

IN THE SUPREME COURT OF OHIO

State of Ohio, <i>ex rel.</i>	:	
Steve R. Maddox., <i>et al.</i> ,	:	
	:	
Relators,	:	Case No.: 14-1267
	:	
v.	:	Original action in mandamus
	:	
Village of Lincoln Heights, Ohio, <i>et al.</i> ,	:	
	:	
Respondents.	:	

RESPONDENTS' ANSWER TO RELATORS' SECOND AMENDED COMPLAINT FOR WRIT OF MANDAMUS WITH CLASS ACTION ALLEGATIONS

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**ANSWER TO RELATORS’ SECOND AMENDED COMPLAINT FOR WRIT OF
MANDAMUS WITH CLASS ACTION ALLEGATIONS**

Respondents, The Village of Lincoln Heights, Ohio, Mayor Laverne Mitchell, Stephanie Summerow Dumas, Councilwoman Deborah Seay, Councilman Harold Stewart, Councilwoman Sharon Willis, Clerk of Council Ayrica Raglin, Councilman Richard Headon, Councilwoman Jetta-Chiles, Councilwoman Stevenson, and Councilman Willis (collectively “Respondents”), hereby respond to Relators’ Second Amended Complaint for Writ of Mandamus with Class Action Allegations as set forth below:

FIRST DEFENSE

For their First Defense, Respondents respond to the numbered paragraphs of the Second Amended Complaint in the like-numbered paragraphs as follows:

1. Paragraph 1 contains a legal conclusion for which no response is required; otherwise, deny.
2. Denied for want of knowledge.
3. Admit.
4. Denied for want of knowledge.

5. Denied for want of knowledge.
6. Denied for want of knowledge.
7. Denied for want of knowledge.
8. Denied for want of knowledge.
9. Admit.
10. Denied for want of knowledge.
11. Denied for want of knowledge.
12. Denied for want of knowledge.
13. Denied for want of knowledge.
14. Denied.
15. Denied.
16. Denied.
17. Denied.
18. Denied.
19. Denied.
20. Denied for want of knowledge.
21. Denied.
22. Denied.
23. Admit.
24. Denied for want of knowledge.
25. Admit.
26. Denied.
27. Denied.

- 28. Denied.
- 29. Denied.
- 30. Denied.
- 31. Denied.
- 32. Denied.
- 33. Denied.
- 34. Denied.
- 35. Denied.
- 36. Denied.
- 37. Denied.
- 38. Denied.
- 39. Denied.
- 40. Denied.

COUNT I
(The Misclassification Class)

41. Respondents reincorporate all previous responses in this Answer as if fully re-written.

- 42. Denied.
- 43. Denied.
- 44. Denied.
- 45. Denied.
- 46. Denied.
- 47. Denied.

COUNT II
(The Fringe Benefits Class)

48. Respondents reincorporate all previous responses in this Answer as if fully re-written herein.

49. Denied.

50. Denied.

51. Paragraph 51 contains a legal conclusion to which no response is required; otherwise, denied.

52. Denied.

COUNT III
(Holiday Pay Class)

53. Respondents reincorporate all previous responses in this Answer as if fully re-written herein.

54. Denied.

55. Denied.

56. Denied.

COUNT IV
(The Sick Leave Class)

57. Respondents reincorporate all previous responses in this Answer as if fully re-written herein.

58. Denied.

59. Denied.

SECOND DEFENSE

60. Relators failed to join necessary and/or additional parties to this case as required by Civ. R. 19, Civ. R. 19.1, and/or R.C. 2721.12.

THIRD DEFENSE

61. This Court lacks subject matter and/or original jurisdiction over Relators' Second Amended Complaint.

FOURTH DEFENSE

62. Venue is improper.

FIFTH DEFENSE

63. This action, in whole or in part, is not ripe for adjudication.

SIXTH DEFENSE

64. Relators have plain and adequate remedies in the ordinary course of the law that are complete, beneficial, and speedy.

SEVENTH DEFENSE

65. Relators have no legal right to the relief requested in the Second Amended Complaint.

EIGHTH DEFENSE

66. Respondents are under no legal duty to perform the acts alleged in Relators' Second Amended Complaint.

NINTH DEFENSE

67. Respondents deny all allegations not expressly admitted in this Answer.

TENTH DEFENSE

68. Relators' Second Amended Complaint fails to state a claim upon which relief can be granted.

ELEVENTH DEFENSE

69. Relators' claims are barred, in whole or in part, by the doctrines of waiver, accord and satisfaction, estoppel, laches, set-off, and/or settlement.

TWELFTH DEFENSE

70. Relators' claims are barred by the "municipal home rule."

THIRTEENTH DEFENSE

71. Respondents' acts were at all relevant times conducted in good faith and/or supported with valid and legal excuses.

FOURTEENTH DEFENSE

72. Relators' claims are barred by their own comparative or contributory negligence.

SIXTEENTH DEFENSE

73. Some or all of the allegations and claims set forth in Relators' Second Amended Complaint for Writ of Mandamus are barred by intervening and/or superseding causes thereby relieving Respondents of all and any responsibility.

SEVENTEENTH DEFENSE

74. Relators failed to mitigate their damages, if any.

EIGHTEENTH DEFENSE

75. The damages sustained by Relators, if any, were the direct and proximate result of the liability of other persons and/or parties and/or entities, other than Respondents and, as a result, any right of recovery must be diminished in whole or in part.

NINETEENTH DEFENSE

76. Any allocation of fault by the trier of fact must be consistent with R.C. 2307.22, et seq., and R.C. 2307.23, et seq.

TWENTIETH DEFENSE

77. Relators are not entitled to attorneys' fees.

TWENTY-FIRST DEFENSE

78. Relators' claims are barred by the applicable statute of limitations, including R.C. 2305.07, R.C. 145.037(D)(1), and R.C. 145.038(C).

TWENTY-SECOND DEFENSE

79. Respondents' conduct furthered legitimate and substantial interests at all times.

TWENTY-THIRD DEFENSE

80. Relators cannot identify their alleged damages with certainty.

TWENTY-FOURTH DEFENSE

81. Respondents reserve the right to add additional Affirmative Defenses.

TWENTY-FIFTH DEFENSE

82. R.C. 124.38 and R.C. 124.39 do not apply to Respondents.

TWENTY-SIXTH DEFENSE

83. Relators failed to comply with S. Ct. Pract. R. 12.02(B).

WHEREFORE, Respondents pray that Relators' Second Amended Complaint for Writ of Mandamus with Class Action Allegations be dismissed with prejudice, that Relators be ordered to pay all costs and reasonable attorneys' fees sustained by Respondents, and any relief this Court deems appropriate.

Respectfully submitted,

/s/ Tyler Tarney

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CERTIFICATE OF SERVICE

This will certify that a true and accurate copy was served on the following via email on March 17, 2015:

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