

- (4) On February 21, 2017, counsel for Respondent filed a Demurrer to the Petition with this Court, and appeared in this Court prepared to argue the Demurrer on February 23, 2017;
- (5) On March 7, 2017, the Commonwealth filed a Motion to Non-Suit the Petition, on the grounds that it was not signed by a sufficient number of registered voters pursuant to Virginia Code § 24.2-233, and on substantive grounds, namely that the Commonwealth lacked evidence to prosecute the removal proceeding or to issue a bill of particulars;
- (6) At a hearing before this Court on March 8, 2017, this Court granted the Commonwealth's Motion to Non-suit the Petition;
- (7) In connection with counsel's representation of Respondent in this matter, Respondent incurred the reasonable attorney's fees and costs listed in Exhibit A;
- (8) Virginia Code § 24.2-238 states: "If a judicial proceeding under this article is dismissed in favor of the respondent, the court in its discretion may require the state agency or political subdivision which the respondent serves to pay court costs or reasonable attorney fees, or both, for the respondent."
- (9) There are strong public policy and equitable reasons for the Court to exercise its discretion to require the City of Charlottesville to pay Respondent's reasonable attorney fees in this case, including:
 - a. The fee provision of § 24.2-238 is intended to encourage qualified individuals to serve in public office, and to prevent the intimidation and coercion of public officials through threat of unsubstantiated removal proceedings and the expense of defending against such proceedings, particularly in cases where the removal proceedings appear to be politically and/or personally motivated, and lack evidence to support the claim for removal from office, as in this case;

- b. The general public has a strong interest in ensuring that incumbent officials are able to fulfill the duties of public office without intimidation, coercion, or distraction of unsubstantiated removal proceedings, and in encouraging other qualified candidates to seek public office in the future;

(10) In furtherance of the public policy goals stated above and in the interest of justice, the Court should exercise its discretion under § 24.2-238 to require the payment of Respondent's reasonable attorney fees and costs.

WHEREFORE, Respondent respectfully requests that this Court require the City of Charlottesville to pay Respondent's reasonable attorney fees and costs expended, in the amount of \$7,588.35 pursuant to Virginia Code § 24.2-238.

Respectfully submitted, this 15th day of March, 2017.



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