



IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

STEVEN LINEHAN and THOMAS
GAYNOR,

Plaintiffs,

v.

STANLEY A. MILLS, JR., individually and
in his capacity as Mayor of the City of
Rehoboth Beach; PATRICK GOSSETT,
EDWARD CHRZANOWSKI, FRANCIS
MARKERT, TIM BENNETT, TONI SHARP,
and DONALD PRESTON, individually and in
their capacities as Commissioners of the City
of Rehoboth Beach Board of Commissioners;
THE CITY OF REHOBOTH BEACH
BOARD OF COMMISSIONERS; TAYLOUR
TEDDER, City Manager of the City of
Rehoboth Beach; and THE CITY OF
REHOBOTH BEACH,

Defendants.

C.A. No. _____

**VERIFIED COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF AND RESCISSION**

Plaintiffs Steven Linehan and Thomas Gaynor (“Plaintiffs”), by and through their undersigned counsel, hereby file this Verified Complaint for Declaratory and Injunctive Relief against defendants Stanley A. Mills, Jr., individually and in his capacity as Mayor of the City of Rehoboth Beach; Patrick Gossett, Edward Chrzanowski, Francis Markert, Tim Bennett, Toni Sharp, and Donald Preston, individually and in their capacities as Commissioners of the City of Rehoboth Beach Board of Commissioners (together, the “Board of Commissioners”); the

Board of Commissioners; Taylour Tedder, City Manager of the City of Rehoboth Beach; and the City of Rehoboth Beach (the “City”) (collectively, “Defendants”). Plaintiffs seek declaratory relief and rescission of an employment agreement entered into by the Board of Commissioners, in violation of the City’s charter, with its new City Manager, Mr. Tedder, and approved and purportedly ratified by the Board of Commissioners. In support of their claims, Plaintiffs allege as follows:

INTRODUCTION

1. This case seeks to remedy an abuse of power by public servants elected to serve the people of the City of Rehoboth Beach, Delaware. Here, the breach has resulted in the City and its citizens being saddled with an illegal and outsized public contract resulting from multiple violations of Delaware’s Freedom of Information Act, 29 *Del. C.* §10001, *et seq.* (“FOIA”), violation of the Charter of Rehoboth Beach (the “Charter”), and illegal use of municipal funds.

2. In late 2023, the Mayor and the Commissioners started the process to replace its City Manager—in secret. Rather than engage in an open process, the Board of Commissioners met behind closed doors in violation of FOIA to negotiate and offer an exorbitant employment agreement to a City Manager candidate, Taylour Tedder, who does not even possess the qualifications for the position mandated by the Charter.

3. Instead, the basis for Mr. Tedder’s hiring was instead summed up by defendant Mayor Stanley Mills who stated, “I wanted him, and I did my best to court him.”¹

4. The full scope of the tainted process Defendants undertook in negotiating and entering into Tedder’s employment agreement only started to come to light after concerned citizens (including Plaintiffs) lodged FOIA challenges to the Board of Commissioner’s actions. Thereafter, on June 26, 2024, the Delaware Attorney General found that the Mayor and Commissioners’ secretive hiring process violated FOIA.

5. Shockingly, the employment agreement—which the City taxpayers only came to learn about after it was signed—includes for Mr. Tedder, among other things, a \$250,000.00 annual salary and a \$750,000.00 forgivable housing loan. The compensation package makes Tedder likely the most highly compensated public servant in the State of Delaware but also one of the most highly compensated public servants in the United States.

6. Not only was the sheer size of the compensation package astounding, but in the course of uncovering what had been negotiated behind closed doors,

¹ See Chris Flood, *Rehoboth commissioners feel the heat during special meeting*, CAPE GAZETTE (July 12, 2024), available at <https://www.capegazette.com/article/rehoboth-commissioners-feel-heat-during-special-meeting/277990?source=rs> (last visited Aug. 14, 2024).

Plaintiffs and other residents of the City learned that the new City Manager, Tedder, does not have the qualifications mandated by the Charter.² Moreover, the employment agreement that was agreed to provides protections from termination that plainly violate the Charter.

7. Following the Delaware Attorney General's finding that the City violated FOIA during the hiring process, the Mayor and the Commissioners held a public meeting on July 8, 2024, seeking to ratify the terms of the employment agreement (the "July 8 Meeting").

8. Despite permitting public comment at the July 8 Meeting, the Mayor warned that the employment agreement and Tedder's qualifications were not open for debate and threatened to remove anyone who the Mayor deemed was out of order. Resident after resident of the City raised objections to the employment agreement, including objections to the unprecedented remuneration and the fact that Tedder lacks the Charter-mandated qualifications for the position. The Mayor and the Commissioners ignored the concerns of their constituents and voted unanimously to "ratify" the employment agreement.

9. As set forth herein, declaratory and injunctive relief and rescission are necessary to remedy the Mayor's and the Commissioners' abuse of office and

² Available at <https://charters.delaware.gov/rehobothbeach.pdf> (last visited Aug. 14, 2024).

violations of both FOIA and the Charter in entering into the employment agreement.

PARTIES

10. Plaintiffs Steven Linehan and Thomas Gaynor (together, “Plaintiffs”) are married homeowners in, and taxpayers of, the City of Rehoboth Beach, Delaware. Plaintiffs own two properties in the City.

11. Defendant Stanley A. Mills, Jr. (“Mills” or the “Mayor”) is the current Mayor of the City of Rehoboth Beach. Mills served as a Commissioner for the City of Rehoboth Beach for 12 years before being elected Mayor in 2020 and reelected in 2023. Mills is slated to hold office until August 2026. Mayor Mills is being sued individually and in his official capacity as the Mayor of the City of Rehoboth Beach and as a member of the Board of Commissioners.

12. Defendant Patrick Gossett (“Gossett”) is the current Vice President of the Board of Commissioners. Gossett has been a Commissioner since 2012, Vice President since 2023, and is slated to hold office until 2026. Commissioner Gossett is being sued individually and in his official capacity as a member of the Board of Commissioners.

13. Defendant Edward Chrzanowski (“Chrzanowski”) is the current Secretary of the Board of Commissioners. Chrzanowski was appointed Secretary in 2022 and is slated to serve as Secretary until 2025. Chrzanowski has been a

Commissioner since 2019. Commissioner Chrzanowski is being sued individually and in his official capacity as a member of the Board of Commissioners.

14. Defendant Francis Markert (“Markert”) is a current Commissioner and was first elected as a Commissioner in 2022. Markert is slated to hold office until 2025. Commissioner Markert is being sued individually and in his official capacity as a member of the Board of Commissioners.

15. Defendant Tim Bennett (“Bennett”) is a current Commissioner. Bennett was elected in 2021 and is slated to hold office until August 2024. Commissioner Bennett is being sued individually and in his official capacity as a member of the Board of Commissioners.

16. Defendant Toni Sharp (“Sharp”) is a current Commissioner. Sharp served as a Commissioner from 2013 until 2019. Sharp was reelected in 2021 and is slated to serve until August 2024. Commissioner Sharp is being sued individually and in her official capacity as a member of the Board of Commissioners.

17. Defendant Donald Preston (“Preston”) is a current Commissioner. Preston was first elected as a Commissioner in 2023 and is slated to hold office until 2026. Commissioner Preston is being sued individually and in his official capacity as a member of the Board of Commissioners.

18. The Mayor together with the six Commissioners make up defendant the City of Rehoboth Beach Board of Commissioners (as previously defined, the “Board of Commissioners”).

19. Defendant the City of Rehoboth Beach (as previously defined, the “City”) is a Delaware municipality with limited home rule as provided in Chapter 8 of the Delaware Code. The City “may sue and be sued, plead and be impleaded in any and all Courts of Law and Equity in the State of Delaware.” Charter § 1a.

20. Defendant Taylour Tedder (as previously defined, “Tedder”) is the City Manager of the City, and the beneficiary of an excessively lucrative employment agreement the City entered into in direct violation of the Charter.

JURISDICTION

21. This Court has jurisdiction over this action pursuant to 10 *Del. C.* § 341 (granting the Court of Chancery jurisdiction to hear and determine all matters and causes in equity). The Court also has jurisdiction over this action pursuant to 29 *Del. C.* § 10005(a), providing that “[a]ny action taken at a meeting in violation of this chapter may be voidable by the Court of Chancery.”

22. To the extent any of the claims herein are deemed to sound in law rather than equity, this Court has subject matter jurisdiction over such claims under the clean-up doctrine.

FACTUAL BACKGROUND

A. The City Searches for a New City Manager.

23. In late 2023, the City posted a job listing for a City Manager. The qualifications stated in the City’s job posting were as follows: “Minimum requirements include a bachelor’s degree in public administration or related field and seven (7) years of local government experience with at least five (5) years in progressively responsible management positions, including human resources and budget/finance management.” *See* Ex. A (City Manager Recruitment Brochure).

24. The City Manager job posting additionally stated, “The expected hiring range is \$140,000-\$175,000, depending on qualifications” *Id.*

25. According to the Mayor (as revealed during public comments at the July 8 Meeting), the job posting did not yield any viable candidates. Thereafter, the Board of Commissioners increased the offered compensation range to \$250,000, and added (among other benefits) an additional \$750,000 in the form of a no-interest housing loan that would be forgiven over seven years. This salary and benefits package far exceeded any package offered to any government employee in the State of Delaware.

26. However, rather than making it publicly known to the citizens of the City that the City would be offering such a lucrative employment package, the

Board of Commissioners engaged in a number of non-public meetings in violation of FOIA.

27. The Mayor and the Commissioners met in non-public meetings in violation of FOIA on November 6, 2023, December 1, 2023, December 11, 2023, January 8, 2024, March 11, 2024, March 18, 2024, and March 25, 2024, for the stated purpose of “discussing the qualification of individual candidates for employment as the Rehoboth Beach City Manager[.]” Ex. B (Attorney General Opinion No. 24-IB26) at 2. *See also id.* at 3 (finding that topic of the March 25, 2024 executive session was to “[c]onduct an Executive Session for the purpose of discussing the qualifications of individual candidates for the employment as the Rehoboth Beach City Manager, including individual interviews of the candidates and discussion of employment agreement”).

28. During the July 8 Meeting, Mayor Mills disclosed the process by which Tedder was ultimately approached for hiring, with Mayor Mills stating, “I wanted him, and I did my best to court him.”

B. The City Reveals that Tedder Has Been Hired.

29. The first open meeting related to Tedder’s hiring occurred on April 8, 2024. During this meeting, the Board of Commissioners adopted a resolution “to appoint the selected candidate and to authorize the Mayor to execute and deliver an employment agreement as a condition of employment.” Ex. B at 3. The

resolution was adopted unanimously by the Commissioners without discussion. *Id.*

30. By this point, however, it appears that the employment agreement was already a done deal without the involvement of the public: the Board of Commissioners resolved to hire Tedder as City Manager with an annual salary of \$250,000, a \$50,000 relocation expense, and a \$750,000 interest free loan to be forgiven after seven years of tenure as the City Manager. *See* Ex. C (Employment Agreement). The City entered into the Employment Agreement with Tedder the following day, April 9, 2024. *See id.*

C. The Employment of Tedder and the Employment Agreement Violates the Charter.

31. While the compensation package alone is unprecedented, the employment of Tedder as City Manager and the Employment Agreement itself violates the Charter. The Charter sets forth minimum qualifications for City Manager. Section 17b of the Charter provides that:

*No person shall be appointed to the office of City Manager of the Commissioners of Rehoboth Beach unless he shall have received a **degree in engineering from an approved college or university, or shall have served as City Manager of some other incorporated municipality for a period not less than four (4) years or shall have had practical engineering experience for a period of not less than four (4) years**; provided, however, that nothing contained herein shall prohibit the Commissioners of Rehoboth Beach from imposing other qualifications as may be deemed necessary*

(Emphasis added.)

32. Tedder does not meet the necessary qualifications. Tedder’s LinkedIn profile states that he is an “ICMA Credentialed Manager (ICMA-CM), Certified Economic Developer (CEcD), Master of Public Administration Grad WSU, Specialties: City/County Management, Public Finance, Economic Development.” See Ex. D (LinkedIn Profile). Tedder does not have an engineering degree.

33. Nor does Tedder have four years’ experience as a City Manager of some other incorporated municipality. Previously, Tedder was City Manager of Boulder City, Nevada, for two years and ten months. See *id.*

34. Additionally, the Charter provides that the City Manager “shall hold office for an indefinite term and may be removed by *a majority vote of the Commissioners.*” Charter § 17c. (emphasis added).

35. Despite these requirements, the Employment Agreement specifically provides:

Section 13. – Termination and Severance Pay –
City Manager agrees that *he is an at will employee* and subject to termination at any time. Anything in this Agreement to the contrary notwithstanding, nothing herein shall prevent, limit, or otherwise interfere with the right of the City to terminate the services of City Manager at any time subject only to the provisions set forth in Section 17 of the City Charter. However, during the period of time 90 days prior to an annual municipal election and 90 days after an annual municipal election, *a super majority vote (at least six Commissioners) of the Commissioners is required to terminate the services of the City Manager.*

Ex. C (emphasis added). Despite the acknowledgment in the Employment Agreement that Section 17 of the Charter governs the employment relationship between the City and the City Manager, the Employment Agreement expressly violates the Charter by creating a supermajority voting requirement to remove Tedder. Despite the Charter's express language, the Board of Commissioners entered into an agreement that violates the Charter's provisions.

36. The Charter is expressly binding on the Board of Commissioners. *See* Charter § 1d (“All powers of The Commissioners of Rehoboth Beach, whether expressed or implied, shall be exercised as prescribed by this Charter”). The Charter is deemed as a “Public Act of the State of Delaware,” having been passed by the General Assembly. Charter § 47. The Mayor and the Commissioners swear an oath upon taking office to uphold the Charter. This oath was violated by the Mayor and the Commissioners.

37. Tedder is accordingly not qualified to serve as City Manager, and the Employment Agreement entered into with him violates the Charter. The Mayor and the Commissioners have no power to override the terms of the Charter in appointing an unqualified person as City Manager or in implementing a hiring scheme which violates the Charter.

38. Although the Charter grants the Board of Commissioners discretion to add additional qualifications for the City Manager position, the Board of

Commissioners do not have authority to eliminate the minimum qualifications set forth in Section 17b of the Charter.

39. The Board of Commissioners' decision to offer Tedder an exorbitant and unprecedented compensation package was made in an illegal non-public executive session, in direct violation of FOIA. Ex. B at 4.

40. The illegal actions of the Mayor and the Commissioners are part of a reoccurring course of conduct and not the result of an innocent mistake: the Mayor and the Commissioners previously violated FOIA when recently hiring a new City Solicitor. *See, e.g.*, Attorney General Opinion No. 24-IB08 (Feb. 13, 2024). The Mayor and Commissioners were aware, or should have been aware, of their obligations under FOIA.

41. Accordingly, the Mayor and Commissioners' culpable state of mind is palpable: the Mayor and the Commissioners knew, or should have known, they were violating FOIA by holding meetings to replace the City Manager in illegal closed-door sessions. The Mayor and Commissioners' breach of the public trust harms Plaintiffs and all other municipal taxpayers of the City by saddling them with an exorbitant employment package for a City Manager who does not even meet the Charter-mandated qualifications.

D. The Mayor and the Commissioners Attempt to Ratify the Illegal Acts.

42. In an attempt to cure the Mayor and Commissioners' various FOIA violations, the Mayor and the Commissioners scheduled a special meeting to be held on July 8, 2024 (as previously defined, the "July 8 Meeting") for the purpose of ratifying the Employment Agreement. *See* Ex. B at 6 ("In this case, we recommend that the Board discuss the City Manager's contract, including the compensation package, and ratify the vote associated with the City Manager's contract at a future meeting held in compliance with FOIA's open meeting requirements. This meeting agenda must include time for public comment.").

43. While the purpose of the July 8 Meeting was to seek to remedy the prior FOIA violations, the Mayor and the Commissioners apparently believed that the July 8 Meeting could also remedy the violations of the Charter.

44. The July 8 Meeting was contentious. Although time for public comment was permitted, the Mayor specifically instructed the public in attendance that comments regarding the Charter's requirements or the qualifications of Tedder to serve as City Manager would be deemed out of order. When voices were raised that this was improper and questioning why the meeting was even being held, the Mayor threatened to have members of the public who spoke out with whom the

Mayor deemed to be out of order removed from the meeting.³ This limitation on the public's ability to comment regarding the broader issues, and threat to use force to remove members of the public from the meeting, made any effort on the part of the Defendants to remedy the FOIA violations ineffective.

45. Eighteen people in attendance at the July 8 Meeting spoke out against the compensation package, the hiring of Tedder, the lack of transparency, and the violations of the Charter. City residents attending the July 8 Meeting specifically noted that the Charter disqualifies Tedder from consideration for the position as City Manager.

46. Despite the Charter violations, the Mayor and the Commissioners voted unanimously to ratify the Employment Agreement.

47. During comments made by the Mayor and the various Commissioners, one Commissioner, Commissioner Preston, noted that there was more to the story related to the hiring of Tedder and why he was selected, but that he could not disclose the full story to the public in the open meeting.

48. Plaintiffs bring this action to remedy Defendants' abuse of their offices and seek declaratory and injunctive relief and rescission of the procedurally

³ See Sean Greene, "Rehoboth Commissioners affirm City Manager's \$250,000 contract despite public objection," WDEL.COM, available at: https://www.wdel.com/news/rehoboth-commissioners-affirm-city-managers-250-000-contract-despite-publicobjection/article_27a80ac8-3d84-11ef-85e5-87c140963577.html (last visited Aug. 13, 2024).

and substantively illegal employment agreement entered into with Tedder. Plaintiffs have standing to bring this action as City property owners and as municipal taxpayers for several years. Defendants' ultra vires actions have a direct impact on the municipal tax burden on Plaintiffs and tax payers and property owners like Plaintiffs. Additional, Plaintiff Gaynor attended the July 8 Meeting and voiced his objections to the Employment Agreement, but Plaintiff Gaynor's objections were ignored.

COUNT I
Declaratory Judgment – Violation of City Charter

49. Plaintiffs reallege and incorporate by reference the foregoing paragraphs above as if set forth in full herein.

50. The offer of employment to Tedder and resulting Employment Agreement violate the Charter because Tedder does not have a “degree in engineering from an approved college or university,” and has not “served as City Manager of some other incorporated municipality for a period of not less than four (4) years” or “have had practical engineering experience for a period of not less than four (4) years.” Charter § 17b.

51. Defendants' entry into the Employment Agreement is violation of the Charter, because Tedder does not have the mandated qualifications to serve as City Manager, and it causes a quantifiable, non-speculative \$1,050,000 injury to

Plaintiffs and all other taxpayers of the City in the first year and \$250,000 for each additional year of Tedder' employment.

52. Additionally, the Employment Agreement is facially illegal since it does not comply with Charter Section 17c, which provides that the City Manager may be removed by a simple majority vote of the Commissioners. To the contrary, termination of Tedder requires a supermajority vote during certain periods. *See* Ex. C at § 13.

53. The Delaware Attorney General determined that the Mayor and Commissioners' secret meetings in adopting the compensation plan and entering into the Employment Agreement violate FOIA. *See* Ex. B.

54. Plaintiffs are accordingly entitled to a declaration that the Employment Agreement is void *ab initio* as it is beyond the Board of Commissioners' power to enter into a material agreement that violates the Charter. Additionally, the Board of Commissioners' subsequent purported ratification of Tedder's Employment Agreement does not cure the hiring of a City Manager in violation of the Charter.

55. Plaintiffs have no adequate remedy at law.

COUNT II
Declaratory Judgment – Illegal Use of Municipal Taxpayer Funds

56. Plaintiffs reallege and incorporate by reference the foregoing paragraphs above as if set forth in full herein.

57. The Employment Agreement provides Tedder with a salary and compensation package likely higher than any public official in the State of Delaware, and indeed, puts him among the highest paid government employees in the United States. Tedder was not elected, but rather was hired in a secretive, closed-door process in violation of FOIA.

58. The offer of employment to Tedder violates the Charter because Tedder does not have a “degree in engineering from an approved college or university,” and has not “served as City Manager of some other incorporated municipality for a period of not less than four (4) years” or “have [...] practical engineering experience for a period of not less than four (4) years.” Charter § 17b. Additionally, the Employment Agreement violates Section 17c of the Charter.

59. Defendants’ conduct in offering employment to Tedder and entering into the Employment Agreement has saddled the City with an unconscionably large fiscal liability in the form of an annual salary of \$250,000, a \$50,000 moving allowance, and \$750,000 interest-free housing loan, forgivable after seven years (among other benefits).

60. Defendants’ entry into the Employment Agreement was both illegal, because Tedder does not have the qualifications to serve as City Manager as mandated by the Charter, but also causes a quantifiable, non-speculative \$1,050,000 injury to Plaintiffs and other taxpayers of the City in the first year and

\$250,000 for each additional year of Tedder's employment under the Employment Agreement.

61. Plaintiffs are entitled to a declaratory judgment that the Board of Commissioners' entry into the Employment Agreement with Tedder (a) constitutes an illegal use of municipal funds, and that (b) the Board of Commissioners' subsequent purported ratification of Tedder's Employment Agreement is of no effect.

62. Plaintiffs have no adequate remedy at law.

COUNT III

Invalidation of Employment Agreement under 29 Del. C. § 10005(a)

63. Plaintiffs reallege and incorporate by reference the foregoing paragraphs above as if set forth in full herein.

64. The Employment Agreement violates the Charter because Tedder does not have a "degree in engineering from an approved college or university," and because Tedder has not "served as City Manager of some other incorporated municipality for a period of not less than four (4) years" or "have [...] practical engineering experience for a period of not less than four (4) years." Charter § 17b. Additionally, the Employment Agreement violates the Charter because it does not comply with Section 17c of the Charter with respect to termination of the City Manager by a simple majority vote of the Commissioners.

65. FOIA provides that “[a]ny action taken at a meeting in violation of this chapter may be voidable to the Court of Chancery.” 29 Del. C. § 10005(a).

66. In connection with the negotiation of Tedder’s Employment Agreement, the Commissioners violated FOIA by holding executive sessions for an improper purpose, failing to properly notice two executive sessions, and failing to notice a public comment period. See Ex. B.

67. FOIA does not permit public bodies to engage in private strategy sessions regarding employment-related contracts outside of a collective bargaining or litigation context. *Id.* at 4. Discussions of salary and other compensation involve the expenditure of public funds and are not related to the individual’s qualifications to hold a job. *Id.* Public employees’ compensation is a matter of public record, as it is well settled that citizens have a right to know how their public servants are compensated with taxpayer monies, in whatever the form that compensation might take. *Id.*

68. The City Manager search was irredeemably flawed. The Board of Commissioners violated FOIA by giving improper notice for the planned discussions of the qualifications of City Manager candidates at its November 6, 2023 and January 8, 2024 executive sessions. *Id.* at 4-5.

69. The Board of Commissioners further violated FOIA by failing to notice time for public comment on its agendas for *seven* meetings in executive

session regarding City Manager candidates held on November 6, 2023, December 1, 2023, December 11, 2023, January 8, 2024, March 11, 2024, March 18, 2024, and March 25, 2024, and a public Special Meeting held on April 8, 2024. *Id.* at 5.

70. Defendants' entry into the Employment Agreement was both illegal, because Tedder does not have the qualifications to serve as City Manager as mandated by the Charter and the Employment Agreement itself violates the Charter, but also causes a quantifiable, non-speculative \$1,050,000 injury to Plaintiffs and other taxpayers of the City in the first year and \$250,000 for each additional year of Tedder' employment under the Employment Agreement.

71. The Employment Agreement is voidable under FOIA, not only because the Mayor and the Commissioners violated FOIA, but because the Contract was entered into in violation of the Charter, and constitutes an illegal use of municipal funds which has a direct and measurable harm to the people of the City.

72. The Board of Commissioners' purported ratification of the Employment Agreement on July 8, 2024, is ineffective, and any payments made thereunder can be disgorged.

73. Plaintiffs are entitled to invalidation of the employment pursuant to 29 *Del. C.* § 10005(a), and disgorgement of any consideration paid thereunder.

COUNT IV
Equitable Rescission of Employment Agreement

74. Plaintiffs reallege and incorporate by reference the foregoing paragraphs above as if set forth in full herein.

75. The Mayor and Commissioners' offer of employment to Tedder and resulting Employment Agreement violates the Charter because Tedder does not have a "degree in engineering from an approved college or university," and has not "served as City Manager of some other incorporated municipality for a period of not less than four (4) years" or "have [...] practical engineering experience for a period of not less than four (4) years." Charter § 17b. Additionally, the Employment Agreement violates Section 17c of the Charter.

76. Defendants' approval of and entry into the Employment Agreement was illegal, and also causes a quantifiable, non-speculative \$1,050,000 injury to Plaintiffs and the other taxpayers of the City in the first year and \$250,000 for each additional year of Tedder' employment under the Employment Agreement.

77. The City's entry into the Employment Agreement was beyond the power vested in the Mayor and the Commissioners, and thus, if not *void ab initio*, the Employment Agreement is subject to equitable rescission.

78. Rescission is reasonable and appropriate, as the Employment Agreement was entered into in violation of the Charter, constitutes an illegal use

of municipal funds, and the Mayor and the Commissioners’ violated FOIA throughout the search for a City Manager.

79. The Board of Commissioners’ purported ratification of the contract on July 8, 2024, does not cure the substantive defects in the process, the violation of the Charter, the FOIA violations, or the illegal use of municipal funds.

80. Plaintiffs have moved promptly. A City election was held on August 10, 2024, and Plaintiffs had no desire to have this litigation interfere with the election.

81. Plaintiffs are entitled to equitable rescission of the Employment Agreement, and disgorgement of any and all consideration paid thereunder.

82. Plaintiffs have no adequate remedy at law.

COUNT V
Injunctive Relief – Illegal Use of Municipal Funds

83. Plaintiffs reallege and incorporate by reference the foregoing paragraphs above as if set forth in full herein.

84. The offer of employment to Tedder violates the Charter because Tedder does not have a “degree in engineering from an approved college or university,” and has not “served as City Manager of some other incorporated municipality for a period of not less than four (4) years” or “have [...] practical engineering experience for a period of not less than four (4) years.” Charter § 17b. Additionally, the Employment Agreement violates Section 17c of the Charter

85. Defendants' entry into the Employment Agreement was both illegal, and also causes a quantifiable, non-speculative \$1,050,000 injury to Plaintiffs and other taxpayers of the City in the first year and \$250,000 for each additional year of Tedder' employment under the Employment Agreement.

86. As described above, as the Employment Agreement is the result of multiple FOIA violations, violates the Charter, and constitutes an illegal use of municipal funds.

87. The Employment Agreement threatens Plaintiffs and all taxpaying residents of the City with irreparable harm.

88. Plaintiffs are entitled to an order enjoining any and all payments of municipal funds made or to be made to Tedder under the Employment Agreement.

89. Plaintiffs have no adequate remedy at law.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that this Honorable Court enter the following relief:

A. As to Count I, a declaratory judgment that the Employment Agreement is void *ab initio* because it was beyond the Mayor and the Commissioners' power to enter into a material agreement that violates the Charter, and the Mayor and the Commissioners' purported

- ratification of the Employment Agreement on July 8, 2024, does not cure the violation;
- B. As to Count II, a declaratory judgment that the Employment Agreement is an illegal use of municipal funds, and the Mayor and the Commissioners' purported ratification of the Employment Agreement on July 8, 2024, does not cure the Mayor and the Commissioners' violation of the Charter;
- C. As to Count III, invalidation and rescission of the Employment Agreement under 29 *Del. C.* § 100005(a), and disgorgement of any consideration paid thereunder;
- D. As to Count IV, equitable rescission of the Employment Agreement, and disgorgement of any consideration paid thereunder;
- E. As to Count V, an order enjoining any and all payments of municipal funds made or to be made to Tedder under the Employment Agreement; and
- F. Awarding Plaintiffs their reasonable attorneys' fees in bringing this action, and awarding Plaintiffs any or all other relief the Court deems appropriate.

Dated: August 15, 2024

HALLORAN FARKAS + KITTILA LLP

/s/ Theodore A. Kittila

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