of the Charter through its policies and procedures before the November 7, 2023, election; (2) used a separate and lesser scope of background check for Candidate Krenning than all other Candidates were required to do (and actually complied) after the election; and (3) when the City swore in a Candidate who was not eligible for office.
Plaintiff seeks a judgment declaring that the actions or inactions of the City were unfair, arbitrary, and capricious as regards all Candidates in the November 7, 2023, election.
 - c. *Breach of Fiduciary Duty.*
Plaintiff seeks a judgment declaring that the City's conduct departed from the City's fiduciary duties, and the City is liable to the Plaintiff and the citizens for their actions under official color or right or authority, and provided unfair and inconsistent allowances for an ineligible Candidate under the Charter's requirements and the City's own rules, policies, and procedures.
 - d. *Remedies Required Under the Charter.*
Plaintiff seeks a judgment declaring Dan Anderson as the eligible winner in the election on November 7, 2023, for City Councilor for Ward I, that all votes cast for Krenning be declared void as being a selection of a Candidate who was not eligible for the elected office, and that all decisions of the City Council since November 21, 2023 where Mr. Krenning's vote was a deciding vote for or against any measure voted upon by the Council be voided.

WHEREFORE, Plaintiff respectfully requests judgment in his favor and against Defendant upon the claims above, including declaratory judgment, a finding of violation of Plaintiff's due process rights, and a finding that the City is liable for breach of fiduciary duty, and the remedies prayed for above, together with any other findings and conclusions of law which are lawful, equitable, proper, and just.

RESPECTFULLY SUBMITTED this 4th day of June, 2024.

SINNETT LAW OFFICE, LLC

By: _____


Russell W. Sinnett, #32723

Attorneys for Plaintiffs

VERIFICATION

The Verification for Plaintiff Peter M. Galay is submitted as an attachment to this Verified Complaint.