

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, LAW DIVISION**

<b>STEPHEN E. EBERHARDT,</b>	)	
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
	)	No: _____
<b>MICHAEL W. GLOTZ,</b> former Trustee/Mayor,	)	
Village of Tinley Park,	)	
<b>DAVID J. NIEMEYER,</b> Village Manager,	)	
Village of Tinley Park,	)	
<b>PATRICK CARR,</b> Assistant Village Manager/ EMA/911 Coordinator, Village of Tinley Park,	)	
and	)	
<b>PATRICK J. WALSH,</b> individually and in his capacity as Agent and President of the Walsh Law Group, P.C.,	)	
	)	
Defendants.	)	

**COMPLAINT AND JURY DEMAND**

Plaintiff, Stephen E. Eberhardt, for his complaint as against the Defendants, Michael W. Glotz, David J. Niemeyer, Patrick Carr, and Patrick J. Walsh, alleges as follows:

**A. NATURE OF THE ACTION**

1. Plaintiff brings this action seeking reliefs for Defendants' violation of the Constitution of the United States, 42 U.S.C. §1983, the Constitution of the State of Illinois, and various provisions of State statute and local Ordinances.

2. The Defendants agreed to, implemented and executed a multifaceted plan through the enforcement of rules, policies, practices, procedures, customs and/or usages the purpose of which was to deny Plaintiff and other persons guaranteed Constitutional rights. This plan was intended to support Defendants' efforts to take over, and thereafter maintain, majority control of the Village

Board beginning with the April 2019 Consolidated Election.

3. It was part of and a primary purpose of Defendants' plan to hinder, interfere with and silence First Amendment protected critical speech to hide facts and information necessary for the creation and maintenance of a "well-informed electorate", *Buckley v. Valeo*, 424 U.S. 1, fn. 56 (1976), by (1) silencing critical speech during "Public Comment" at Village meetings, as well as (2) Defendants' using "social media [to] [] instantly spread rumor and false information on a grand scale [.]" *2019 Year-End Report on the Federal Judiciary*, at page 2. John G. Roberts, Jr., Chief Justice of the United States, December 31, 2019.

4. The actions of the Defendants, as detailed more fully herein, were intentional, knowing, malicious, oppressive, *ultra vires* and violated mandatory duties as imposed by law.

5. The actions of the Defendants were done in support of their own individual and political interests and outside the scope of any of their official duties on behalf of the Village, outside the scope of their statutory and Constitutional authority and in disregard of the fiduciary duties owed to the Village of Tinley Park, its taxpayers, residents and businesses.

6. The Defendants reckless and callous disregard of Plaintiff's rights, as well as their intentional violation of federal law, warrants the grant of punitive damages.

## **B. PARTIES**

### **1. Plaintiff**

7. Stephen E. Eberhardt, at all times relevant herein, was a resident and taxpayer of the Village of Tinley Park, IL, a self-employed attorney with offices located in Tinley Park and a well recognized local voice often speaking at Village meetings in support of open and honest government and against government secrecy and public officials' corruption. As a Village taxpayer, Plaintiff is

liable to replenish public revenues depleted by unlawful government action.

## **2. Defendants**

8. Michael W. Glotz, at all times relevant herein, was a duly elected Trustee of the Village of Tinley Park. Glotz is sued in his individual capacity. Defendant Glotz was subsequently elected Village President and took office on May 3, 2021.

9. David J. Niemeyer, at all times relevant herein, was the duly appointed “Village Manager” of the Defendant Village of Tinley Park. Niemeyer is sued in his individual capacity.

10. Patrick Carr, at all times relevant herein, was the duly appointed “Assistant Village Manager and EMA/911 Coordinator” of the Defendant Village of Tinley Park. Carr is sued in his individual capacity.

11. Patrick J. Walsh, at all times relevant herein, was a licensed Illinois attorney acting individually and/or as Agent and/or President of the Walsh Law Group, P.C.

## **C. Background Facts**

12. Defendants agreed to, implemented and executed a multifaceted plan through the enforcement of rules, policies, practices, procedures, customs and/or usages the purpose of which was to deny Plaintiff his Constitutional rights through their intentional violation of the mandates of the Illinois Freedom of Information Act (FOIA) and the Illinois Open Meetings Act (OMA) and as further facilitated by and through purposeful violations of various provisions of the Illinois Municipal Code and the Village of Tinley Park Code of Ordinances.

13. The Legislature has explained that “all persons are entitled to full and complete information regarding the affairs of government” because “[s]uch access is necessary to enable the

people to fulfill their duties of discussing public issues fully and freely, making informed judgments and monitoring government to ensure that it is being conducted in the public interest.” 5 ILCS 140/1.

14. In 2011, the Legislature amended the OMA to provide that “any person shall be permitted an opportunity to address public officials under the rules established and recorded by the public body.” (Public Act 96-1473).

15. The amendments were intended to create a statutory procedure meant to facilitate and guarantee persons’ opportunity to the exercise of First Amendment rights at the designated public forum of “open” Village meetings. 5 ILCS 120/2.06(g).

16. The expressed Legislative intent of FOIA and the OMA is to facilitate and guarantee persons’ exercise of bedrock Constitutional rights.

17. In derogation thereof, Defendants have engaged in a long standing pattern and practice of violating the mandates of FOIA, the intent of which was and is to interfere with persons’, and particularly Plaintiff’s, exercise of guaranteed Constitutional rights by refusing proper production of “public records” so as to prevent review of those records and the ability to then “discuss[] public issues fully and freely”, 5 ILCS 140/1, at the designated public forum of “open” Village meetings. 5 ILCS 120/2.06(g).

18. To further facilitate the interference with Plaintiff’s Constitutional rights, Defendants took actions in violation of provisions of the Illinois Municipal Code and Village Ordinance to authorize the use of taxpayer funds in support of the political and personal interests of Defendant Glotz.

19. The use of taxpayer funds to support and defend Defendants’ violations of Constitutional

and statutory provisions in support of personal and political interests is not for a proper public purpose.

20. Prior to being elected, Clerk Kristin A. Thirion, co-organizer of Defendant Glotz's political party, was one of the party's Constitutional bannermen consistently speaking in favor of respecting the exercise of persons' First Amendment rights, often through social media postings. (See *e.g.* Exhibit A).

21. After their election, Defendant Glotz, Clerk Thirion and the members of their political party instituted a multifaceted plan to purposefully interfere with persons' bedrock Constitutional rights because of their objections to persons speaking freely and sometimes critically with regard to their character, conduct, qualifications and fitness for office which might touch on dishonesty, malfeasance or improper motives. *Gertz v. Welch*, 418 U.S. 323, 345 (1974).

22. It was part of the Defendants' plan to unlawfully withhold and refuse to produce, as well as unduly delay production of "public records" requested pursuant to FOIA.

23. The Defendants agreed to, implemented and executed their plan because certain of the "public records" requested would reflect unfavorably on the Village and/or the individual Defendants as well as other appointed and employed individuals.

24. Defendant Carr often attended the meetings of Defendant Glotz's political organization to assist Glotz in political matters and pursuits in support of his own personal interests.

25. Defendant Carr has and still erases potential "public records" text messages daily (Exhibit B at page B-4), as well as other electronic messaging.

26. On information and belief, certain of those "public records" would evidence Carr's engaging in political work/activity on behalf of Defendant Glotz's political organization on Village

work time.

27. Defendant Glotz, Defendant Walsh and others refused to produce “public records.” (Exhibit C).

28. When the Illinois Attorney General PAC determined that the “Village [] did not demonstrate that it performed a reasonable search for records” (Exhibit C at page C-1) and “request[ed] that the Village re-confer with the specified personnel to seek verification as to the existence of any responsive text messages, e-mails, and social media posts pertaining to the transaction of public business” (Exhibit C at page C-5), despite multiple requests to make inquiry as requested by the PAC, Village Attorney Kevin Kearney refused to re-confer with Defendants Glotz and Walsh (Exhibit C at pages C-7 to C-9) and “issue a supplemental response” to Plaintiff. (Exhibit C at page C-5).

29. Defendants’ pattern of non-compliance, partial compliance, purposeful delay and obfuscation was and continues to be<sup>1</sup> intended to interfere with bedrock Constitutional rights as intended to be facilitated through FOIA, 5 ILCS 140/1, and §2.06(g) of the OMA.

30. It was also part of the Defendants’ plan to use a *blitzkrieg* type social media presence to make derogatory, false and vicious attacks on persons intending to bully or otherwise convince those persons and others not to appear at “Public Comment” at open Village meetings while at the same time posting “rumor and false information” in support of Defendants’ personal and political agenda.

31. Of the hundreds of Facebook postings, most of which used alias/phony identifications,

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<sup>1</sup> Consistent with their pattern of disingenuous representations of a “desire to confer” after refusing to produce “public records” using the claim of “unduly burdensome”, on April 13, 2021, a Village Attorney sent correspondence regarding FOIA request W025918-040921 noting a “desire to confer” to reduce a request for 948 emails so as not to be “unduly burdensome”. Plaintiff responded on April 27, 2021 requesting suggested dates to meet and confer. The Village Attorney ignored response.

some examples of the Defendants' postings and postings made at the Defendant's direction were, but are not limited to, the following:

- a. Defendant Glotz, and/or persons at his direction and with his assistance, created numerous alias/phony Facebook pages one of which was "Paul Drake"<sup>2</sup> that appropriated a photo of a retired Cook County Sheriff's Police investigator. (Exhibit D). Glotz used this page and other alias/phony Facebook pages to post comments supporting himself personally and politically while attacking others intending to secrete his authorship of postings on these pages from the public.
- b. Defendant Glotz created a Facebook page using the name "Darren Zic" and requested others to post derogatory comments and/or memes he created thereon, in one instance seeking to attack now Trustee Colleen Sullivan referring to her as "Mattress Back". (Exhibit E).
- c. Defendant Glotz directed Michael Stuckly, now a political supporter, to post a photo and start a comment thread titled "There's Daddy Do Do, wet ass and all!" to attack a person who had appeared somewhat regularly at "Public Comment". (Exhibit F). In a message exchange regarding the post, a party noted that "It sounds like Bruno is defending free speech" after Defendant Glotz ranted "Fucking faggot give me a minute to read and defend...Blow my ball sacks...Is Bruno causing trouble or defending. Or is it Jen Fitz defending." (Exhibit F at page F-5).
- d. At one point in time, Stuckly had not been a political supporter of Glotz and

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<sup>2</sup> Two (2) other alias/phony Facebook pages Glotz used were "Brian Jensen" and "Barbara Jennings". (See Exhibit A).

faulted Glotz for his name calling and derogatory photos Glotz posted on social media of then acting Mayor David Seaman and Trustee T.J. Grady referring to them as “Crooks...Ass fucking us all day long...With no lunrication (sic) or spit on it.” (Exhibit G).

e. Defendant Glotz produces attack/hate videos that he has political supporters post on Facebook (see *e.g.* Exhibit H) intending to bully and harass persons from speaking at “Public Comment.”

f. On information and belief, Defendant Glotz was the creator and/or administrator of the Facebook Page “Tinley Taxpayers United Against Jake4 Mayor”. Defendant Glotz used that alias/phony Facebook page to post negative comments about Village Attorney Paul O’Grady’s<sup>3</sup> law firm and Trustee William P. Brady alleging they were part of the “Orland Park mafia” (Exhibit I at page I-1), prior to convincing O’Grady and Brady to join Glotz’s political team.

g. Defendant Glotz posted on the Facebook page “Tinley Taxpayers United Against Jake4Mayor” often attacking Mayor Jacob C. Vandenberg. At a time when Defendant Walsh represented the former Village Planning Director and litigation was pending against the Village, Defendant Walsh posted on the thread commenting negatively about the Mayor. (Exhibit J).

h. Defendant Walsh posted on another alias/phony Facebook page, also believed to

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<sup>3</sup> While Glotz had made known his intent to seek to replace the law firm of Peterson, Johnson & Murray, Chicago LLC as Village attorneys after the 2019 election most likely due to Paul O’Grady’s funding of negative political advertising against Glotz (Exhibit I at page I-2), there came a time when Glotz’s intentions changed as evidenced by his statement to one elected official, “it’s ok, now they are working for us.”



be created and administered by Defendant Glotz, where he engaged and sought to further engage with a Plaintiff in a lawsuit that named Michael Stuckly, Defendant Glotz and others. (Exhibit K). It is believed that at that time Defendant Walsh had or was preparing to file an appearance in that case to represent Stuckly and knew that the Plaintiff was represented by Counsel.

i. Defendant Walsh posted a “thumbs-up” to a posting believed to have been created by Defendant Glotz and shared by Glotz, using another one of his alias/phony pages “Randy Agate”, attacking Plaintiff on that same Facebook page. (Exhibit L).

j. After the filing of an Ethics Complaint on July 1, 2019, Defendant Glotz took actions intending to harass and silence Plaintiff at “Public Comment” by posting and directing others to post social media attacks targeting Plaintiff and Plaintiff’s wife. (Exhibit M). Defendant Walsh posted his “thumbs-up” to one of the comments referencing Plaintiff’s wife. (Exhibit M at page D-6).

k. After the filing of an Ethics Complaint on July 2, 2019, Defendant Carr took actions intending to harass and silence Plaintiff at “Public Comment” by posting social media attacks targeting Plaintiff and Plaintiff’s wife. (Exhibit N).<sup>4</sup> Defendant Walsh also posted a “thumbs-up” to one of the comments referencing Plaintiff’s wife. (Exhibit N at page D-4).

32. It was also part of Defendant Glotz’s plan to make personal attacks on individuals

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<sup>4</sup> Arguably, Walsh’s following and use of Defendant Glotz’s alias/phony pages was in furtherance of the plan to have Walsh appointed as a Village attorney which was under consideration at this time. (See paras. 35, 67-87). As noted by Judge Manion, “As the common law recognized, and as experience teaches, the lure of lucre is a particularly strong motivation [.]” *Del Vecchio v. Illinois Dept. of Corrections*, 31 F.3d 1363, 1373 (7<sup>th</sup> Cir. 1994).

intending to bully or otherwise convince them not to appear at open “Public Comment” or silence First Amendment critical comment about Glotz and his political activities.

33. Examples of Defendant Glotz’s acts were, but are not limited to, the following:

a. Defendant Glotz filed an action in the Circuit Court of Cook County, 2018-OP-50387, seeking an Order of Protection that would have prohibited the Defendant from appearing in the Council Chambers and speaking during “Public Comment” at open Village meetings. The Defendant had spoken multiple times at “Public Comment” and complained about Glotz’s personal attacks on his relative who was a Village employee. Judge Elizabeth M. Hayes denied Glotz’s request finding “I did not find that your client [Glotz] was credible in his testimony.” (Exhibit O; excerpts of proceedings).

b. In a similar effort to interfere with Plaintiff’s First Amendment rights, Defendant Glotz directed Village attorneys to file a Motion asking that Plaintiff be precluded from speaking generally during “Public Comment”. United States District Court Judge Charles R. Norgle, Sr. denied that Motion finding, in part, that the Rule on which Village attorneys sought to rely did not even apply. (1:20-cv-01171 [Doc. 116 at page 3]).

c. Defendant Glotz engaged in actions at a local bar intending to harass and intimidate a former political supporter to convince and/or deter him from appearing at Village meetings by harassing him and calling the person, as reported to Tinley Park Police, a “motherfucking scumbag” and telling the person to “Go fuck yourself.” (Exhibit P).

34. Defendant Glotz's actions were often successful in bullying persons or otherwise convincing them to refrain from further speech at "Public Comment" and/or appearing at Village meetings.

35. Shortly after taking control of the Village Board in the May 2019 election, Defendant Glotz concocted a plan to hire Defendant Walsh "to file litigation or take other action(s) against [Plaintiff] to stop or minimize [Plaintiff's] actions regarding FOIA matters and litigation that had been filed against the Village". (Exhibit Q at para. 6). Defendant Walsh appeared at the Executive Session of a Village Board meeting in or about June 2019 to discuss same with elected officials.

36. When the pattern and practice of intentional violations of the mandates of FOIA and the social media attacks on Plaintiff's wife in July 2019 (see paras. 31(j) & 31(k)) did not accomplish the Defendants' intended result of silencing Plaintiff, beginning in October 2019 Defendants' took actions to unconstitutionally place content-based restrictions on "Public Comment" at open Village meetings.

37. It was part of the Defendants' plan to unlawfully fabricate and enforce restrictive rules for "Public Comment" that were not properly "established and recorded" as mandated by the Illinois Open Meetings Act.

38. Village Attorney Patrick Connelly began using fabricated rules on October 8, 2019 to prevent Plaintiff's open comment at public meetings after Plaintiff spoke at "Public Comment" on September 15, 2019, Plaintiff's first appearance at a Board meeting since November 2017.

39. In further efforts to interfere with Plaintiff's Constitutional rights, Defendant Walsh then appeared at Executive Session on November 6, 2019 "to discuss some additional strategies he would like to pursue in regards to the [Plaintiff's] cases." (Exhibit R at para. 6).

40. It was part of the Defendants' plan to amend the rules for "Public Comment" to place unconstitutional content-based restrictions thereon at "Special" meetings.

41. Thereafter, on December 3, 2019, the Village Board amended the rules to place unconstitutional content-based restrictions on "Public Comment" at "Special" meetings.

42. It was part of the Defendants' plan to thereafter unlawfully reschedule "Regular" meetings to "Special" Village meetings so as to trigger the use of the unconstitutional content-based restrictive rules on "Public Comment". This was done because of the Defendants belief that Plaintiff's comments "were not in the best interests of the Village" (Exhibit S at para. 7; Exhibit T at para. 12), that is, critical of Defendant Glotz and his political supporters.

43. Even though being told on September 30, 2020 by the Illinois Attorney General Public Access Counselor that the requirements of "Section 2.06(g), however, ha[ve] remained unchanged" and that rules for "Public Comment" must be "established and recorded" (Exhibit U at page U-3), Defendant Glotz continues to ignore the mandates of the OMA and fabricate rules for comment targeted at interfering with First Amendment rights.

44. Any work done purportedly on behalf of the Village to establish, enforce and/or uphold the validity of the unconstitutional content-based restrictions on "Public Comment" was actually done to support the personal and political interests of Defendant Glotz and his supporters and not for any proper purpose of the Village.

45. It was part of the Defendants' plan to take actions to prevent, hinder or deter Plaintiff from speaking at open "Public Comment" time by interrupting and making improper objections, making lengthy and false personal attacks, and fabricating false accusations. (Exhibit T at paras. 15-22).

46. At the January 7, 2020 Board meeting, Defendant Glotz “yelled out” false accusations of criminality regarding Plaintiff. When Trustee Diane M. Galante commented to Defendant Glotz, he immediately responded “I just made that up” as he “giggled”. (Exhibit T at paras. 20-22).

47. On February 8, 2020, Plaintiff filed the original Complaint in the United States District Court naming Defendant Glotz, Defendant Walsh and others seeking redress for violations of Plaintiff’s Constitutional rights. (1:20-cv- 01171).

48. In part, in retaliation for the filing of same, on April 15, 2020, Defendant Niemeyer submitted a “Request for Investigation”. (Exhibit V).

49. Plaintiff submitted a Response to the “Request for Investigation” on May 13, 2020. (Exhibit W).

50. Defendant Carr submitted a reply on June 4, 2020. (Exhibit X).<sup>5</sup>

51. The “Request for Investigation” (Exhibit V) contained purposefully false and misleading statements and false statements of fact. (Exhibit W).

52. The “Request for Investigation” was submitted under signature of Defendant Niemeyer to secrete the true authorship of said document.

53. Defendant Walsh intended that the true authorship of the document be secreted because Walsh was aware of the false and misleading statements he had made therein.

54. It was clear to Plaintiff that Defendant Walsh had been the primary author of the “Request for Investigation”. (Exhibit W at pages 4-5).

55. While later produced billing records were heavily redacted, certain entries thereon

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<sup>5</sup> Plaintiff has not been provided with a copy of the Reply. Thus, while certain allegations are necessary to be made in the Complaint herein, pursuant to *Lykowski v. Bergman*, 299 Ill.App. 3d 157, 167 (1<sup>st</sup> Dist. 1998) copies of Exhibits V & W will be forwarded only to the Court.

corroborated that Defendant Walsh drafted the “Request for Investigation”. (Exhibit Y at page 16/20).

56. Mayor Vandenberg did not authorize the filing of the “Request for Investigation”. (Exhibit Q at para. 12).

57. Mayor Vandenberg was not consulted about the filing of the “Request for Investigation”. (Exhibit Q at para. 11).

58. Defendant Niemeyer knew that he did not have the authority to submit the “Request for Investigation” without consulting and conferring with the Mayor. (Tinley Park Code of Ordinances §31.127(M) & (P)).

59. Defendant Niemeyer intentionally disregarded the limits of his lawful authority to support Defendant Glotz’s and Defendant Walsh’s plan to retaliate personally and professionally against Plaintiff in violation of statutory and Constitutional guarantees.

60. Defendant Carr knew that Defendant Niemeyer had no authority to file a “Request for Investigation” and knew he had no authority as the Assistant Village Manager (Tinley Park Code of Ordinances §31.136, “Duties. [] assisting the Village Manager”) to file a Reply.

61. Defendant Walsh’s billing records indicate he worked twelve (12) hours on June 4, 2020 regarding matters for the Village. (Exhibit Y at page 4/8).

62. On information and belief, Defendant Walsh worked those twelve (12) hours on the Reply as submitted that evening by Defendant Carr.

63. Defendants Glotz and Walsh had conferred and drafted the “Request for Investigation” meant to be a “‘one and done’ to accomplish the goal of ending [Plaintiff’s] FOIA requests as well as FOIA Requests for Review being sent to the Illinois Attorney General Public Access Counselor

and the FOIA litigation” (Exhibit R at para. 6), as well as “litigation that had been filed against the Village.” (Exhibit Q at para. 6).<sup>6</sup>

64. Although Defendants Glotz and Walsh presented their plan to elected officials on November 5, 2019, Defendant Niemeyer did not submit same until April 15, 2020.

65. On information and belief, Defendant Niemeyer initially refused to submit the “Request for Investigation” because he knew it contained purposeful misrepresentations and falsehoods, and only did so after he, Glotz, Walsh and others were named in the federal law suit.

66. This attempt at a “one and done” violated Plaintiff’s statutory rights under FOIA as well as was targeted to violate Plaintiff’s federal and State Constitutional rights.

67. It was part of Defendant Glotz’s plan to have Defendant Walsh appointed an additional Village attorney so as to obligate the taxpayers to pay for “litigation” or “other action(s)” to be taken against Plaintiff (Exhibit Q at para. 6) and/or a “one and done” (Exhibit R at para. 6) filing targeted to interfere with Plaintiff’s statutory and Constitutional rights.

68. The intent to and the obligation of the taxpayers to pay Defendant Walsh was done to fund Defendant Glotz’s personal attacks on Plaintiff and not done for any proper purpose of the Village of Tinley Park.

69. Defendant Walsh knew that his purported appointment was done for Defendant Glotz’s personal and political purposes and not for any proper purpose of the Village of Tinley Park.

70. On July 16, 2019, in the absence of Mayor Vandenberg, certain of the elected officials

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<sup>6</sup> The unlawful and retaliatory actions of the Defendants herein also targeted violating the rights of persons who had matters pending in the Courts who were represented by Plaintiff. *Weigand v. Village of Tinley Park, et al.*, 2017-L-65076; *Johnson v. Village of Tinley Park, et al.*, 2018-L-65091; and *Williams v. Stuckly, et al.*, 2019-L-065083.

and Defendant Niemeyer and Defendant Carr retired to Executive Session to “DISCUSS [] THE APPOINTMENT [] OF [] LEGAL COUNSEL [] FOR THE PUBLIC BODY [.]” (Capitals in original).

71. Both State statute (65 ILCS 5/3.1-30-5(a)(5)), and village Ordinance (§31.008 & 31.115, Tinley Park Code of Ordinances), mandate that the appointment of Village attorneys be done by the mayor with the advice and consent of the Village Board.

72. Pursuant to the Illinois Constitution, the only method for a home rule municipality to change the manner of selection of its officers under the Illinois Municipal Code is by referendum. Ill. Const. 1970, Art. VII, § (6)f; *Pechous v. Slawko*, 64 Ill.2d 576, 581-85 (1976). The Defendant Village has not done so.

73. Defendant Niemeyer signed a letter purporting to appoint Defendant Walsh as an additional Village attorney.

74. Defendant Niemeyer knew he had no authority to do so.

75. The purported appointment was never done at an open Village meeting in violation of the OMA intending to secrete Defendant Niemeyer’s actions from the public.<sup>7</sup>

76. On May 19, 2020, in response to Plaintiff’s filing a Response to the “Request for Investigation” submitted on May 13, 2020, Trustee William P. Brady illegally motioned the Village Board to appoint Defendant Walsh as an additional Village attorney.

77. Trustee William P. Brady had no authority to make such a Motion.

78. Trustee Brady’s Motion was made to further obligate the taxpayers to pay for Defendant

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<sup>7</sup> Although directed by the Illinois Attorney General Public Access Counselor to provide the PAC with a copy of the tape recording of Executive Session (2019 PAC 59881), Defendant Village, through the Village Clerk, refused to do so in violation of 5 ILCS 120/3.5(b).



Glutz's and Defendant Walsh's personal and professional attacks on Plaintiff targeted to interfere with statutory and Constitutional rights and not for any proper purpose of the Village.

79. Mayor Vandenberg has "refused to motion to appoint Mr. Walsh as a Village attorney because of his actions and comments, some on Facebook, attacking the Village that began during his representation of the former Village Planning Director." (Exhibit Q at para. 8)(Exhibit J).

80. Defendant Michael W. Glutz and Trustees William A. Brennan, William P. Brady and Michael G. Mueller had no lawful authority to vote to approve such Motion.

81. Motioning and voting to approve the unlawful Resolution were acts Defendant Glutz and Trustees Brennan, Brady and Mueller knew they were forbidden by law to perform. (720 ILCS 5/33-3(a)(2)).

82. Mayor Vandenberg advised Defendant Niemeyer that he refused to sign the Resolution. (Exhibit S at para. 31).

83. At some time thereafter, the signature line on the Resolution was altered to include the words "PRO-TEM" and Defendant Glutz signed the Resolution. (Exhibit Z at pages Z-3 & Z-6).

84. On information and belief, the alteration was done by or at the direction of Clerk Thirion.

85. Clerk Thirion then certified the altered Resolution. (Exhibit Z at page Z-6).

86. Certifying the altered Resolution was an act Clerk Thirion knew she was forbidden by law to perform. (720 ILCS 5/33-3(a)(2)).

87. Defendant Walsh was not on the Village's annual list of appointments for the 2021 fiscal year as made by Mayor Vandenberg on June 16, 2020 (Exhibit Z at page Z-7) and approved with the advice and consent of the Village Board.

88. Defendants agreed to implement and execute their multifaceted plan to (1) support and

advance their own personal and political interests, (2) prevent and/or substantially hinder Plaintiff's public comment at "open" Village meetings, (3) harass and interfere with Plaintiff's statutory and Constitutional rights by filing a false and misleading "Request for Investigation", and (4) not for any proper purpose of the Village of Tinley Park.

## **D. CLAIMS**

### **COUNT I**

89. Plaintiff re-alleges and incorporates paragraphs 1-88 if fully set forth herein.

90. The First Amendment to the Constitution of the United States guarantees all persons the freedom of speech and the right to assemble to address public officials.

91. The Fourteenth Amendment to the Constitution of the United States guarantees all persons due process and equal protection of the laws.

92. The Illinois Freedom of Information Act provides that "all persons are entitled to full and complete information regarding the affairs of government" because "[s]uch access is necessary to enable the people to fulfill their duties of discussing public issues fully and freely, making informed judgments and monitoring government to ensure that it is being conducted in the public interest."

93. The Illinois Freedom of Information Act mandates production of "public records" for First Amendment purposes and use.

94. In 2011, the Illinois Open Meetings Act was amended to provide that "any person shall be permitted an opportunity to address public officials under the rules established and recorded by the public body." (Public Act 96-1473).

95. Those amendments were intended to create a statutory procedure meant to facilitate and

guarantee persons' opportunity to the exercise of First Amendment rights at the designated public forum of "open" Village meetings. 5 ILCS 120/2.06(g).

96. On April 15, 2020, Defendant Niemeyer filed a "Request for Investigation" knowing he had no lawful authority to do so and knowing the "Request for Investigation" had been drafted by Defendants Walsh and Glotz without consultation with the Mayor.

97. On April 15, 2020, Defendants filed a "Request for Investigation" that was intended to harass Plaintiff and interfere with guaranteed Constitutional rights.

98. Chapter 42 U.S.C. §1983 provides in pertinent part:

Every person, who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory, subjects, or causes to be subjected, any citizen of the United States, or other person within the jurisdiction thereof to the deprivation of any rights, privileges or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress [.]

99. Defendants agreed to, implemented and executed a plan through the enforcement of rules, policies, practices, procedures, customs and/or usages the purpose of which was to deny Plaintiff his Constitutional right to the freedom of speech through a purposeful refusal to make proper production of "public records" as mandated by the Illinois Freedom of Information Act and as executed through violations of the Illinois Open Meetings Act.

100. Defendants agreed to, implemented and executed a plan through the enforcement of rules, policies, practices, procedures, customs and/or usages the purpose of which was to deny Plaintiff his Constitutional rights through the purposeful filing of a "Request for Investigation" that contained intentional and knowing false facts and misrepresentations.

101. Defendants, acting under color of law, deprived Plaintiff of his First and Fourteenth

Amendment rights.

102. Defendants acted intentionally, knowingly and/or with reckless disregard in violating Plaintiff's Constitutional rights.

103. Defendants' reckless and callous disregard for Plaintiff's rights, as well as their intentional violation of federal law, warrants the grant of punitive damages.

**WHEREFORE**, Plaintiff prays for judgment as against the Defendants Michael W. Glotz, David J. Niemeyer, Patrick Carr, and Patrick J. Walsh:

A. Finding that the intent and purpose of Defendants' rules, policies, practices, procedures, customs and/or usages was to deny Plaintiff his Constitutional right to the freedom of speech through a purposeful refusal to make proper production of "public records" as mandated by the Illinois Freedom of Information Act and executed through violations of the Illinois Open Meetings Act;

B. Finding that the Defendants' rules, policies, practices, procedures, customs and/or usages did deny Plaintiff his Constitutional right to the freedom of speech through a purposeful refusal to make proper production of "public records" as mandated by the Illinois Freedom of Information Act and executed through violations of the Illinois Open Meetings Act;

C. Finding that the Defendants' filing of a "Request for Review" that they had no authority to file that intentionally and knowingly contained false statements and misrepresentations was intended to deny Plaintiff his First Amendment rights and rights to Due Process and Equal Protection of the laws;

- D. Finding that the filing of a “Request for Investigation” that intentionally and knowingly contained false statements and misrepresentations did deny Plaintiff his First Amendment rights and rights to Due Process and Equal Protection of the laws;
- E. Finding that the conduct of the Defendants described herein violated the provisions of 42 U.S.C. §1983 *et seq.*;
- F. Finding that the conduct of the individual Defendants warrants the grant of punitive damages and assess punitive damages against Defendants Glotz, Niemeyer, Carr and Walsh jointly and severally in the amount of \$500,000.;
- G. Awarding Plaintiff such other relief as this Court finds equitable, fair and just.

## **COUNT II**

104. Plaintiff re-alleges and incorporates paragraphs 1-88 if fully set forth herein.

105. Any work done purportedly on behalf of the Village of Tinley Park to take the unlawful actions against Plaintiff as noted herein were for the benefit of Defendant Glotz and his supporters personal and political interests and not for any proper purpose of the Village.

106. A full and accurate accounting will reveal facts showing the actual amounts paid and misappropriated for the benefit of Patrick Walsh and/or the Walsh Law Group, P.C. for legal work done on behalf of Defendant Glotz and his personal and political interests and not for any proper purpose of the Village of Tinley Park.

107. Discovery is needed to ascertain the total amount of taxpayer funds misappropriated for an improper purpose.

**WHEREFORE**, Plaintiff seeks an Order of this Court:

- A. Ordering the Defendants Glotz and Niemeyer to conduct or order a complete accounting of monies paid to Defendant Walsh or the Walsh Law Group, P.C. for legal work done on behalf of Defendant Glotz and his personal and political interests and not for any proper purpose of the Village of Tinley Park;
- B. Finding the monies so paid were misappropriated from the public treasury and are owed to the Village of Tinley Park;
- C. Ordering Defendants Glotz, Niemeyer and Carr to make payment to the Village of Tinley Park as reimbursement for the improper use and expenditure of taxpayer funds to pay Defendant Walsh and/or the Walsh Law Group, P.C. for legal and other services performed not for any purpose of the Village but for Glotz's personal and political interests;
- D. Awarding costs and attorney fees to the Plaintiff;
- E. For such other relief as the Court deems just, fair and equitable.

### **COUNT III**

108. Plaintiff re-alleges and incorporates paragraphs 1-88 if fully set forth herein.

109. Any work done purportedly on behalf of the Village of Tinley Park to establish, enforce and/or uphold the validity of the unconstitutional content-based restrictions on "Public Comment" was actually done to support the personal and political interests of Defendant Glotz and his supporters personal and political interests and not for any proper purpose of the Village.

110. A full and accurate accounting will reveal facts showing the actual amounts paid to and misappropriated for the benefit of Peterson, Johnson & Murray, Chicago LLC for legal work done

on behalf of Defendant Glotz and his personal and political interests and not for any proper purpose of the Defendant Village.

111. Discovery is needed to ascertain the total amount of taxpayer funds misappropriated for an improper purpose.

**WHEREFORE**, Plaintiff seeks an Order of this Court:

- A. Ordering the Defendants Glotz and Niemeyer to conduct or order a complete accounting for monies paid to Peterson, Johnson & Murray, Chicago LLC for purposes of establishing, enforcing and/or upholding the validity of the unconstitutional content-based restrictions on “Public Comment”;
- B. Finding the monies so paid were misappropriated from the public treasury and are owed to the Village of Tinley Park;
- C. Ordering Defendants Glotz and Niemeyer to make payment to the Village of Tinley Park as reimbursement for the improper use and expenditure of taxpayer funds to pay Peterson, Johnson & Murray, Chicago LLC for legal and other services performed not for any purpose of the Village but for Glotz’s personal and political interests;
- D. Awarding costs and attorney fees to the Plaintiff;
- E. For such other relief as the Court deems just, fair and equitable.

Respectfully,

/s/ Stephen E. Eberhardt  
Stephen E. Eberhardt  
Plaintiff

Stephen E. Eberhardt  
Law Offices of Stephen E. Eberhardt  
16710 Oak Park Avenue  
P.O. Box 548  
Tinley Park, IL 60477  
708-912-3200  
Attorney Code: 29251



## CERTIFICATION

Under penalties provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies that he or she verily believes the same to be true.

/s/ **Stephen E. Eberhardt**

Stephen E. Eberhardt