

VIRGINIA:

IN THE CIRCUIT COURT OF THE CITY OF RICHMOND

SHEILA M. FUREY, M.D., PC)

Plaintiff,)

v.)

Case No. CL24-3502-JSM

CITY OF RICHMOND,)

Serve: City Attorney Laura K. Drewry)

Office of the City Attorney)

City of Richmond)

900 E. Broad Street, Suite 400)

Richmond, VA 23219)

and)

J. E. LINCOLN SAUNDERS,)

in his official capacity as)

Richmond Chief Administrative Officer,)

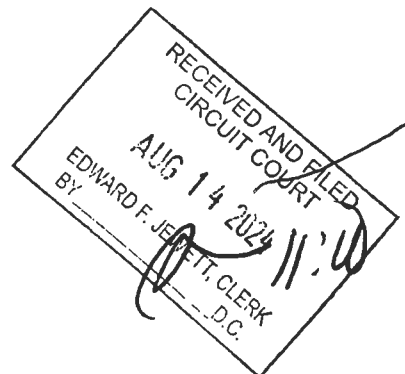
Serve: J. E. Lincoln Saunders)

Richmond Chief Admin. Office)

900 E. Broad Street,)

Richmond, VA 23219)

Defendants.)



COMPLAINT

Pursuant to the Virginia Declaratory Judgment Act in Va. Code §§ 8.01-184, *et seq.*, the injunction provisions in Va. Code § 8.01-620 *et seq.*, and Virginia Constitution Article 1, § 11, Sheila M. Furey, M.D., PC, by counsel, hereby brings this Complaint against the City of Richmond and Richmond Chief Administrative Officer J. E. Lincoln Saunders, in his official capacity, and, in support thereof, states as follows:

Introduction

1. The City of Richmond owns land and a building at 4929 Chamberlayne Avenue—valuable real estate with an assessed value of approximately \$1.25 million (the “Property”).

2. On July 22, 2024, the City directed that the Property be sold to the Virginia League of Planned Parenthood with the expectation that Planned Parenthood would build what would be a sixth abortion facility inside the City’s limits. However, rather than selling this Property at market value, the City agreed to sell the Property to Planned Parenthood for nominal consideration, for the stunning amount of just \$10.

3. Though the Property is valuable and not blighted, the City did not invite bids to allow anyone else—including Plaintiff—to offer to purchase the Property for a reasonable value. Instead, ignoring procedural protections for Plaintiff and its fiduciary duties to its citizens, the City simply directed the completion of this sweetheart deal. The City’s action, however, was taken without lawful authority, injuring Plaintiff who would have made a bid on the property. As detailed below, the City’s July 22, 2024 action must be deemed void.

Parties

4. Plaintiff Sheila M. Furey, M.D., PC is a professional corporation incorporated under the laws of Virginia that principally operates and pays taxes in Richmond, Virginia. Sheila M. Furey, M.D. (“Dr. Furey”) assists numerous individuals through Sheila M. Furey, M.D., PC—her psychiatry practice.

5. Dr. Furey’s psychiatry practice is unique, not only in Richmond, but in the nation, providing an educational brain training service designed to help children and adults with autism, brain injury, and dyslexia, helping participants develop a sense of empowerment and

independence. Her practice has been successful in various areas of adolescent psychiatry including assisting formerly nonverbal autistic children to speak.

6. Defendant City of Richmond (“the City”) is a municipal corporation organized under the Virginia Code that may be sued in its own name. *See* Va. Code § 15.2-1404; City of Richmond Charter § 1.01.

7. Defendant J. E. Lincoln Saunders, sued in his official capacity, is the Chief Administrative Officer for the City of Richmond.

Facts

8. This matter relates to real estate known as 4929 Chamberlayne Avenue, Richmond, Virginia 23227. The Property comprises just under 1 acre of land, covering .973 acres, and is located on a corner lot at the intersection of two commercial streets, Azalea Avenue and Chamberlayne Avenue, in the heart of Richmond, Virginia. It is less than a mile from entrance and exit points on Interstate 95. Its position makes it a unique, desirable piece of land for those interested in affecting the direction of the City.

9. The Property is valuable real estate and has not been designated as blighted.

10. As of January 1, 2024, the City assessed the Property as having a total value of \$1,246,000, based on a land value of \$738,000 and an improvements/structure value of \$508,000. The building on the property covers just over 6,500 square feet. Property Search, DEPARTMENT OF RICHMOND OF REAL ESTATE ASSESSOR, <https://apps.richmondgov.com/applications/PropertySearch/Detail.aspx?pin=N0170191001> (last visited August 14, 2024).

11. This assessed value is supported by the sale history of 5201 Chamberlayne Avenue, Richmond, Virginia 23227, a parcel of land that is adjacent to the Property. 5201 Chamberlayne Avenue spans .812 acres, and on April 1, 2019, that parcel sold for \$1.025

million, and subsequently a convenience store covering only approximately 3,000 square feet with a gas station was constructed. Following that construction, on January 24, 2020, the plot was sold for \$3.99 million. Property Search, DEPARTMENT OF RICHMOND OF REAL ESTATE ASSESSOR, <https://apps.richmondgov.com/applications/PropertySearch/Detail.aspx?pin=N0180209001> (last visited August 14, 2024).

12. At the start of 2022, and for several years before then, the Property was managed by the Richmond City School Board (RCSB).

13. For several years, RCSB had leased the Property to Adult Alternative Program (“AAP”), an organization that contributed to the City by providing training programs to criminal convicts after they had been released from incarceration.

14. On January 18, 2022, however, RCSB approved the transfer of its interests in the Property to the City of Richmond, ending the opportunity for AAP to continue facilitating the successful reentry of released criminal convicts at the Property.

15. From early 2022 to the present, the Property has remained vacant.

16. In terminating AAP’s ability to lease the Property, not only did the City and RCSB frustrate a valuable service to the public, but it wasted a valuable asset that had generated lease payments.

17. Two and a half years after RCSB terminated its interests in the Property, the City represented that it had received an unsolicited offer to “purchase” the Property by The Virginia League for Planned Parenthood, Incorporated (“Planned Parenthood”), for \$10.

18. The Virginia League for Planned Parenthood, Incorporated operates in close affiliation with Planned Parenthood Federation of America, Inc., an organization that obtains

hundreds of millions annually and, as an example, had more than \$600 million in gross receipts in 2021.

19. Notably, The Virginia League of Planned Parenthood, through its president and chief executive officer Paulette McElwain, has stated that the City Mayor’s administration “worked with us to identify property where we could expand access to critical reproductive and primary healthcare.” Chamberlanye school building site to become city’s third Planned Parenthood Clinic (RICHMOND BIZSENSE, July 11, 2024), <https://richmondbizsense.com/2024/07/11/chamberlayne-school-building-site-to-become-citys-third-planned-parenthood-clinic/>. Therefore, it is suspect whether Planned Parenthood’s offer truly was unsolicited.

20. Even if Planned Parenthood’s offer was unsolicited, however, rather than following the settled process for addressing unsolicited offers provided for in Richmond City Code § 8-58, neither the City nor the Chief Administrative Officer issued or published any invitation for bids or request for proposals related to the Property. The public was never informed about any opportunity to bid on the property.

21. On July 1, 2024, Ordinance No. 2024-190 was introduced in the Richmond City Council to direct the sale of the Property to Planned Parenthood for the “nominal consideration” of \$10. That proposal was set for a City Council hearing on July 22, 2024.

22. At no time before Ordinance No. 2024-190 was introduced to the City Council, and through no other measure besides Ordinance No. 2024-190, had the City declared the Property to be surplus.

23. On July 22, 2024, the Richmond City Council held a hearing related to whether it would approve the “sale” of the Property to Planned Parenthood for \$10.

24. During that hearing, dozens of citizens spoke in opposition to this proposal, which comments included the argument that the City's plan to transfer the Property to Planned Parenthood was in violation of applicable law as well as others' expressions of interest in bidding on the Property.

25. During that hearing's public comment period, Dr. Furey also spoke in opposition to the proposal to sell the Property to Planned Parenthood.

26. Notwithstanding the significant public comments in opposition, the admonition concerning the violations of law, and the interest of others in bidding on the Property, Councilwoman Stephanie Lynch made a motion for the adoption of the proposed Ordinance.

27. Recognizing the importance of having a considered approach for conducting City business, the City Council's procedural rules specify that one councilmember's motion is not enough before an ordinance can be adopted. Rather, a second council member must be willing to place his or her name on the record as additional support for bringing a proposed ordinance up for a vote. *See* City Resolution No. 2024-R007, Rules of Procedure IV(A) (adopting Robert's Rules of Order to direct the process for conducting City business); Robert's Rules of Order § 4.

28. Here, after a long pause of uncomfortable silence following Councilwoman Lynch's initial motion, no City Council member was willing to offer a second name in support of bringing up for a vote the proposed ordinance to sell the property for \$10.

29. At that moment, setting aside the fact that no "second" to the motion had been made, the Clerk proposed "simply call[ing] the question" for a vote.

30. Another extended pause of uncomfortable silence ensued. Then Council President Kristen Nye directed that the proposed ordinance be voted on.

31. The City Council voted to adopt the proposed ordinance (Ordinance No. 2024-190) to have the Property conveyed to Planned Parenthood for nominal consideration, and directed the City's Chief Administrative Officer to execute the deed and such other documents as may be necessary to consummate the sale.

32. Ordinance No. 2024-190 is attached as *Exhibit 1*.

33. Upon information and belief, the City's Chief Administrative Officer is now actively working to accomplish the transfer of the Property to Planned Parenthood for nominal consideration without opening the Property for additional bids.

34. Soon after the City's unlawful sale here, the City stripped the public's access to its online payment register, a platform that is required by City Code § 12-16 to provide a comprehensive, public log of City spending.

Count 1: General Declaratory and Injunctive Relief

35. Plaintiff hereby repeats and realleges each of the foregoing paragraphs as if fully set forth herein.

36. The City's Ordinance No. 2024-190 directing the sale of the Property to Planned Parenthood for \$10 is unlawful. Among other things, it deprives Plaintiff the opportunity to bid on or otherwise submit a proposal to purchase this City-owned real estate as it would have had the City not acted unlawfully.

37. First, Virginia Code § 15.2-958.1 provides that the City of Richmond may sell property for nominal consideration only when the property (i) had been acquired pursuant to the tax-delinquency statutes Va. Code §§ 58.1-3970 or 58.1-3970.1 or (ii) had been declared blighted by the City *and* was acquired by the City in accordance with § 36-49.1:1.

38. As a corollary, Richmond City Code § 8-68(a) specifies that the Chief Administrative Officer may provide for the sale of City-owned real estate for nominal consideration if the real estate qualifies under Va. Code § 15.2-958.1. Further, Richmond City Code § 8-68(b) specifies: “The Chief Administrative Officer may provide for the sale of real estate for valuable consideration other than \$1.00 if such real estate qualifies under the requirements of Code of Virginia, § 15.2-958.1(A) for sale for the nominal amount of \$1.00.”

39. In this present situation, however, the Property was not acquired pursuant to Va. Code §§ 58.1-3970 or 58.1-3970.1, and it was not declared blighted by the City or acquired in accordance with § 36-49.1:1. Therefore, the July-22 action by the City was in clear violation of Va. Code § 15.2-958.1 and City Code § 8-68.

40. Second, Richmond City Code § 8-58(c) (emphasis added) provides that “[n]o ordinance to direct the sale of real estate to an offeror who has submitted an unsolicited offer **may be introduced until the Council has adopted a resolution** declaring such real estate to be surplus. . . .”

41. The City did not declare, in any resolution or otherwise, the Property to be surplus before Ordinance No. 2024-190 was introduced to the City Council. Therefore, the July-22 action by the City should be considered void as done in direct violation of City Code § 8-58.

42. Third, Richmond City Code § 8-58(c) further provides that the Council may not adopt an ordinance directing the sale of City-owned real estate until the Chief Administrative Officer “first has proceeded in accordance with either Section 8-61 or Sections 8-62 and 8-63.”

43. Richmond City Code § 8-61 provides for the City to sell surplus real estate by soliciting bids by interested parties, and requires the City to sell the property to the highest bidder. Richmond City Code § 8-62 provides for the City to sell surplus real estate by requesting

proposals from interested parties, and § 8-63 sets out the relevant factors for evaluating responses to a request for proposals.

44. These provisions provide prospective bidders on property, including Plaintiff, a right to a stable and established process for determining whose bid or proposal will be granted. But by acting outside these established parameters, the City deprived Plaintiff of this right.

45. Neither the City nor the Chief Administrative Officer issued or published any invitation for bids or request for proposals for the Property. Therefore, again, the July-22 action by the City fails to comply with the City's own code, which governs its authority and conduct.

46. If the City or the Chief Administrative Officer had invited bids or requested proposals, Plaintiff—and likely countless others—would have submitted bids or proposals to purchase the Property for an amount much greater than \$10, and for purposes that may have had a far greater claim of need in the City than another abortion facility.

47. Fourth, the City's July-22 action is also void because the motion to pass the ordinance did not even obtain a required "second" from any member of the Council, which is procedurally required by the Council's rules. This underscores the level of disregard the City had for holding a legitimate and lawful process.

48. Being situated on the corner of the intersection of two commercial streets, within the heart of the City, and less than a mile from entrance and exit points on Interstate 95, the Property provides a unique opportunity that cannot be quantified monetarily for those involved in serving the City in unique and meaningful ways like Plaintiff.

49. But because the City failed to act within the law, Plaintiff was deprived of the lawfully required opportunity to seriously pursue the Property, leaving no adequate option for other forms of relief.

50. Additionally, because the City is actively attempting to consummate the sale of the Property based on its unlawful July-22 vote, irreparable injury to Plaintiff will occur if this Court does not promptly intervene.

51. Especially based on its financial and other means, its existing facilities within Richmond, its stated plans of building a new facility on the Property which has not yet begun, and for other reasons, Planned Parenthood will not face any material hardship from the relief sought in this case compared to the hardship Plaintiff will experience absent the Court granting the requested relief.

52. The public interest in, among other things, the rule of law, fairness, accountability, fiscal responsibility, and in the City obtaining maximum value for its assets all the more favor and justify the relief sought here.

Count 2: Virginia Constitution Due Process Violation (Va. Const. Art. 1 § 11)

53. Plaintiff hereby repeats and realleges each of the foregoing paragraphs as if fully set forth herein.

54. Virginia Constitution, Article 1 § 11, protects Plaintiff's property interest in being able to legitimately bid on or submit a proposal to purchase real estate being sold by the City.

55. Plaintiff was deprived of this interest through the City's decision to sell the Property without soliciting any bids or proposals.

56. The steps taken by the City in selling the Property were inadequate to protect, and deprived Plaintiff of, its rights under Virginia Constitution Article 1 § 11, because the City did not provide any legitimate means for Plaintiff to bid on or submit a proposal to purchase the Property, to which the City's own ordinances and basic principles of due process entitled Plaintiff.

57. Plaintiff suffered irreparable harm, for which damages would be inadequate, as a result of the City's actions in this matter.

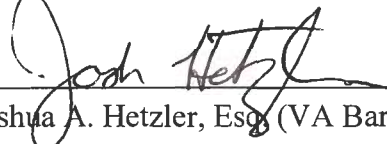
Request for Relief

WHEREFORE, Plaintiff requests that the Court grant the following relief:

- a. Determine and declare that Richmond City Ordinance No. 2024-190, including the direction it purports to give to the Chief Administrative Officer, violates Virginia law and the City's Code and rules and is void *ab initio* and of no effect;
- b. Grant temporary and permanent injunctive relief enjoining the City and the Chief Administrative Officer from acting in accordance with Ordinance No. 2024-190, specifically preventing Defendants from executing any deed or property transfer documents or taking any steps to sell the Property to Planned Parenthood;
- c. If the City or Chief Administrative Officer effectuates this sale before the Court is able to provide relief otherwise, grant injunctive relief directing that the sale of the Property pursuant to Richmond City Ordinance No. 2024-190 be reversed;
- d. Award Plaintiff the costs of this litigation, pursuant to Va. Code § 8.01-190; and
- e. Grant such other relief as appears appropriate.

SHEILA M. FUREY, M.D., PC

By Counsel:



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Exhibit

INTRODUCED: July 1, 2024

AN ORDINANCE No. 2024-190

To declare surplus and direct the conveyance of the City-owned real estate known as 4929 Chamberlayne Avenue, consisting of 0.973 ± acres, for nominal consideration to The Virginia League for Planned Parenthood, Incorporated for the purpose of facilitating the construction and operation of a health center.

Patrons – Mayor Stoney, Mr. Addison, Vice President Lambert, Ms. Lynch, Ms. Jones, President Nye, Ms. Robertson, Ms. Newbille and Ms. Jordan

Approved as to form and legality
by the City Attorney

PUBLIC HEARING: JULY 22 2024 AT 6 P.M.

THE CITY OF RICHMOND HEREBY ORDAINS:

§ 1. That, notwithstanding any provision of section 8-58 of the Code of the City of Richmond (2020), as amended, to the contrary, the City-owned real estate known as 4929 Chamberlayne Avenue, consisting of approximately 0.973 acres, and identified as Tax Parcel No. N017-0191/001 in the 2024 records of the City Assessor, is hereby declared surplus real estate and directed to be conveyed to The Virginia League for Planned Parenthood, Incorporated for nominal consideration for the purpose of facilitating the construction and operation of a health center in accordance with the applicable provisions of Chapter 8 of the Code of the City of Richmond

AYES: 9 NOES: 0 ABSTAIN: _____

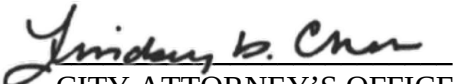
ADOPTED: JULY 22 2024 REJECTED: _____ STRICKEN: _____

(2020), as amended, the Charter of the City of Richmond (2020), as amended, the Code of Virginia (1950), as amended, and the Constitution of Virginia.

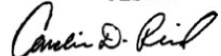
§ 2. That, the Chief Administrative Officer is hereby directed to execute, on behalf of the City, the deed and such other documents, all of which must first be approved as to form by the City Attorney, as may be necessary to consummate the conveyance of the real estate owned by the City of Richmond located at 4929 Chamberlayne Avenue and identified as Tax Parcel No. N017-0191/001 in the 2024 records of the City Assessor.

§ 3. This ordinance shall be in force and effect upon adoption.

APPROVED AS TO FORM:


CITY ATTORNEY'S OFFICE

A TRUE COPY:
TESTE:


City Clerk