

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

JOHN MANCINI, and	)	
NORTHEAST OHIO COALITION FOR	)	
THE HOMELESS,	)	
	)	
Plaintiffs,	)	
	)	CASE NO. 1:17-CV-00410
v.	)	
	)	
CITY OF CLEVELAND,	)	JUDGE DONALD C. NUGENT
FRANK JACKSON, in his official	)	
capacity as Mayor of Cleveland, and	)	
Calvin Williams, in his official capacity	)	
as Chief of Police,	)	
	)	
Defendants.	)	

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DEFENDANTS' ANSWER

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Defendants, City of Cleveland, Mayor Jackson, and Chief Calvin Williams, by and through undersigned counsel, respectfully submit for its Answer to Plaintiffs' Complaint as follows:

1. Defendants admit that it has enacted Cleveland Municipal Ordinances Section 605.031 and 471.06(b), but denies the remaining allegations contained in Paragraph 1.

**JURISDICTION AND VENUE**

2. Defendants admit the allegations contained in Paragraph 2.
3. Defendants admit the allegations contained in Paragraph 3.
4. Defendants deny the allegations contained in Paragraph 4 for lack of knowledge or information sufficient to form a belief as to the truth or veracity of the allegations therein.

5. Defendants deny the allegations contained in Paragraph 5 for lack of information sufficient to form a belief as to the truth or veracity of the allegations therein.
6. Defendants deny the allegations contained in Paragraph 6 for lack of information sufficient to form a belief as to the truth or veracity of the allegations therein.
7. Defendants admit that Mancini was ticketed for violation of Ordinance 605.031 on December 6, 2016, December 21, 2016, and December 27, 2016, and January 1, 2017. Defendants deny the remaining allegations contained in Paragraph 7.
8. Defendants deny the allegations contained in Paragraph 8.
9. Defendants deny the allegations contained in Paragraph 9 for lack of information sufficient to form a belief as to the truth or veracity of the allegations therein.
10. Defendants deny the allegations contained in Paragraph 10 for lack of information sufficient to form a belief as to the truth or veracity of the allegations therein.
11. Defendants deny the allegations contained in Paragraph 11 for lack of information sufficient to form a belief as to the truth or veracity of the allegations therein.
12. Defendants deny the allegations contained in Paragraph 12 for lack of information sufficient to form a belief as to the truth or veracity of the allegations therein.
13. Defendants admit the allegations contained in Paragraph 13.
14. Defendants admit the allegations contained in Paragraph 14.
15. Defendants admit the allegations contained in Paragraph 15.

**FACTS**

16. Defendants admit the City of Cleveland has two municipal ordinances codified as Section 605.031 and 471.06(b)-(d) but denies the remaining allegations contained in Paragraph 16.
17. Defendants admit the allegations contained in Paragraph 17.
18. Defendants admit the allegations contained in Paragraph 18.
19. Defendants admit the allegations contained in Paragraph 19.
20. Defendants admit the allegations contained in Paragraph 20.
21. Defendants deny the allegations contained in Paragraph 21 for lack of knowledge or information sufficient to form a belief as to the truth or veracity of the allegations therein.
22. Paragraph 22 of Plaintiff's Complaint is not an allegation, however to the extent a response is necessary the Crain's Cleveland Business article speaks for itself. Defendants deny any factual inferences made by Paragraph 22.
23. Defendants admit NEOCH testified in opposition to the ordinances, but deny the remaining allegations contained in Paragraph 23. Defendants deny any factual inferences made by Paragraph 23.
24. Defendants admit the ACLU provided testimony in opposition to the ordinance as stated in Paragraph 24. Defendants deny any factual inferences made by Paragraph 24.
25. Defendants deny the allegations contained in Paragraph 25.
26. Defendants deny the allegations contained in Paragraph 26. Further answering, 471.06(b)-(d) speaks for itself.
27. Defendants deny the allegations contained in Paragraph 27.

28. Defendants deny the allegations contained in Paragraph 28.
29. Defendants deny the allegations contained in Paragraph 29.
30. Defendants deny the allegations contained in Paragraph 30.
31. Defendants deny the allegations contained in Paragraph 31.
32. Defendants admit the allegations contained in Paragraph 32.
33. Defendants deny the allegations contained in Paragraph 33.
34. Defendants admit the allegations contained in Paragraph 34.
35. Defendants deny the allegations contained in Paragraph 35.
36. Defendants deny the allegations contained in Paragraph 36.
37. Defendants deny the allegations contained in Paragraph 37 for lack of information sufficient to form a belief as to the truth or veracity of the allegations therein.
38. Defendants admit the allegations contained in Paragraph 38. To any extent any factual inferences are made in Paragraph 38 of Plaintiffs' Complaint, Defendants deny any such factual inferences and further deny that any laws or provisions of the constitution have been violated.
39. Defendants deny the allegations contained in Paragraph 39. To any extent any factual inferences are made in Paragraph 39 of Plaintiffs' Complaint, Defendants deny any such factual inferences and further deny that any laws or provisions of the constitution have been violated.
40. Defendants deny the allegations contained in Paragraph 40 for lack of information sufficient to form a belief as to the truth or veracity of the allegations therein.
41. Defendants deny the allegations contained in Paragraph 41 for lack of information sufficient to form a belief as to the truth or veracity of the allegations therein.

42. Defendants deny the allegations contained in Paragraph 42 for lack of information sufficient to form a belief as to the truth or veracity of the allegations therein.
43. Defendants deny the allegations contained in Paragraph 43 for lack of information sufficient to form a belief as to the truth or veracity of the allegations therein.
44. Paragraph 44 of Plaintiffs' Complaint is not an allegation, however to the extent a response is necessary the United States and Ohio Constitution speaks for themselves.
45. Paragraph 45 of Plaintiffs' Complaint is not an allegation, however to the extent a response is necessary the text of *Reed v. Town of Gilbert, Ariz.*, 135 S.Ct. 2218, 2227 (2015) speaks for itself. To any extent any factual inferences are made in Paragraph 45 of Plaintiffs' Complaint, Defendants deny any such factual inferences and further deny that any laws or provisions of the constitution have been violated.
46. Defendants deny the allegations contained in Paragraph 46.
47. Defendants deny the allegations contained in Paragraph 47.
48. Defendants deny the allegations contained in Paragraph 48. Further answering, Ordinances 605.031 and 471.06(b)-(d) meet the demands of strict scrutiny and are narrowly tailored to further a compelling interest in the health and safety of citizens and visitors to the City of Cleveland. To any extent any factual inferences are made in Paragraph 48 of Plaintiffs' Complaint, Defendants deny any such factual inferences and further deny that any laws or provisions of the constitution have been violated.
49. Defendants deny the allegations contained in Paragraph 49.
50. Defendants deny the allegations contained in Paragraph 50.
51. Defendants deny the allegations contained in Paragraph 51.
52. Defendants deny the allegations contained in Paragraph 52.

53. Defendants deny the allegations contained in Paragraph 53.

**AFFIRMATIVE DEFENSES**

54. The Complaint fails to state a claim upon which relief can be granted.

55. Defendants are entitled to qualified immunity.

56. Defendants are entitled to and assert all defenses and immunities applicable to political subdivisions and employees of political subdivisions as set forth in Ohio Revised Code Chapter 2744, *et seq.* and state common law.

57. Any recovery to which Plaintiffs otherwise may have been entitled is barred by the doctrines of express and/or implied assumption of the risk.

58. Plaintiffs have failed to mitigate their damages.

59. Defendants reserve the right to raise any additional defenses that may come to light during the pendency of this action.

WHEREFORE, having fully answered, Defendants respectfully request that the Court dismiss Plaintiffs' Complaint with prejudice and award such relief as this Court deems just and equitable, including, without limitation, Defendants' costs, attorneys' fees, and other litigation expenses.

Respectfully submitted,  
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Director of Law

/s/ Elizabeth M. Crook  
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*Attorneys for Defendants*

**CERTIFICATE OF SERVICE**

The undersigned certifies that the foregoing Answer was filed electronically on April 7, 2017. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

/s/ Elizabeth M. Crook  
Elizabeth M. Crook (0088709)

*Attorney for Defendants*