

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

CITIZENS FOR TRUMP,)
NORTHEAST OHIO COALITION)
FOR THE HOMELESS, and)
ORGANIZE OHIO,)

Plaintiffs,)

v.)

CITY OF CLEVELAND, and)
MAYOR FRANK G. JACKSON,)
in his official capacity,)

Defendants.)

Civil Action No.:

DEMAND FOR JURY TRIAL

COMPLAINT

Plaintiffs, Citizens for Trump, the Northeast Ohio Coalition for the Homeless, and Organize Ohio, allege as follows:

INTRODUCTION

1. Beginning on July 18, 2016, the City of Cleveland will host the 2016 Republican National Convention (“RNC” or the “Convention”). The nominating convention of one of our country’s two major political parties presents a significant opportunity for individuals and organizations to participate in the democratic process through the exercise of their rights of free speech and assembly. The RNC will host 2,472 delegates, and will draw the party’s major campaign contributors, lobbyists, and 15,000 credentialed members of the media. It will thus provide an opportunity for groups and individuals to voice their opinions directly to the leaders and decision-makers of the

Republican Party, to national and international media, and to people across the country and around the world who will watch Convention coverage.

2. On May 25, 2016, the City of Cleveland issued a set of Event Zone Permit Regulations (“Regulations”) for the RNC. These Regulations severely limit the opportunities for members of the public to exercise their expressive rights during the Convention. The limitations apply far beyond the part of the city where the Convention activities will take place, and instead encompass a 3.3-square mile expanse that includes business districts and neighborhoods where people live, sleep and conduct their daily activities. (The Regulations refer to this vast area as the “Event Zone.” Though this is a gross misnomer, this Complaint will use the term.)
3. The City will not issue any permits for any kind of public gathering or parade in the Event Zone throughout the Convention period, except for one designated parade route that lies along the southern border of the Zone. The City will only allow permit holders to use that route for 50 minutes each, and only 18 of these 50-minute parade slots are available during the entire four-day Convention.
4. The City will not issue any park permits for any event in the Event Zone throughout the entire period, except for art and public installations in two small parks.
5. The City will not allow anyone to place an “object to make a public speech” – even the proverbial soapbox – anywhere in the entire Event Zone throughout the entire period.
6. These and other severe limits imposed by the City on the rights of the people to freely assemble and to express their political and other views are arbitrary, unduly restrictive, and without rational justification.

7. Many Cleveland residents will simply attempt to continue their daily lives during the Convention. But Cleveland makes this simple goal unattainable through Regulations that impose excessive limits on those who live in or travel through the Event Zone. Lamentably, many homeless people live within the Event Zone's very large radius and are especially vulnerable to the Regulations' draconian reach. For example the Regulations prohibit the possession of items that are essential to and often carried by homeless people every day, items as basic as string, rope, tape, coolers, large backpacks, and tents, among other things.
8. By designating many of their basic, everyday necessities as contraband, and drawing an unreasonably wide zone for enforcement, the City is subjecting its homeless residents to unnecessary encounters with the police, and interfering with their rights to liberty, privacy and movement.
9. The strict prohibitions within the sweeping Event Zone will interfere with the rights of others as well. There is a large university, dormitories and many homes in the zone. Two grocery stores and many smaller food stores fall within its borders. The Regulations, however, prohibit shoppers from carrying cans, canned goods, bottles, and aerosol cans out of a store. University tennis courts are located in the Event Zone, but tennis balls are "prohibited" in the zone. The absurd reach of the Regulations over everyday items goes on and on.
10. The City is further trampling First Amendment rights by delaying the processing of applications for permits required to engage in First Amendment activities during the Convention. Many of these applications have been pending for months - some as long as four months. The City's continuing refusal to approve or deny these applications

leaves the organizers of these activities in limbo. As the Convention rapidly approaches, the City's delay makes it increasingly likely that applicants like Citizens for Trump and Organize Ohio that are planning marches or rallies involving three to five thousand participants will lack sufficient time to complete critical logistical arrangements. The City's inaction is a constructive denial of the permits, and a prior restraint of this First Amendment activity.

11. Plaintiffs invoke this Court's jurisdiction to secure their (1) First Amendment rights to speech and peaceful assembly and (2) due process rights to liberty, privacy and travel during the Convention period, Monday July 18, 2016 through Friday, July 22, 2016.

JURISDICTION AND VENUE

12. This Court has jurisdiction over this matter pursuant to Article III of the Constitution of the United States and 28 U.S.C. §§ 1331 and 1343(3) and (4). The relief sought is authorized by the Constitution of the United States, 42 U.S.C. § 1983, and other law.
13. This Court is an appropriate venue for this cause of action pursuant to 28 U.S.C. § 1391(b)(1) and (b)(2). The actions giving rise to this suit are taking place in this judicial district. Defendant City of Cleveland is located within this judicial district, and Defendant Mayor Jackson works in this judicial district.

PARTIES

Plaintiffs

14. **Citizens for Trump** ("CFT") is an organization with its principal place of business in Spring, Texas. CFT's mission is to organize large-scale grassroots volunteer support to assist the official Trump presidential campaign in winning the Republican nomination and the general election in November, 2016. CFT was founded in July,

2015 by the Patriotic Warriors, an organization of conservative activists who maintain a system of website platforms utilized by an estimated 20 million citizens who feel passionate about their patriotism. CFT thus offers an effective means for like-minded citizens to organize, engage, communicate with and support each other. Declaration of Tim Selaty (“Selaty Decl.”) ¶ 7. CFT consists of a coalition of organizations that include Tea Party Members, 912, 2nd Amendment coalitions, anti-common core groups, and Christian conservative groups. Selaty Decl. ¶ 9. CFT is serving as a parent entity for other Trump support groups for the RNC rally. Under the CFT umbrella for unified activity at the RNC are: Truckers for Trump, Bikers for Trump, Women United for Trump, Tea Partiers for Trump, Students for Trump, Eternal Sentry, Diamond & Silk, and We Will Walk. Selaty Decl. ¶ 10. The Co-founder and Executive Operations Director of Citizens for Trump is Tim Selaty (“Selaty”), a resident of Spring, Texas. Selaty Decl. ¶ 2, 4.

15. **Organize Ohio** has its principal place of business in Cleveland, Ohio. Organize Ohio’s mission is to advance and encourage community organizing to effectuate progressive change in Ohio. Organize Ohio furthers its goals by bringing together groups and organizations across the state. Declaration of Lawrence Bresler (“Bresler Decl.”) ¶ 5. One of Organize Ohio’s primary activities is broadcasting its message to appropriate parties in an effort to influence the political process. *Id.* Organize Ohio is working on behalf of 20 partner organizations across the country to conduct First Amendment activities at the RNC. These include Organize Ohio’s four partner organizations: Northeast Ohioans for Budget Lending Equality, United Clevelanders Against Poverty, Shaker Square Alliance, and Ohio Fair Lending Coalition, all of which are independent and self-governing, yet supported and

coordinated by Organize Ohio. Bresler Decl. ¶ 16. Additional partner organizations for the march are Cleveland Jobs for Justice, American Friends Service Committee, InterReligious Task Force on Central America, Northeast Ohio Coalition for the Homeless, Cleveland Peace Action, Cleveland Environmental Action Network, Poor People’s Economic Human Rights Campaign, Single Payer Action Network Ohio, Workers United, Common Good Ohio, Cuyahoga County Black Lives Matter, Workers World Party, A Peace of Mind, Carl Stokes Brigade, El Centro, Greater Civil and Human Rights Coalition, Stop Targeting Ohio’s Poor, Cleveland Homeless Congress, Peace in the Hood, and Cleveland Percolator. The Executive Director of Organize Ohio is Larry Bresler (“Bresler”), a resident of Cleveland. Bresler is a seasoned community organizer with over 40 years’ experience organizing protests of various scales. *Id.*

16. **Northeast Ohio Coalition for the Homeless** (“NEOCH”) also has its principle place of business in Cleveland. Formed in 1987, NEOCH is a non-profit, charitable, membership organization that organizes and empowers homeless and at-risk men, women, and children in an effort to break the cycle of homelessness through public education, advocacy, and the creation of nurturing environments. Declaration of Brian Davis (“Davis Decl.”) ¶ 4. The executive director of NEOCH is Brian Davis (“Davis”). Davis Decl. ¶ 3.

Defendants

17. **Defendant City of Cleveland** (the “City”) is a municipal corporation located in Cuyahoga County, Ohio.
18. **Defendant Frank G. Jackson** is the Mayor of the City of Cleveland, Ohio. As Mayor, Jackson is the executive head of the City of Cleveland.

FACTS

The City's Extraordinary Delay in Processing Permit Applications

19. On June 25, 2014, the Republican National Committee announced that its 2016 nominating convention would take place at Quicken Loans Area in Cleveland.
20. On July 22, 2015, in anticipation of the Convention, the City enacted a new emergency parade permit ordinance (the "Parade Permit Ordinance," Exhibit A), now codified at City of Cleveland Code of Ordinances, sec. 411.05. A few months later, in approximately September, 2015, Cleveland posted an on-line application form and instructions on the City's website for obtaining a permit under the Parade Permit Ordinance.
21. On March 16, 2016, Organize Ohio filed an application under the Parade Permit Ordinance. The application, attached as Exhibit B, was for a parade to be held on July 18, 2016 from 11 am to 3 or 4 pm, with a set-up time of 10 a.m. Bresler Decl. ¶ 6. The application specified that there would be 1,000 to 5,000 walking participants and one car/truck. Exhibit B. Megaphones were listed as the sound equipment to be used. The proposed parade route was east to west on Euclid Avenue, from East 55th Street to downtown Cleveland. A route plan and map were attached. *Id.* The City acknowledged receipt of the application, but has not acted on the application in the more than three months since its submission. Bresler Decl. ¶ ¶ 7, 8. The City's delay has hindered Organize Ohio's ability to finalize planning and publicity for the event. Bresler Decl. ¶ 17. Despite repeated requests by Organize Ohio and by its ACLU attorneys, the City has refused to grant, deny, or respond in any substantive way to the application or to

- repeated inquiries as to its status. The City's inaction grows more problematic with each passing day as the convention is now just five weeks away. Bresler Decl. ¶ 17.
22. On April 18, 2016, CFT filed its application pursuant to the Parade Permit Ordinance and instructions provided by the City. This application, attached as Exhibit C, sought permission to hold a rally at Voinovich Bicentennial Park, followed by a parade down East 9th street from 11 a.m. until 5 p.m. on July 18, 2016. The application specified 104 cars/trucks, 4 motorcycles, 100 horses, and 5000-plus walking participants. (The numbers for motorcycles and horses were accidentally transposed. There were actually to be 4 horses and 100 motorcycles.) *Id.* The application stated that "We intend on having a full stage and pa (sic) system in the park for the meet up rally before the march." A route plan and map were attached. *Id.* The City acknowledged receipt of the application, but has failed to grant, deny, or respond in any substantive way to the application in the two months since it was filed. Selaty Decl. ¶ 14. Repeated requests by CFT and its ACLU attorneys for information on whether and when the permit will be acted upon have fallen on deaf ears at the City.
 23. Other applicants have filed for permits as well. The City has processed none of them. Some applicants, when they inquired, were told by the City that their applications would not be processed until two weeks before the Convention. Bresler Decl. ¶ 7. The City initially excused its intolerably long delay by stating that it could not process any permits until the Secret Service completed its Convention security plan, which the City said would not be finalized until two weeks before the start of the Convention.
 24. On May 25, 2016 – a full eight months after passing its new parade permit ordinance and long after a number of organizations had submitted their applications in the form

required by that ordinance - the City promulgated a new set of regulations, the Event Zone Permit Regulations (“Regulations”), first referred to in paragraph 2 above and attached as Exhibit D. The Regulations establish one “official parade route,” set rules for art installations in parks, and impose other significant restrictions on expressive and other constitutionally protected activity during the Convention. These Regulations are gravely flawed in their restriction of free speech and their infringement upon due process rights. These flaws are addressed in detail in subsequent sections of this complaint.

25. Upon the promulgation of the Regulations, the City required all permit applicants to resubmit their applications in a new format dictated by the new Regulations. Citizens for Trump, Organize Ohio, and other applicants promptly submitted new applications, but the City has not processed any applications to date. Selaty Decl. ¶ 7, Bresler Decl. ¶ 13.
26. In addition, Organize Ohio, Citizens for Trump, and other applicants have yet to be informed by the City as to when their permits will even be considered, much less approved, other than the statement that permits would be issued two weeks prior to the convention. Selaty Decl. ¶ 14, Bresler Decl. ¶ 7.
27. CFT, Organize Ohio and other permit applicants who wish to conduct First Amendment activity in connection with the Convention are completely stymied by the City’s extraordinary and unreasonable delay in processing their applications.
28. CFT cannot move ahead with essential aspects of its planning until it knows the date, time, location, nature, and conditions of whatever activity will be permitted – or even *whether* its activity will be permitted. Selaty Decl. ¶ 21. CFT has already expended

roughly \$10,000 to secure lodging for the main organizers and for the guest speakers for its rally. Selaty Decl. ¶. 22. Due to the City's delay in processing its application, many of the other items and services that CFT must commit funds to – if indeed the event can happen – cannot be secured yet. For example, the City's delay has precluded CFT from paying a required \$8,500 deposit to secure audio and video services. Selaty Decl. ¶ 23, Exhibit E. Other services that must be secured, but cannot be until plans are known, include an estimated \$10,000 for advertising, arranging transportation to and from Cleveland for speakers and organizers, and obtaining private security, portable toilets, liability insurance, tent and table rentals, and food and water. Selaty Decl. ¶ 24. These expenses total over \$50,000, but CFT cannot commit this money to an event which, even if allowed to occur, must be finalized despite myriad logistical details that remain undetermined and undeterminable due to the City's refusal to act on its permit application in a timely fashion. In fact, many deadlines for initial deposits have already come and gone. Every day that passes makes it more likely that necessary items and services will become scarcer and more expensive, or even unavailable. Selaty Decl. ¶ 25.

29. The City's delay in acting upon CFT's permit application also severely damages the organization's ability to fulfill its mission in an efficient, effective, and credible manner. CFT organizers cannot provide any information to participants, the media, co-organizers, speakers, or vendors regarding the planned march or rally. CFT organizers are forced to apologize to individuals and groups that have spent money and made travel plans for a rally that might not occur despite the fact that it is the City, and not CFT, that has created and unnecessarily prolonged these uncertainties. The organizers

- are impeded from publicizing the events because they don't know any of the pertinent calendar, location, or logistical information. A project to create a TV commercial had to be abandoned. Selaty Decl. ¶¶ 27, 28, 31, 32.
30. The City's delay in acting on CFT's permit application has also restricted the scope of CFT's planned activities. Publicity has been diminished; attendance will be down. Selaty Decl. ¶¶ 29, 30, 31. It is unknown at this point what impact the delay will have on the availability of the needed equipment and services. While the City's delay has thus already had the effect of lessening and limiting CFT's exercise of its members' First Amendment activity; at some point it will preclude that exercise altogether. Delay will constitute denial.
31. Organize Ohio also continues to suffer due to the City's delay. Its projected attendance that has grown to 5,000 and includes people of diverse ages and abilities. Bresler Decl. ¶ 14. Partner groups in other states including New York City, Florida, Kentucky, Pennsylvania, Michigan will send participants, as will more than 20 partner organizations across Ohio. Bresler Decl. ¶¶ 15, 16. Thus many of the participants will be traveling significant distances to exercise their constitutional rights of speech and assembly in Cleveland. But before anyone can exercise their rights, the organizers must finalize detailed plans that ensure a safe, orderly, and effective march. Currently they have decided at least to publicize the hoped-for date – though this is a risk– but not the time or location. Bresler Decl. ¶ 17. For a march of this size to be conducted responsibly, return routes, buses to transport participants back to the start, first aid, water, and other logistical details must be determined far more than two weeks in advance.

32. The City's continued delay in permit processing will, in the very near future, function as a permit denial to Organize Ohio, just as it does to CFT.
33. CFT and Organize Ohio, to operate within the law and conduct safe, effective and well-planned events, request and require knowledge of the terms of the permits under which they will be permitted to exercise their constitutional rights to assemble and engage in free expression of their opinions and beliefs.
34. In stark contrast to Cleveland, the City of Philadelphia, host to the Democratic National Convention, which does not start until the week following the RNC, began issuing parade permits on May 31. Philadelphia has already issued at least five permits, and denied others.

The City's Event Zone Permit Regulations Unduly Limit First Amendment Activity

The large size of the Event Zone, and the limited permit opportunities provided by the City within it, excessively limit First Amendment activity

35. The Regulations promulgated by the City on May 25, 2016 define an "Event Zone" that is 3.3 square miles in area. *See* City of Cleveland Resolution No. 8 ("Res.") §II(a)(9). It extends west to east from West 25th Street to the Innerbelt Bridge, and north to south from Lake Erie to Carnegie Avenue. This area is absurdly large in comparison to the footprint of the actual Convention activities. See Exhibit F, a map showing the Event Zone border, with the Convention facilities and activities marked in pink and red.
36. The Regulations severely limit the First Amendment activity that occur within the Event Zone. The Regulations provide for the issue of permits for certain, highly specific and limited First Amendment activities at just a few defined locations, within highly restricted hours:

- Parades must take place, by permit, only along the one “official” parade route, and only for a few hours each day. Res. §§II(a)(10), II(e)(1). The specified hours are outside the times when the Convention will actually be in session, and parades must be concluded in 50 minutes. Res. §II(f)(5). No part of the Official Route penetrates the interior of the Event Zone. Map (Exhibit F). Instead the route is limited to the extreme southern border of the Zone, a place where participants are least likely to be seen or heard by Convention goers and media.
 - Only two small parks within the Event Zone may be reserved, by permit, but only for “art and public installations,” and for no other First Amendment activity. Res. §§II(c),II(g)(1), II(g)(1).
 - A single speaker’s platform is provided in the Event Zone, Located in Public Square, use of this sole platform is limited to 30-minute increments and is restricted to those who have pre-registered, and to hours that have limited overlap with the times during which the Convention will actually be in session. Res. §§II(c),II(h)(1), II(g)(3), II(j).
 - Beyond these limited, highly circumscribed activities, nothing resembling a parade or assembly or “object to make a public speech” is permitted within the Zone. Res. §§II(a)(22), II(c).
37. In creating this expansive Zone, and imposing severe restrictions within it, the City is restricting substantially more speech than necessary to achieve any substantial government interest. The Event Zone is not narrowly tailored. It is manifestly not tailored at all.

38. The City has defended its draconian Regulations by insisting that some First Amendment activity may take place in the Event Zone without a permit:
- Marchers may march, the City insists - but only if they stay upon sidewalks, staying to the side so as not to obstruct doorways or other pedestrians, and crossing carefully with the light at every intersection so as not to obstruct traffic. Res. §II(n).
 - o This does not permit a parade.
 - People can use parks, the City insists - but they may not reserve them, set up anything to serve as speaker's platform, or use "a similar object to make a public speech" or use sound amplification equipment (other than battery operated.) Res. §§II(a)(22), II(a)(21),II(c),III(b)(6). And no one may use any of the larger parks at all, because those are all reserved by the host committee for the RNC.
 - o This does not permit an assembly or rally.
 - No speakers' platforms are permitted – no soapboxes or stages or any "object to make a public speech," and no sound amplification equipment other than hand-held or battery operated, may be set up for any speaker throughout the entire 3.3-mile area during the entire Convention period. Res. §§II(a)(22), II(a)(21),II(c),III(b)(6).
 - o This does not permit an audible or visible speech.
39. Thus, although the City insists otherwise, no genuine parade, assembly, rally, or speech can take place other than those few that the City may stingily parcel out in the limited opportunities delineated in its Regulations - if and when it grants a permit.
40. CFT requires a large park or space to accommodate the many thousands of attendees projected at its rally. Selaty Decl. ¶¶ 13, 17. There is no constitutionally legitimate reason for the City to design and impose Regulations that remove all of the previously

available opportunities that existed for CFT within a 3.3-mile area. The RNC has – with the City’s approval – pre-empted the largest parks for its own purposes. Before the Regulations were written, another space could be found for CFT. The Regulations, however, for no articulable reason, remove all opportunities and provide that no park or space may be reserved for the expressive activity in which CFT plans to engage.

41. Organize Ohio wishes to make a rhetorical and symbolic point with its requested parade route: on the 50th Anniversary of the Hough riots, it wishes to march from Hough to downtown, from a poor neighborhood to the glittering city. Bresler Decl. ¶ 21. Prior to the enactment of the Regulations, Organize Ohio could have received a permit for the very route it seeks. The Regulations, however, by arbitrarily enveloping the entire area in an Event Zone, and then limiting the right to parade to a single, exterior route, destroys this possibility.

Even the permitted activities are unduly restricted.

A. The Regulations’ Limitations on Parades are unduly restrictive

The Official Parade Route is unduly restrictive

42. The Regulations establish a single, isolated parade route for the Convention period, the “Official Parade Route.” The Route never touches the interior of the Event Zone, but rather follows along the southern boundary of the zone. See Map (Exhibit F), *Res.* §II(a)(10).
43. Parade participants will spend three-fourths of their time traversing a bridge, sequestered physically from any potential bystanders, and considerably beyond the seeing and hearing range of delegates and other convention goers. Both the view towards, and the view from, Quicken Loans Arena (the facility where the delegates and

others will meet to conduct their business), are illustrated on the photographs attached as Exhibit G. As these photographs make clear, it will not be possible for the marchers to view their intended audience from the vantage points provided by the Route, and their audience will certainly not be able to see or hear them.

44. The fact that the Route approaches another athletic facility, Progressive Field, is irrelevant. The RNC is being held, the speeches are taking place, and the delegates are voting at Quicken Loans Arena. The RNC's own website specifies the Arena as **the** "Official Venue." <https://www.2016cle.com/venue>
45. Some activists, disgusted by the inadequate options permitted by the Regulations, have announced that they will not apply for permits, and will instead march "where they don't want us." See <http://www.newsnet5.com/news/aclu-criticizing-clevelands-rnc-plans>, regarding the Million Women March.
46. If police issue a dispersal order to a large group of marchers on the long bridge, it may be difficult, perhaps impossible, for the marchers to comply.
47. No alternative parade routes are permitted anywhere in the Event Zone during the entire Convention period.
48. As explained above, Organize Ohio applied for a specific parade route in order to make its rhetorical point.¹ Bresler Decl. ¶ 21. That the Regulations dictate a particular parade route, to the automatic exclusion of all others, is the converse of what the First Amendment requires: Any public forum must be open unless the City has a reasonable,

¹ Plaintiffs Organize Ohio and Citizens for Trump were forced to submit updated permit applications according to the Regulations, but these applications do not reflect the routes either plaintiff is asking for (and is entitled to). The new permit applications were too restrictive to begin to satisfy plaintiffs' actual needs, and plaintiffs are asking for their actual needs to be met. Organize Ohio's resubmitted application is attached as Exhibit h. CFT's resubmitted application is attached as Exhibit I. Bresler Decl. ¶¶ 11, 12, 21-26. Selaty Decl. ¶ 17.

narrowly drawn justification for restricting access that provides ample alternative choices.

The days and hours for parades are unduly restrictive.

49. The Convention period, the period in which activity is restricted by the Regulations, is 114 hours long. Res. §II(a)(6). During this entire time, parades are limited to Monday between 2 pm and 5 pm; and Tuesday through Thursday between 9 am and 2 pm, a total of 18 hours. Res. §II(e)(1).
50. The permitted parade times have no overlap with the time periods in which delegates will attend convention activities at Quicken Loans Arena, so the marchers will not be able to address their intended audience.
51. There is no legitimate governmental justification for the very limited hours and times permitted for parades.

The time per parade is unduly restrictive.

52. The Regulations also impose a time limit of 50 minutes per parade. The Regulations offer no opportunity for applicants to request additional time. Res. §II(f)(5).
53. A 50-minute limitation on every parade does not satisfy the First Amendment. Groups consisting of many thousands of marchers, such as those represented by Organize Ohio and Citizens for Trump, will not be able to walk and finish the route in that length of time. Bresler Decl. ¶ 24. There is no governmental justification for the arbitrary 50-minute limitation.

B. The Regulations' limitations on First Amendment activity in Parks are unduly restrictive.

54. The Regulations halt the issuance of all park use permits in the Event Zone, except for

temporary “Public Art or a Public Installation” permits. Res. §II(a)(11), II(d)(2)II(g).

But even those expressive activities are confined to two parks. No permits will be issued for any other First Amendment activity, or in any other park. No soap boxes or platforms “to make a public speech” will be allowed, and no sound amplification equipment (other than battery operated) is permitted. Res. §§II(a)(22), II(a)(21),II(c), III(b)(6).

56. There is no legitimate governmental justification for the arbitrary limitations on park use, and opening two small parks for two narrow uses hardly leaves sufficient space to speak.

The size of the Event Zone and the Activities Restricted Within it infringe on Individuals’ Movement, Liberty, and Privacy Throughout an Absurdly Wide Area, and to an Absurd Degree

55. As stated above, the Event Zone is extremely, and unnecessarily, largely drawn.
56. Its overly expansive dimensions sweep in residential areas, a university, grocery stores, and other places where many people live, work, shop, travel, and conduct their daily lives.
57. Between 90 and 110 homeless people live in the Event Zone. Davis Decl. ¶¶ 8, 10. The Zone encompasses four of the five largest shelters in Cleveland, a daytime drop-in center, a primary healthcare site for the homeless, and approximately 10 established homeless encampments. Map (Exhibit F), Davis Decl. ¶ 8. _As the map shows, the great preponderance of these sites (marked in shades of green on the map) are nowhere near the Convention sites (marked in red and pink on the map.) Map (Exhibit F). Nonetheless, the Event Zone gratuitously sweeps them into its restrictive grasp.

58. NEOCH recognizes that approximately 12-20 homeless people live close to Quicken Loans Arena. Davis Decl. ¶ 11. These individuals might be appropriately subjected to relocation if they are in fact residing within a narrowly tailored Event Zone. *Id.* But there is no security or other legitimate reason for the City to subject the approximately 100 other homeless people who live nowhere near any Convention events to Event Zone Regulations.
59. The list of items prohibited by the Regulations include many common and essential items that homeless people carry every day, such as rope, string, tape, tents, sleeping bags, and coolers. Davis Decl. ¶12. Res. §§III(b)(14), III(b)(18),III(b)(19).
60. By designating many of their basic, everyday necessities as contraband, and drawing an excessively wide zone for enforcement, the City is subjecting homeless residents to unnecessary encounters with the police, exposing them to a high risk of search and seizure, and interfering with their rights to liberty, privacy and movement.
61. The strict prohibitions within the sweeping Event Zone will interfere with the rights of others as well. As mentioned above, two grocery stores and many smaller food stores are within the zone, but if a shopper carries a can, canned goods, or a bottle of water out of the store, he is in possession of contraband. Those playing tennis at Cleveland State University's tennis courts will be in violation of the law as well because the Regulations outlaw the possession of tennis balls in the Event Zone. The Regulations have an absurdly wide reach and cannot be justified in any rational way.

The Regulations also violate the terms of a federal consent decree in *Lynn Key et al v. City of Cleveland*

62. The Regulations infringe upon the rights of homeless people, not just on general due process principles, but also the rights explicitly recognized in the 1999 federal consent

decree that resolved the case of *Lynn Key et al v. City of Cleveland*, attached as Exhibit J, Davis Decl. ¶ 14.

CAUSES OF ACTION

COUNT ONE

Constitutional and Civil Rights Pursuant to 42 U.S.C. § 1983

Violation of First Amendment and Ohio Constitution

Prior Restraint on Speech

63. The foregoing allegations are incorporated as if re-alleged herein.
64. Defendants' delay in acting on the permit applications gives the City unfettered discretion over the permitting process and operates as a constructive denial of the applications.
65. Defendants' delay in acting on the permit applications threatens to prevent the Citizens for Trump, Organize Ohio, and other permit applicants, from expressing their views publicly, in violation of the their First Amendment rights to free speech and assembly.
66. As a direct result of Defendants' constitutional violations, Citizens for Trump, Organize Ohio and other permit applicants have suffered and continue to suffer financial damage due to the increasing costs of organizing their First Amendment expressive activities.
67. Defendants' unconstitutional policy of prior restraint of speech poses irreparable injury to the rights of Citizens for Trump, Organize Ohio and other permit applicants to engage in the constitutionally protected activities of peaceful speech and assembly. They are entitled to relief under the federal and state constitutions and 42 U.S.C. § 1983.

COUNT TWO

Constitutional and Civil Rights Pursuant to 42 U.S.C. § 1983

Violation of First Amendment and Ohio Constitution

Undue restrictions on Speech and Assembly

68. The foregoing allegations are incorporated as if re-alleged herein.

69. Peaceful speech and assembly are fundamental constitutional activities protected by the First Amendment to the United States Constitution.
70. Defendants' policies, regulations, and actions severely and unduly limit First Amendment expression and infringe upon the rights of Citizens for Trump, Organize Ohio, and the public at large to engage in the constitutionally protected activities of peaceful speech and assembly.
71. Citizens for Trump and Organize Ohio are entitled to seek redress under the federal and state constitutions and 42 U.S.C. § 1983.

COUNT THREE
Constitutional and Civil Rights Pursuant to 42 U.S.C. § 1983
Violation of First Amendment and Ohio Constitution
Chilling of First Amendment Activity

72. The foregoing allegations are incorporated as if re-alleged herein.
73. Peaceful speech and assembly are fundamental constitutional activities protected by the First Amendment to the United States Constitution.
74. Defendants' policies, regulations, and actions severely and unduly limit First Amendment expression and infringe upon the rights of Citizens for Trump, Organize Ohio, and the public at large to speak and assemble peacefully.
75. Defendants' policy, regulations and actions would chill a person of ordinary firmness from engaging in the constitutionally protected activities of peaceful speech and assembly.
76. Defendants' unconstitutional policy, regulations and actions have caused and will continue to cause irreparable harm to the rights of Citizens for Trump and Organize Ohio, and of the community at large, to engage in the constitutionally protected activities of peaceful speech and assembly.

77. As a direct result of Defendants' unconstitutional policy and practice, and the constitutional violations committed by Defendants, Citizens for Trump and Organize Ohio are entitled to relief under the federal and state constitutions and 42 U.S.C. § 1983.

COUNT FOUR
Constitutional and Civil Rights Pursuant to 42 U.S.C. § 1983
Violation of Due Process

78. The foregoing allegations are incorporated as if re-alleged herein.

79. The rights to movement, liberty, and privacy are due process rights protected by the United States Constitution.

80. Defendants' policies and regulations threaten to severely infringe upon the rights of Citizens for Trump, Organize Ohio, the Northeast Ohio Coalition for the Homeless and the public at large to go about their lives and ordinary activities without the risk of governmental intrusion.

81. The United States Constitution requires that restrictions on movement and liberty be carefully justified rather than arbitrary and capricious.

82. As a direct result of these constitutional violations threatened by Defendants, the Plaintiffs and the public at large stand to suffer injuries to their liberty, and are entitled to relief under the federal constitution and 42 U.S.C. § 1983.

PRAYER FOR RELIEF

Plaintiffs, Citizens for Trump, the Northeast Ohio Coalition for the Homeless, and Organize Ohio request that this Court enter judgment against Defendants City of Cleveland and Jackson, providing the following relief:

A. Damages to compensate Citizens for Trump for the losses incurred by the organization due to the City's delay in issuing any decision on its permit applications,

- B. A declaratory judgment that the Defendants' delay in issuing permits has violated the rights of Citizens for Trump and Organize Ohio under the First Amendment to the United States Constitution,
- C. A declaratory judgment that the Defendants' Event Zone Permit Regulations violate the rights of Citizens for Trump and Organize Ohio under the First Amendment to the United States Constitution,
- D. A declaratory judgment that the Defendants' Event Zone Permit Regulations violate Plaintiffs' due process rights,
- E. Injunctive Relief requiring the Defendants to take immediate action to process the permit applications submitted to the City for First Amendment activity during the Convention period,
- F. Injunctive Relief requiring the Defendants to alter their Event Zone Permit Regulations such that the Event Zone is eliminated or appropriately limited to a size no larger than required by compelling justification,
- G. Injunctive Relief requiring the Defendants to alter their Event Zone Permit Regulations to eliminate all unjustified restrictions on items and activities within the event zone such that the restrictions are no greater than required by compelling justification,
- H. Injunctive Relief requiring the Defendants to alter their Event Zone Permit Regulations to provide additional parks and grounds for assembly, to increase the hours in which parades may take place, to improve the official parade route to allow marchers to come within sight and sound of their intended audience, to allow for alternative parade routes requested by parade permit applicants, and to allow a reasonable amount of time for each parade;
- I. An award of interest, costs, and reasonable attorney's fees; and

J. Such other and further relief as the Court deems appropriate.

Respectfully Submitted,

/s/ Freda J. Levenson
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