



COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

FILED

JAN 08 2021

Clerk of Courts
Cuyahoga County, Ohio

STATE EX. REL. GARRY KANTER)	CASE NO.
████████████████████)	
████████████████████)	JUDGE:
)	
)	COMPLAINT FOR WRIT
Realtor,)	IN MANDAMUS
vs.)	
)	
CITY OF CLEVELAND HEIGHTS)	
)	
40 Severance Circle)	
Cleveland Heights, Ohio 44118)	
)	
CITY OF CLEVELAND HEIGHTS)	
COUNCIL MEMBERS)	
Jason Stein,)	
Kahlil Seren,)	
Mary Dunbar,)	
Melody Joy Hart,)	
David Russell,)	
Michael N. Ungar)	
)	
40 Severance Circle)	
Cleveland Heights, Ohio 44118)	

Respondents

Realtor Garry Kanter, for his Complaint for a writ of mandamus states as follows:

1. Realtor Garry Kanter is a resident of Cleveland Heights, Ohio.
2. Respondent Cleveland Heights is a political subdivision of Ohio that, pursuant to Section 7, Article XVIII of the Ohio Constitution, has exercised its power of local self-government via promulgation of a Charter dating back to August 9, 1921.

3. Pursuant to Article 3, Section 1, of the Cleveland Heights Charter the legislative power of the City "shall be vested in a Council of seven members at large."

4. Respondents, Jason Stein, Kahlil Seren, Mary Dunbar, Melody Joy Hart, Davida Russell and Michael N. Ungar, are all duly elected members of Cleveland Heights City Council.

5. On or about March 2, 2020, a vacancy arose on City Council as the result of the resignation of one of its members, leaving the six Respondents as the remaining members of City Council.

6. Article 3, Section 4 of the City's Charter provides:

SECTION III-4. VACANCIES.

Any vacancy in the Council, except as otherwise provided in this Charter, **shall be filled by appointment by a majority of the remaining members of the Council.** Such appointee shall hold office through December 31 following the next regular municipal election taking place more than sixty days after such vacancy occurs; provided, however, that the term of a member shall not be lengthened by his resignation and subsequent appointment. The term of the person chosen at such election to succeed such appointee for any unexpired term shall begin the first day of January next following his election and he shall serve the remainder of such unexpired term [Emphasis added].

7. Article 3, Section 4, mandates that any vacancy in the seven member Council "shall be filled by appointment by a majority of the remaining members of Council."

8. Various residents of Cleveland Heights, including Realtor, have demanded that the six Respondent City Council members abide by Article 3, Section 4, and fill by appointment the vacancy on Council that has existed since March 2, 2020.

9. Respondents have ceased efforts:


"(Stein) saw little reason to reconvene until there was some indication of a potential compromise..." cleveland.com, December 28, 2020

10. Respondents have failed to do so as mandated by the Charter of the City of Cleveland Heights.

11. Realtor has no other adequate remedy at law to compel the Respondents to fulfill the duty imposed upon them to fill the vacancy on City Council.

Wherefore, Realtor, Garry Kanter, prays that this Court issue a Writ of Mandamus and issue an order directing the Council of Cleveland Heights to immediately fill the vacancy on Council.

Respectfully submitted,


Garry Kanter

