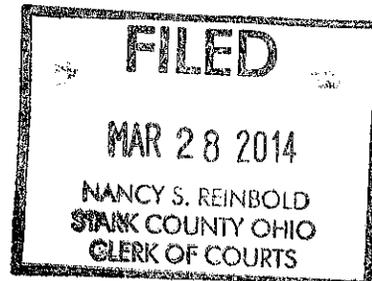


IN THE COURT OF COMMON PLEAS  
STARK COUNTY, OHIO



**CITY OF NORTH CANTON, OHIO**  
145 North Main Street  
North Canton, OH 44720

Plaintiff,

v.

**CHARLES OSBORNE**  
307 Fairview Street SE  
North Canton, OH 44720

and

**RITA PALMER**  
307 Fairview Street SE  
North Canton, OH 44720

and

**GEORGE DANILUK**  
502 Werstler Avenue NW  
North Canton, OH 44720

and

**LARRY TRIPP**  
1127 East Maple Street  
North Canton, OH 44720

and

**HILLARY MUELLER**  
1334 Wilkshire Circle SW  
North Canton, OH 44720

Defendants.

) CASE NO:

) JUDGE

) COMPLAINT FOR DECLARATORY  
) JUDGMENT

2014CV00757

A handwritten signature in cursive script, appearing to read "A. ...".

## PARTIES/JURISDICTION/VENUE

1. Plaintiff, City of North Canton (“North Canton”) is located in Stark County, Ohio, and is a charter municipal corporation under Article XVIII, Section 7 of the Ohio Constitution.

2. Defendants, Charles Osborne, Rita Palmer, George Daniluk, Larry Tripp, and Hillary Mueller (collectively, “Defendants”) reside in North Canton, Ohio.

3. Defendants are the circulators of a Stark County initiative petition entitled:

ENDING CITY-PAID FAMILY HEALTH INSURANCE BENEFITS  
RECEIVED BY FAMILY MEMBERS OF PART-TIME ELECTED  
OFFICIALS AND LIMITING CITY-PAID HEALTH INSURANCE  
BENEFITS FOR INDIVIDUAL PART-TIME ELECTED OFFICIALS

and therefore have a claim or interest that would be affected by a declaration of this Court.

4. This is a civil action seeking declaratory judgment pursuant to R.C. Chapter 2721 and Civ.R. 57 to test the validity of an initiative action.

5. North Canton has standing to bring this action to determine the validity of the initiative action as it directly infringes on North Canton’s Charter (“Charter”) requirement that City Council shall have the power to fix the compensation of the elected officials and of all North Canton employees.

6. North Canton’s elected officials possess rights directly affected by the initiative action.

7. There is a justiciable controversy between the parties, which is ripe for review, because the initiative action purports to prevent North Canton from exercising its powers of local self-government pursuant to Section 4.04 of its Charter and Article XVIII, Section 3 of the Ohio Constitution.

8. The Court’s declaration regarding the legal status of North Canton’s Charter and the initiative action will terminate the uncertainty and controversy between the parties.

## BACKGROUND

9. North Canton incorporates the allegations contained in paragraphs 1 through 8 of the complaint as if fully restated herein.

10. In 1912, voters amended the Ohio Constitution to include several provisions that expanded the powers of municipalities, including the authority to adopt their own charter. Ohio Constitution, Article XVIII, Sections 3, 7, 8, and 9.

11. Ohio's citizens approved what has become known as the "Home Rule Amendment," embodied in Section 3 of Article XVIII of the Ohio Constitution, which states "Municipalities shall have authority to exercise all powers of local self-government and to adopt and enforce within their limits such local police, sanitary and other similar regulations, as are not in conflict with the general laws."

12. The 1912 amendments to the Ohio Constitution intended to give municipalities the broadest possible powers of self-government as a charter serves as a municipality's constitution.

13. The Home Rule Amendment grants municipalities two separate types of authority: (a) to regulate the matter of local self-government, and (b) to adopt and enforce police regulations that do not conflict with the State's general laws.

14. Fixing the compensation levels of municipal employees is a matter within the powers of local self-government.

15. North Canton's electorate adopted the municipality's original Charter on November 8, 1960.

16. North Canton's original Charter provided, and it has remained unchanged that:

*The Council shall have the power to fix the compensation of its members and that of the Mayor, the Director of Administration, the Director of*

Finance, the Director of Law, officers of the municipality, of each job classification, and the members of any board, commission, of the municipality, whether elected, appointed, or chosen.

(Emphasis added.) Charter Section 4.04. Salaries and Bonds. A true and accurate copy of this portion of the Charter is attached hereto as North Canton's "**Exhibit 1**" and is incorporated herein by this reference.

17. The Supreme Court of Ohio has consistently held that health care benefits shall be regarded as compensation.

18. Defendants circulated an initiative petition to limit the health care benefits of North Canton's elected officials. A certified copy of the initiative petition is attached hereto as North Canton's "**Exhibit 2**" and is incorporated herein by this reference.

19. Defendants obtained the number of signatures necessary to place the initiative petition on the Stark County ballot for the November 6, 2012 General Election.

20. The proposed initiative action obtained the number of affirmative votes necessary for its passage.

21. Because the initiative action purports to utilize an ordinance to limit North Canton's elected officials' health care benefits (salary)—*a right belonging only to City Council*—the voters passed the initiative action in derogation of North Canton's Charter.

22. Whether enacted by a legislative body, or through a voter initiative such as here, an ordinance at odds with its charter is void at its inception and has no effect. Indeed, when the provisions of a city's charter and its ordinances conflict, the charter provisions prevail.

23. Upon the belief that the initiative action may be without legal effect, City Council passed North Canton Ordinance 23-14, which mirrors and therefore repeals and replaces the

initiative action. A true and accurate copy of Ordinance 23-14 is attached hereto as North Canton's "**Exhibit 3**" and is incorporated herein by this reference.

24. North Canton's elected officials have placed their affairs in order such that their City-provided health care benefits, if any, comply with both the spirit and intent of the initiative action and North Canton Ordinance 23-14.

25. Elected officials that did not timely revise their health care benefit selections before beginning the latest term of office have reimbursed North Canton for any of its funds that were expended on their behalf in derogation of the spirit and intent of the initiative action and North Canton Ordinance 23-14. An affidavit from North Canton's Director of Finance attesting to the truth and accuracy of the facts stated herein and in paragraph 24 above is attached hereto as North Canton's "**Exhibit 4**" and is incorporated herein by this reference.

26. Despite North Canton's action to lawfully place the spirit and intent of the initiative action into legal effect with Ordinance 23-14, Defendants have threatened North Canton with a lawsuit if it does not formally recognize the initiative action as a validly-enacted, voter-initiated ordinance. A true and accurate copy of Defendants' demand letter is attached hereto as North Canton's "**Exhibit 5**" and is incorporated herein by this reference.

27. North Canton's City Council may not lawfully enact proposed legislation that it believes is contrary to the Charter.

28. As the municipality's elected executive, North Canton's Mayor is responsible to the electors for enforcement of all of its laws and ordinances; however, the Mayor may not lawfully enforce an initiative action that appears in direct conflict with the municipality's long-standing Charter provision that City Council shall have the power to fix the compensation of the elected officials.

### **DECLARATORY JUDGMENT**

29. North Canton incorporates the allegations contained in paragraphs 1 through 28 of the complaint as if fully restated herein.

30. An actual controversy has arisen and now exists between North Canton and Defendants regarding Section 4.04 of North Canton's Charter as a valid exercise of its Home Rule powers as established by the Ohio Constitution, Article XVIII, Sections 3 and 7, and Defendants' initiative action.

31. As a result, North Canton's rights, status, or other legal relations are affected by statute or ordinance as set forth in Section 2721.03 of the Ohio Revised Code.

32. The Court's declaration regarding the legal status of North Canton's Charter Section 4.04 and the initiative action will terminate the uncertainty and controversy between the parties.

33. Pursuant to Chapter 2721 of the Ohio Revised Code, North Canton respectfully requests that the Court declare the status, rights, and responsibilities of the parties hereto.

### **PRAYER FOR RELIEF**

34. North Canton incorporates the allegations contained in paragraphs 1 through 33 of the complaint as if fully restated herein.

35. North Canton respectfully requests that the Court declare the initiative action void ab initio together with a preliminary and permanent injunction barring its enforcement.

36. North Canton further requests that the Court declare that the City Council-enacted health care ordinance regarding elected officials, North Canton Ordinance 23-14, repeals and replaces the initiative action.

**WHEREFORE**, Plaintiff, City of North Canton requests:

(1) A declaration that the initiative action is contrary to North Canton's Charter and is therefore void ab initio;

(2) A declaration that North Canton Ordinance 23-14 repeals and replaces the initiative action;

(3) A preliminary and permanent injunction barring enforcement of the initiative action; and

(4) For such further relief to which it may be entitled to at law or in equity.

Respectfully submitted,

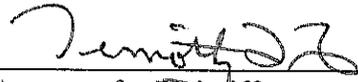
NORTH CANTON DIRECTOR OF LAW

By:   
\_\_\_\_\_  
Timothy L. Fox (#0081029)  
145 North Main Street  
North Canton, OH 44720  
Telephone: (330) 499-1293  
Telefax: (330) 499-2080  
E-Mail: [tfox@northcantonohio.gov](mailto:tfox@northcantonohio.gov)  
*Counsel for Plaintiff,  
City of North Canton*

INSTRUCTIONS FOR SERVICE

**TO THE CLERK:**

Please serve Defendants with summonses and complaints by certified mail, return receipt requested at the addresses listed in the caption of this complaint.

  
\_\_\_\_\_  
Attorney for Plaintiff

**Section 4.04. Salaries and Bonds.**

The Council shall have the power to fix the compensation of its members and that of the Mayor, the Director of Administration, the Director of Finance, the Director of Law, officers of the municipality, of each job classification, and the members of any board or commission of the municipality, whether elected, appointed, or chosen.

The Mayor, Director of Administration, Director of Finance, and other such officials or employees, or members of boards and commissions as Council may require, shall give bond in such amount and with such surety as may be approved by Council. The premium for such bonds shall be paid by the municipality.

The compensation of the Mayor and each member of Council shall be fixed at least thirty days prior to the filing date of the nominating petitions for the terms beginning on the next succeeding first of December, and shall not be changed during the term of office or any part thereof.

The Council may authorize the payment or reimbursement of expenses incurred by any officer, employee or member of any board or commission of the municipality for travel, membership in an association, or otherwise in the interest of the municipality.

(Amended 11-7-78)

RECEIVED

INITIATIVE PETITION (Municipality or Home Rule Township)

2012 JUN 14 AM 10:32

Revised Code 504.14, 731.28-41, 3501.38, 3503.06 STARK COUNTY BOARD OF ELECTION

NOTE: Prior to circulation of an initiative petition proposing an ordinance or measure, a certified copy of such ordinance or measure must be filed with the City Auditor, Village clerk or Township Fiscal Officer (home rule township). This petition must be signed by ten percent of the number of electors in the city, village or unincorporated area of the township who voted for governor at the preceding gubernatorial election and must be filed with the City Auditor, Village Clerk or Township Fiscal Officer.

(NOTE -The below notice must be printed in red.)

NOTICE - Whoever knowingly signs this petition more than once, signs a name other than his own, or signs when not a legal voter, is liable to prosecution.

To the Director of Finance of the City of North Canton, Ohio: (City Auditor, Village Clerk or Township Fiscal Officer) (City, Village or Township)

We, the undersigned, electors of the City of North Canton, Ohio (City, Village or Township) (Name of City, Village or Township)

respectfully propose to the electors of such city, village, or township for their approval or rejection at the general election to be held on the 6th day of November, 2012 the following Ordinance:

The following is a full and correct copy of the title and text of the proposed Ordinance:

ENDING CITY-PAID FAMILY HEALTH INSURANCE BENEFITS RECEIVED BY FAMILY MEMBERS OF PART-TIME ELECTED OFFICIALS AND LIMITING CITY-PAID HEALTH INSURANCE BENEFITS FOR INDIVIDUAL PART-TIME ELECTED OFFICIALS

An ordinance ending city-paid health insurance benefits for family members of part-time elected officials, and further, limiting city-paid health insurance benefits to individual primary coverage only for part-time elected officials who do not have access to health insurance benefits through their full-time employer.

BE IT RESOLVED:

- SECTION 1: That it is hereby determined that the City of North Canton ("City"), having lost thousands of jobs and substantial income tax revenue following the closure of the City's largest employer (The Hoover Company in 2008), and having since that time struggled financially, must find substantial savings and reduce the costs of city government.
SECTION 2: That the surrounding Stark County municipalities of Alliance, Louisville, Massillon, and Canal Fulton provide no city-paid health insurance benefits to part-time elected officials, and that to reduce the cost of city government, overly generous city-paid health benefits for part-time elected officials must be brought in line with what taxpayers experience themselves.
SECTION 3: That city-paid health insurance benefits for family members of part-time elected officials is no longer authorized.
SECTION 4: That city-paid health insurance benefits be available only to part-time elected officials who have no health insurance benefits available to them through their full-time employer and that city-paid

CERTIFIED TRUE AND CORRECT COPY. Clerk of Council City of North Canton

Plaintiff's Exhibit "2"

health insurance be available as primary individual coverage only and not serve as secondary health insurance coverage.

SECTION 5: That the Director of Finance of the City of North Canton is only authorized to draw funds for the payment of city-paid health insurance for part-time elected officials as outlined above.

SECTION 6: That if any provision of this Ordinance is or becomes illegal, invalid or unenforceable, that shall not affect the validity or enforceability of any other provision of this Ordinance and that any and all legislation inconsistent herewith, be, and is hereby repealed.

SECTION 7: That this ordinance shall take effect and be in force upon adoption by a majority of voters at the polls. Otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

North Canton, OH

We hereby designate the following petitioners as ~~admitted to be~~ regarded as filing this petition or its circulation:

RECEIVED

NAME	RESIDENCE
George Daniluk	502 Werstler Avenue North Canton, OH 44720
Larry Tripp	1127 East Maple Street North Canton, OH 44720
Rita Palmer	307 Fairview Street, SE North Canton, OH 44720
Charles Osborne	307 Fairview Street, SE North Canton, OH 44720
Hilary Mueller	1334 Wilkshire Circle North Canton, OH 44720

Signatures on this petition must be from only one county and must be written in ink.

	SIGNATURE	VOTING RESIDENCE ADDRESS STREET AND NUMBER	CITY, VILLAGE OR TOWNSHIP	COUNTY	DATE OF SIGNING
✓ 1.	Josephine Paustian	107 Walsh Ave	N Canton	Stark	5-9-12
✓ 2.	Theresa Haddix	147 WALSH AVE SE	N CANTON	STARK	5-9-12
✓ 3.	Janet M. Haddix	147 WALSH AVE SE	N CANTON	STARK	5-9-12
✓ 4.	Rebecca J. Sweeney	105 Walsh	N Canton	Stark	5-9-12
✓ 5.	James G. Gurnea	1384 Farrell	N. Canton	Stark	5-9-12
✓ 6.	Judith A. Goff	1315 Farrell SE	N. Canton	Stark	5-9-12
✓ 7.	Joseph H.	235 Campus Ave Mound	N C	Stark	5-9-12
✓ 8.	Daniel McLean	1343 College	N.C.	Stark	5-9-12
✓ 9.	Christina M. Walker	1304 Farrell St SE	N.C.	Stark	5/9/12
✓ 10.	Nancy Gottesman	1360 Farrell St SE	N.C.	Stark	5/9/12
✓ 11.	Rita J. Palmer	307 Fairview SE	N. Canton	Stark	5-9-12
✓ 12.	Hilary Mueller	1334 WILKSHIRE CIR SW	N CANTON	STARK	5-9-12
✓ 13.	George Daniluk	502 WERSTLER NW	NO. CANTON	STARK	5-9-12
✓ 14.	Melanie J. Roll	308 Portage St NW	N. Canton	Stark	5-9-12
✓ 15.	Doreen M. Roll	1391 College St SE	N. Canton	Stark	5-9-12
✓ 16.	John J. Zetter	1375 College St SE	N. Canton	Stark	5/9/12
✓ 17.	Kathryn J. Zetter	1375 College St SE	N. Canton	Stark	5/9/12
✓ 18.	Patricia J. Chevany	1380 College St. SE	N. Canton	Stark	5/9/12
✓ 19.	Mark R. Ryan	222 Walsh Ave SE	N Canton	Stark	5/9/12
✓ 20.	Gillian M. Ryan	222 Walsh Ave SE	N Canton	Stark	5/9/12
✓ 21.	Carrie R. Ryan	214 Walsh Ave SE	N Canton	Stark	5/9/12
✓ 22.	Carol A. Ryan	214 WALSH AVE SE	N. CANTON	STARK	5/9/12
✓ 23.	James P. Bushong	309 Rose Lane St SW	N. Canton	Stark	5-9-12

CERTIFIED TRUE AND CORRECT  
 COPY.  
 Clerk of Council  
 City of North Canton  
 [Signature]

	SIGNATURE	VOTING RESIDENCE ADDRESS STREET AND NUMBER	CITY, VILLAGE OR TOWNSHIP	COUNTY	DATE OF SIGNING
✓ 24.	<i>C Evelyn Jethrick</i>	1361 Butler St SE	N. Canton	Stark	5/9/12
✓ 25.	<i>James B. Redwood</i>	1381 Butler St SE	N. Canton	Stark	5-9-12
✓ 26.	<i>Gregory M. Harris</i>	1351 Butler St SE	N. CANTON	STARK	5-9-12
✓ 27.	<i>Dorothy G. Finney</i>	1323 Butler St	N. Canton	Stark	5-9-12
✓ 28.	<i>Kyle E. Daring</i>	1323 Butler St.	N. Canton	Stark	5-9-12
✓ 29.	<i>Kath L. P.</i>	1295 Butler St SE	N. Canton	Stark	5-9-12
✓ 30.	<i>UNAS [Signature]</i>	1295 Butler St SE	N. Canton	Stark	5-9-12
✓ 31.	<i>Carol G. Jones</i>	1333 Butler St SE	N. Canton	Stark	5-9-12
✓ 32.	<i>Dave [Signature]</i>	1333 Butler St SE	N. Canton	Stark	5-9-12
✓ 33.	<i>[Signature]</i>	1342 Butler St SE	N. Canton	STARK	5-9-12
✓ 34.	<i>[Signature]</i>	1362 Butler SE	N. Canton	STARK	5-9-12
✓ 35.	<i>Marlene Monke</i>	1362 Butler SE	N. Canton	Stark	5-9-12
✓ 36.	<i>Nancy Perod</i>	1386 Butler SE	N. Canton	Stark	5-9-12
✓ 37.	<i>Carol J. Eaton</i>	1411 Butler Cir SE	N. Canton	Stark	5-9-12
✓ 38.	<i>Marlene [Signature]</i>	223 Fairview SE	N. Canton	Stark	5-9-12

**CIRCULATOR STATEMENT - Must be completed and signed by circulator.**

I, Charles E. Osborn Jr., declare under penalty of election falsification that I  
(Printed Name of Circulator)  
 am a resident of the State of Ohio and reside at the address appearing below my signature; that I am the  
 circulator of the foregoing petition containing 38 signatures; that I witnessed the affixing of every  
(Number)  
 signature; that all signers were to the best of my knowledge and belief qualified to sign; and that every  
 signature is to the best of my knowledge and belief the signature of the person whose signature it purports to  
 be or of an attorney in fact acting pursuant to section 3501.382 of the Revised Code.

*Charles E. Osborn Jr.*  
(Signature of Circulator)

307 Fairview St SE  
(Permanent residence address in this state)

North Canton, OH 44720  
(City or Village, State and Zip Code)

WHOEVER COMMITS ELECTION  
 FALSIFICATION IS GUILTY OF A  
 FELONY OF THE FIFTH DEGREE

The \_\_\_\_\_ of \_\_\_\_\_  
(City, Village or Township)

Form 6-I - Initiative Petition  
 ORDINANCE

Filed \_\_\_\_\_

Keep open for inspection for ten days

City Auditor, Village Clerk or Township Fiscal Officer

# RECORD OF ORDINANCES

DuPont Legal Blank, Inc.

Form No. 30043

Ordinance No. 23-14

Passed March 24, 2014

2/20/14-tlf  
(Finance & Property)

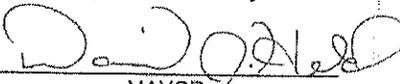
## Ordinance No. 23-14

An ordinance amending the health insurance benefits provided to North Canton's elected officials such that an elected official may receive single-rate, City-paid health insurance benefits only when the elected official does not have health insurance benefits provided by the elected official's full-time employer; that single-rate, City-paid health insurance benefits for elected officials shall be provided only as primary, and not as a secondary form of health insurance; and that City-paid health insurance benefits are not provided to elected officials' family members unless an elected official's spouse is also a City employee and entitled to City-paid health insurance benefits, and declaring the same to be an emergency.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NORTH CANTON, COUNTY OF STARK, AND STATE OF OHIO:

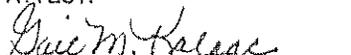
- Section 1. That North Canton's City Council has determined that proposed Initiative Ordinance, Stark County Issue 5, 2012, is void as it is in contravention to the City's Charter.
- Section 2. That although fatally flawed, North Canton's City Council believes the proposed initiative ordinance may be the desire of the City's electorate, and therefore, having the legal authority to do so, Council wishes to enact the proposed ordinance itself.
- Section 3. That for the reasons described above, health insurance benefits provided to North Canton's elected officials are hereby amended such that an elected official may receive single rate, City-paid health insurance benefits only when the elected official does not have health insurance benefits provided by the elected official's full-time employer; that single-rate, City-paid health insurance benefits for elected officials shall be provided only as primary, and not as a secondary form of health insurance; and that City-paid health insurance benefits are not provided to elected officials' family members unless an elected official's spouse is also a City employee and entitled to City-paid health insurance benefits.
- Section 4. That Council authorizes the Director of Finance to draw funds for the payment of elected officials' health insurance benefits only as outlined above.
- Section 5. That, if any provision of this ordinance is or becomes illegal, invalid or unenforceable, that shall not affect the validity or enforceability of any other provision of this ordinance.
- Section 6. That this ordinance is hereby declared to be an emergency measure necessary for the preservation of the health, and safety of the City of North Canton, and further necessary to timely amend the health insurance policies for the City's elected officials; wherefore, provided it receives the affirmative vote of six (6) or more members of Council elected thereto, this ordinance shall take effect and be in full force immediately upon its adoption by Council and approval by the Mayor. Otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

North Canton, OH  
Passed: 3/24/14

  
MAYOR

SIGNED: 3/24, 2014

ATTEST:

  
CLERK OF COUNCIL

IN THE COURT OF COMMON PLEAS  
STARK COUNTY, OHIO

CITY OF NORTH CANTON	)	CASE NO.
	)	
Plaintiff,	)	JUDGE
	)	
vs.	)	
	)	<u>AFFIDAVIT OF KAREN S. ALGER</u>
CHARLES OSBORNE, et al.	)	
	)	
Defendants.	)	

STATE OF OHIO    )  
                          )    SS  
STARK COUNTY    )

Before me, a notary public in said county, personally appeared the above-named Plaintiff in the entitled action, who being first duly sworn, upon personal knowledge, deposes and states as follows:

1. That I am the Director of Finance of the City of North Canton, Ohio.
2. That North Canton's elected officials have placed their affairs in order such that their City-provided health care benefits, if any, comply with both the spirit and intent of Defendant's initiative action and North Canton Ordinance 23-14.
3. That North Canton's elected officials that did not timely revise their health care benefit selections before beginning the latest term of office have reimbursed North Canton for any of its funds that were expended on their behalf in derogation of the spirit and intent of Defendant's initiative action and North Canton Ordinance 23-14.

4. That I have personal knowledge of all matters set forth herein.

FURTHER AFFIANT SAYETH NAUGHT.

Karen S. Alger  
KAREN S. ALGER

STATE OF OHIO            )  
                                  ) SS  
STARK COUNTY            )

SWORN TO before me and subscribed in my presence, this 28<sup>th</sup> day of March, 2014.

[Signature]  
NOTARY PUBLIC



MICHAEL J GRIMES  
NOTARY PUBLIC - OHIO  
MY COMMISSION EXPIRES  
DECEMBER 18, 2018

*ROBERT H. CYPERSKI  
ATTORNEY AND COUNSELOR AT LAW  
1201 – 30th Street, NW  
Suite 102-B  
Canton, Ohio 44709  
(330) 492-6659 Telephone  
(330) 492-0943 Telecopier  
[rcyperski@sbcglobal.net](mailto:rcyperski@sbcglobal.net) Email*

March 21, 2014

Mr. Timothy Fox  
Law Director  
City of North Canton  
145 North Main St.  
North Canton, OH 44720

Re: Failure to recognize and enforce provisions of the Healthcare Ordinance

Dear Mr. Fox:

On behalf of several North Canton residents, including Charles Osborne, they are requesting that you remedy the recent violations of a lawfully enacted city ordinance which governs the availability of healthcare benefits to members of North Canton's City Council and Mayor (part-time elected officials), commencing with the start of the new term of office, December 1, 2013.

Specifically, it has become public knowledge that four members of City Council had been enrolled in the city's self-funded healthcare plan in direct violation of the provisions of the ordinance and clearly at significant cost to the taxpayers of North Canton. It is further my understanding that three of these members have acknowledged their violation of the ordinance and have reimbursed the taxpayers for the premiums paid by the City.

The taxpayer initiated ordinance, known as Issue 5, was passed by nearly 72% of North Canton voters in the November 6, 2012, general election.

I have attached a copy of the official result of the vote on Issue 5 in the 2012 general election as provided from the Stark County Board of Elections website. The vote tally on Issue 5, titled, "North Canton Proposed Ordinance," shows that the electorate voted overwhelmingly (Yes-6,480, No-2,550) in support of the proposed ordinance.

Also attached is an email from the Stark County Board of Elections indicating that the board of elections voted to certify election results for the 2012 general election on November 27, 2012.

Plaintiff's  
Exhibit "5"

Pursuant to O.R. C. section 731.31," [o]rdinances proposed by initiative petition and referendums receiving an affirmative majority of votes cast thereon, shall become effective on the fifth day after the day on which the board of elections certifies the official vote on such a question." Thus, Issue 5 became effective December 2, 2012 and is a lawfully enacted ordinance of the City of North Canton.

It should be noted for the record that the language of the Proposed Healthcare Ordinance went unchallenged by City Council (it is my understanding you were even a member of council at that time), the Law Director Hans Nilges, the interim Law Director, Roy Batista and you, the current Law Director. Further, it remained unchallenged by Council even after it was approved by the voters and certified as a lawfully enacted ordinance.

At this time, the above stated North Canton residents request that any part-time elected official who has received or is currently receiving healthcare benefits in violation of the provisions of the lawfully enacted healthcare ordinance cease enrollment in the city's self-funded healthcare plan at taxpayer expense and reimburse taxpayers for the premiums paid by the city for the time they were enrolled illegally and in contravention to the lawfully enacted health care ordinance.

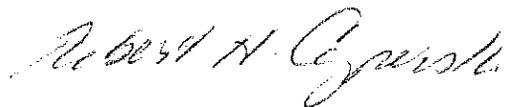
Further, it would be expected that part-time elected officials who desire to receive healthcare benefits from the city, produce documentation from their full-time employers that healthcare coverage is unavailable to them before any part-time elected official is enrolled in the city's self-funded healthcare plan at taxpayer expense.

Lastly, my clients request that the Healthcare Ordinance formerly known as Issue 5 be recognized on the city's website as legislation enacted for 2012. It is your duty as Law Director to enforce the laws of the City of North Canton.

Please consider this letter a taxpayer demand letter submitted pursuant to O.R. C. section 733.59 which requires a written request be sent to the Law Director prior to filing suit to enforce the correction of any violations as outlined in the O.R.C. sections 733.56 to 733.58. Please notify me of your intentions by March 31, 2014.

If you choose not to remedy violations of the Healthcare Ordinance of the City of North Canton, my clients have instructed me to prepare and file a taxpayers' action to enforce the City of North Canton's laws on behalf of my clients and all of the citizens of North Canton. Please feel free to call me if you any questions at 330-492-6659.

Sincerely,



Robert H. Cyperski

ROBERT H. CYPERSKI  
ATTORNEY AND COUNSELOR AT LAW  
1201 - 30th Street, NW-Suite 102-B  
Canton, Ohio 44709  
(330) 492-6659 Telephone  
(330) 492-0943 Telecopier  
[rcyperski@sbcglobal.net](mailto:rcyperski@sbcglobal.net) Email