



occupational and other interests under Article 1, Sections 1, 14, 19, 35 and 36 of the North Carolina Constitution, under North Carolina common law and under the First, Ninth and Fourteenth Amendments to the United States Constitution. The relief sought by Petitioner, and agents of the City of Winston-Salem, including the relief sought by the Petitioner, will violate these constitutional and common law rights of Respondents herein.

### **MOTION TO DISMISS - FAILURE TO STATE A CLAIM**

The Petition fails to state a claim upon which relief can be granted. Therefore, the Petition should be dismissed pursuant to Rule 12(b)(6) of the North Carolina Rules of Civil Procedure.

### **MOTION TO DISMISS FOR LACK OF JURISDICTION**

This Court is without jurisdiction to adjudicate the purported petition. Therefore, the petition should be dismissed pursuant to Rules 12(b)(1)(2) of the N.C. Rules of Civil Procedure.

This Court does not have subject matter jurisdiction. This Court does not have jurisdiction over the person of Respondent.

Therefore, the Petition should be dismissed.

### **MOTION TO DISMISS FOR LACK OF STANDING**

Petitioner does not have legal standing to attempt to seek the relief sought in the purported petition. Therefore, the Petition should be dismissed.

### **MOTION TO DISMISS FOR LACK OF AUTHORITY TO PROSECUTE THE PETITION**

The City of Winston-Salem does not have jurisdiction, standing or authority to seek the relief sought in the Petition. Therefore, the Petition should be dismissed.

### **MOTION TO DISMISS - LACK OF RIPENESS**

The Petition does not present a ripe legal controversy. Thus, the Petition should be dismissed.

### **MOTION TO DISMISS - LACK OF JUSTICIABLE CONTROVERSY**

The Petition does not present a justiciable controversy. Therefore, the Petition should be dismissed.

### **MOTION TO DISMISS - LACK OF CAPACITY TO INITIATE AND FILE THE PETITION**

The purported party initiating and filing the Petition, the City of Winston-Salem, lacks capacity and authority file the Petition. Therefore, the Petition should be dismissed.

### **MOTION TO DISMISS - LACK OF REAL PARTY IN INTEREST**

The purported Petition is not brought by the real party in interest. Therefore, the Petition should be dismissed.

### **MOTION TO DISMISS - THE RELIEF SOUGHT BY THE PETITION WOULD VIOLATE THE FEDERAL AND STATE CONSTITUTIONAL RIGHTS OF RESPONDENTS**

The relief sought would violate Respondent's rights under Article 1, Sections 1, 14, 19, 35 and 36 of the North Carolina Constitution, North Carolina common law and the Ninth and Fourteenth Amendments to the Federal Constitution. Therefore, the Petition should be dismissed.

### **PRESERVATION OF ALL OTHER DEFENSES**

Respondent hereby respectfully preserves all other defenses that are discovered through further investigation, discovery or upon hearing.

## ANSWER

Now come the Respondents, without waiving any defenses or jurisdiction, and respectfully answer as follows:

Unless specifically admitted, all allegations are denied upon information and belief.

The relief sought would violate Respondent's rights under Article 1, Sections 1, 14, 19, 35 and 36 of the North Carolina Constitution, North Carolina common law and the Ninth and Fourteenth Amendments to the Federal Constitution.

Respondents have not yet been able to conclude their investigation of the allegations in the petition. Therefore, Respondents submit this answer upon information and belief.

1. Respondents do not have sufficient information at this time to admit the allegations contained in paragraph one of the Petition, thus the allegations are denied.

2. Respondents do not have sufficient information at this time to admit the allegations contained in paragraph one of the Petition, thus the allegations are denied.

3. Respondents do not have sufficient information at this time to admit the allegations contained in paragraph one of the Petition, thus the allegations are denied.

4. Respondents do not have sufficient information at this time to admit the allegations contained in paragraph one of the Petition, thus the allegations are denied.

5. Respondents do not have sufficient information at this time to admit the allegations contained in paragraph one of the Petition, thus the allegations are denied.

6. Respondents do not have sufficient information at this time to admit the allegations contained in paragraph one of the Petition, thus the allegations are denied.

7. Respondents do not have sufficient information at this time to admit the allegations contained in paragraph one of the Petition, thus the allegations are denied.

8. Admitted upon information and belief.

9. Admitted upon information and belief.

### **RESPONSE TO PRAYER FOR RELIEF**

Petitioner is not entitled to any relief sought.

Wherefore, Respondents pray for the following:

1. That the Petitioner have and recover nothing of Respondents. No relief should be granted.
2. That this action be dismissed.
3. That a discovery schedule should be ordered so that Respondents may enjoy discovery to obtain evidence and information necessary to protect their interests.
4. That an evidentiary hearing should be scheduled following discovery and for the submission of evidence.
5. That this court award Respondents attorney fees and tax all costs necessary to defend this action against Petitioner.
6. For such other and further relief as this court deems just and proper.
7. For a trial by jury.

  
/s/ J. Michael McGuinness

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