

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

HUBERT YOPP, Mayor of the City of Highland Park, Michigan,

Plaintiff,

Case No. 19 - _____ - AW

v.

Hon. _____

CITY OF HIGHLAND PARK CITY COUNCIL, a Michigan municipal corporation,

Defendant.

DANIEL J. KELLY (P41315)
Attorney for Plaintiff
THE KELLY FIRM, PLC
2825 University Drive
Auburn Hills, MI 48326
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VERIFIED COMPLAINT FOR ISSUANCE OF A WRIT OF MANDAMUS

A civil action between these parties or other parties arising out of the transaction or occurrence alleged in the complaint has been previously filed in this Court, assigned to the Hon. Judge Robert J. Colombo, Jr., Case No. 18-008216-Aw. The action is pending Michigan Court of Appeals Docket No. 347372. MCR 2.113(C)(2)(b).

/s/ Daniel J. Kelly

DANIEL J. KELLY (P41315)

NOW COMES the Plaintiff, HUBERT YOPP, Mayor of the City of Highland Park, and in support of his Verified Complaint for Issuance of a Writ of Mandamus, states as follows:

1. This is a Mandamus action seeking to have the City of Highland Park City Council comply with MCL §117.18 and MSA §5.2097; and follow the mandates regarding charter revision

and submit the question for charter revision to the electors for adoption or rejection at the next general or municipal election, or at a special election.

PARTIES, JURISDICTION, AND VENUE

2. Plaintiff, HUBERT YOPP, was duly elected as Mayor by the electors of the City of Highland Park, Wayne County, Michigan.

3. Defendant, CITY OF HIGHLAND PARK CITY COUNCIL, is a municipal corporation, which conducts business in Wayne County.

4. This Court has jurisdiction under MCL 600.605, and venue is proper because the Defendant exercises its governmental authority in Wayne County.

FACTUAL BACKGROUND

5. On August 7, 2012, the question of Highland Park City Charter Revision was on the ballot in the City of Highland Park.

6. The measure to move forward with a Highland Park charter revision was approved by a 76% favorable vote against a 24% negative vote.

7. On November 4, 2014, the electors of the City of Highland Park duly elected the Charter Commission of the City of Highland Park.

8. The Charter Commission adopted, by unanimous vote, a proposed revised Charter on November 2, 2017, and fixed a May 8, 2018 election date to present it for voter approval with language that permitted other dates consistent with the laws of the State of Michigan for a vote on this Charter. (**Exhibit A**, 11/2/17, Charter Commission Resolution).

9. The Commission adopted the proposed Charter on November 2, 2017. The City Clerk certified the proposed City Charter as adopted by the Commission on November 3, 2017, in accordance with the laws of the State of Michigan, policies otherwise generally accepted practices.

10. On January 12, 2018, the revised Charter was approved by the Governor of the State of Michigan. (**Exhibit B**, Snyder approval)

11. On May 5, 2018, the residents of Highland Park approved the revised Charter.

12. The City Council has not followed through with obligations under the new Charter to establish three (3) Districts for City Council seats which are to be voted upon in November 2019.

13. The Mayor now asks this Court to intervene to ensure a timely and proper election under the newly adopted Charter.

COUNT I - WRIT OF MANDAMUS

14. Plaintiff incorporates the allegations contained in the prior paragraphs into this paragraph as if fully restated.

15. MCR 3.305(A)(2) provides that an action for mandamus against a municipal official must be brought in circuit court.

16. A writ of mandamus is proper where:

- a. the party seeking the writ has a clear legal right to performance of the duty sought;
- b. the Defendant has the clear legal duty to perform the act requested;
- c. the Act is ministerial; and
- d. no other remedy exists that might achieve the same result.

17. Defendant is required by law to comply with the revised Charter. Consistent with the revised Charter, the Council is obligated to adopt three (3) districts for City Council seats.

18. Defendant has ignored its legal obligations under the revised Charter.

19. This mandamus action is necessary to compel Defendant to immediately take action by approving three (3) districts for City Council seats as required by the revised Charter.

20. In the absence of a Writ of Mandamus compelling Defendant's immediate action, Plaintiff will be without any legal remedy and will suffer irreparable harm.

WHEREFORE, Plaintiff respectfully requests that this Honorable Court enter a Writ of Mandamus:

- a. Ordering City Council to approve three (3) districts for City Council seats as required by the revised Charter; and
- b. Granting Plaintiff any additional relief as this Court deems just and equitable.

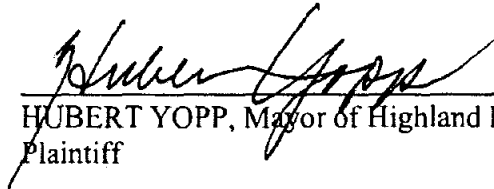
KELLY FIRM PLC

By: /s/ Daniel J. Kelly
DANIEL J. KELLY (P41315)
Attorney for Plaintiff
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Dated: July 9, 2019

Verification


Hubert Yopp, being first duly sworn, testifies that he is the Mayor of the City of Highland Park, Michigan, he has reviewed the Verified Complaint for Issuance of a Writ of Mandamus; the allegations set forth in the Verified Complaint and Motion for Temporary Restraining Order; and they are true to the best of his knowledge, information, and belief, and if called as a witness, he would competently testify as to the facts set forth in the Verified Complaint.


HUBERT YOPP, Mayor of Highland Park
Plaintiff

STATE OF MICHIGAN)
) ss.
COUNTY OF WAYNE)

The foregoing instrument was acknowledged before me this 6th day of July, 2019, by, HUBERT YOPP, to me known to be the person described herein and who executed the foregoing instrument and acknowledged that he executed the same as his free act and deed.

Public
ROSALIND A. GEREDINE
NOTARY PUBLIC, STATE OF MI
COUNTY OF WAYNE
MY COMMISSION EXPIRES Mar 22, 2025
ACTING IN COUNTY OF WAYNE


_____, Notary
County, Michigan.
My Commission Expires: 03-22-2025
Acting in _____ County, Michigan.