

VIRGINIA: IN THE CIRCUIT COURT FOR THE CITY OF CHARLOTTESVILLE

JOHN DOE AND JANE DOE NO. 1, et al.,

Plaintiffs,

v.

Case No.: CL21-610

CHARLOTTESVILLE CITY COUNCIL, and
THE CITY OF CHARLOTTESVILLE,

Defendants.

**MOTION FOR IDENTIFICATION, PURSUANT TO
VIRGINIA CODE § 8.01-15.1**

COME NOW the City of Charlottesville and the Charlottesville City Council (together, “City” or “Defendants”), by counsel, and move this Court to order that the anonymous Plaintiffs in this matter identify themselves, pursuant to Va. Code § 8.01-15.1. In support of this motion, Defendants submit as follows:

1. Plaintiffs in this matter have initiated a lawsuit seeking a declaration by this court that certain provisions of an updated Comprehensive Plan adopted on November 15, 2021 by the Charlottesville City Council (“City Council”) are void *ab initio*, due to alleged non-compliance with certain statutory requirements.

2. In their Complaint, filed on December 15, 2022 (the “Complaint”), each Plaintiff alleges that he or she owns property in the City of Charlottesville. (Complaint ¶¶ 1 through 7).

3. Plaintiffs oppose the updated Comprehensive Plan due to the potential for increased residential density in their neighborhoods (Complaint, ¶¶ 12, 17.)

4. Code § 8.01-15.1 allows the City to move this Court for an order concerning the propriety of allowing the Plaintiffs’ anonymous prosecution of this lawsuit. The Court may allow Plaintiffs to proceed using a pseudonym, if Plaintiffs can show special circumstances such

4/7/22, 2:55 pm

City of Charlottesville
Circuit Court Clerk’s Office
Liezelle A. Dugger, Clerk

By [Signature]
Deputy Clerk

that the “need for anonymity outweighs the public's interest in knowing the party's identity and outweighs any prejudice to any other party.” Virginia Code § 8.01-15.1(A).

5. Pursuant to Virginia Code § 8.01-15.1(A), the court may consider several factors in determining whether the litigants may proceed anonymously: (1) whether Plaintiffs intend to avoid the annoyance and criticism that accompanies litigation, or to preserve privacy in a sensitive and highly personal matter; (2) whether a risk of retaliatory physical or mental harm to the requesting party or to innocent nonparties exists; (3) the ages of the persons seeking anonymity; (4) whether the action is against a governmental or private party; and (5) the risk of unfairness to other parties if anonymity is maintained.

6. “[T]he likelihood of the plaintiff suffering some embarrassment or economic harm is not enough to permit anonymity.” *Am. Online v. Anonymous Publicly Traded Co.*, 261 Va. 350 (2001).

7. This lawsuit presents a challenge to the contents of a locality’s updated Comprehensive Plan, and the public hearing process by which the update was enacted; none of these matters can be said to involve sensitive, highly personal matters of any Plaintiff(s). Upon information and belief, Plaintiffs wish to proceed anonymously to avoid potential embarrassment or public criticism for opposing increased residential density—and more types and units of housing affordable to low- and moderate-income persons—within their neighborhoods.

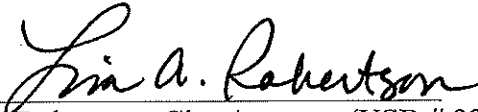
8. In the Complaint, none of the Plaintiffs gives a reason for why he or she should be allowed to proceed in this litigation anonymously.

WHEREFORE, Defendants move this Court for an order requiring the anonymous Plaintiffs to be identified.

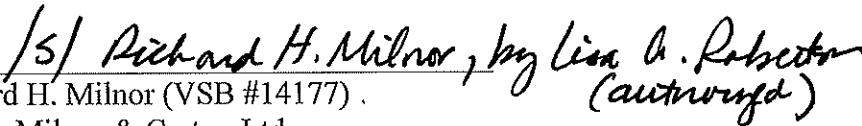
Respectfully Submitted,

CITY OF CHARLOTTESVILLE and
CHARLOTTESVILLE CITY COUNCIL,

By Counsel:



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CERTIFICATE OF SERVICE

I hereby certify that, on April 7, 2022, a paper copy of the foregoing document was hand-delivered to the Plaintiffs' counsel at the address given below:

Michael E. Derdeyn, Esq. and Marc A. Peritz, Esq.
FLORA PETTIT PC
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Lisa A. Robertson