

FILED

2015 MAR -5 3:04 PM
2015 MAR -6 1:16 PM

IN THE COMMON PLEAS COURT
CUYAHOGA COUNTY, OHIO

JOHN RICE

[REDACTED]
Olmsted Falls, OH 44138

Appellant

vs.

OLMSTED TOWNSHIP

26900 Cook Road

Olmsted Township, OH 44138

Appellee

CASE NO.

Judge: DICK AMBROSE

CV 15 841560

**NOTICE OF APPEAL PURSUANT
TO R.C. SECTIONS 505.38
AND 2506.01**

Now comes Appellant John Rice, pursuant to R.C. Sections 505.38 and 2506.01, and files his notice of appeal regarding his "removal" as Fire Chief of the Olmsted Township Fire Department. Appellant was removed from his position by a vote of the Board of Trustees on February 27, 2015. A copy of the letter notifying appellant of his removal is attached as Exhibit A. The final, approved minutes of the Board's meeting of February 27, 2015, are not yet available to the Appellant, and will be filed with this Court when approved by the Township at its next regularly scheduled meeting.

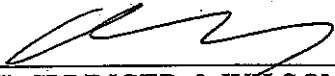
The grounds for this appeal include, but are not limited to:

1. The Board's action was unconstitutional, as the Board failed to provide procedural and substantive due process.

- A. Appellant John Rice failed to receive a fair and impartial tribunal in violation of his procedural and substantive due process as a member of the Board of Trustees had demonstrated bias against the Appellant.
 - B. The District violated Appellant's procedural due process when it utilized the County Prosecutor to represent the investigator before the Board of Trustees.
 - C. The Board failed to properly appoint a "private citizen" as they appointed a member of a consulting firm under contract with the Township, and said firm regularly represents the firm in contract negotiations and other related matters.
 - D. The investigator and the Board of Trustees failed to provide Appellant with notice of the conduct that was allegedly prohibited.
 - E. The Board previously determined that John Rice was subject to discipline and had reviewed the evidence with Appellant prior to the appointment of an investigator. The Board reached a conclusion without the benefit of a full hearing and giving Appellant the proper opportunity to present evidence to the Board as permitted by statute.
2. The Board of Trustees failed to follow the procedural mandates of the Ohio Revised Code.
- A. The Board failed to appoint a private citizen as required by R.C. Section 505.38.
 - B. The investigator failed to timely file charges as required by R.C. Sections 505.38 and 733.35.
3. The Board removed plaintiff/appellant from his position without just cause for removal.

- A. The Board's actions were arbitrary and capricious, as no evidence of bribery, misfeasance, malfeasance, nonfeasance, misconduct in office, gross neglect of duty, gross immorality, or habitual drunkenness was presented at the hearing.
4. The findings against Appellant were not unsupported by the preponderance of substantial, reliable and probative evidence on the whole record.

Respectfully submitted,



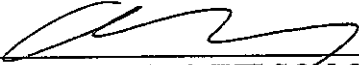
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ATTORNEYS FOR APPELLANT

CERTIFICATION

An original notice of appeal has been delivered to the Olmsted Township Administrative Offices on March 5, 2015. In addition, a copy of the notice of appeal has been forwarded by regular U.S. Mail this 5th day of March, 2015 to:

David A. Riepenhoff, Esq.
400 S. Fifth Street, Suite 200
Columbus, Ohio, 43215

Dale F. Pelsozy, Esq.
Assistant Cuyahoga County Prosecutor
The Justice Center, Courts Tower
1200 Ontario Street, 9th Floor
Cleveland, Ohio 44113



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Appellee

Judge: DICK AMBROSE

CV 15 841560

PRAECIPE

2015 MAR -6 PM 1:14

Now comes Appellant John Rice, pursuant to R.C. Section 2506.02 and requests that the Olmsted Township Board of Trustees prepare and file in this Court a complete transcript of all the original papers, testimony, and evidence offered, heard, and taken into consideration in issuing its decision to remove Appellant from the position of Fire Chief. Appellant also requests that the Township have Rice's Exhibit CCC (Shebesta investigative file) transcribed to include the testimony of witness John Rice, witness Ed Salks, and Dyann McDowell. The Appellant also requests that the Appellee file with the record a certified copy of the approved minutes from the February 27, 2015 meeting.

Respectfully submitted,


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