

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
NORFOLK DIVISION**

AUG 8 2019

**LATASHA HOLLOWAY
and GEORGIA ALLEN,**

Plaintiffs,

v.

Civil Action No. 2:18cv69

CITY OF VIRGINIA BEACH, et al.,

Defendants.

**MEMORANDUM IN SUPPORT OF OBJECTION TO SUBPOENA,
MOTION TO QUASH SUBPOENA, AND
MOTION FOR PROTECTIVE ORDER**

COMES NOW Guy Tower (“Tower”), *pro se*, third-party recipient of a subpoena *duces tecum* in this matter, and states as follows in support of his contemporaneously filed Objection to Subpoena, Motion to Quash Subpoena, and Motion for Protective Order.

Plaintiffs served the subpoena *duces tecum* attached hereto as **Ex. A** on July 26, 2019. Guy Tower is and since April 23, 2019 has been, a member of the City Council for the City of Virginia Beach, and currently is running for election to the City Council in November, 2019 for a contested seat. The subject subpoena seeks a broad swath of documentation created or used between 1995 to the present. Tower has only been on the City Council for 107 days and has only been an announced candidate for the upcoming election for 41 days. The subpoena *duces tecum* therefore mandates him to audit decades of data having virtually no chance of containing any responsive material.

Reasons Subpoena Should be Quashed or Limited

The 100 mile limit of Rule 45. Federal Court subpoenae are controlled by Fed. R. Civ. P. 45, which states that subpoenae for documents can command a person to bring documents to a place within 100 miles of the place where the person resides, is employed or regularly transacts business in person. Tower resides, is employed and regularly conducts business in Virginia Beach, Virginia. He does not reside, work, or regularly conduct business within 100 miles of Washington, DC. Washington, DC, is more than 150 miles distant from Virginia Beach. So for that reason alone the subpoena is void on its face.

Inadequate time to comply. Rule 45 allows a party upon whom a subpoena has been served to object on the ground that the subpoena fails to allow a “reasonable time” to comply. The subpoena seeks “any and all” documents, on a wide range of issues “related to” 46 different subjects, created or used as far back as 1995. Before being served with the subpoena, Tower was already fully immersed in a combination of performing the multitudinous duties of a freshman councilman and a candidate for election. Simply by the dint of time, if required to comply with the subject subpoena by the due date stated on the subpoena (August 26, 2019), Tower’s ability to carry out his existing duties as a council person and a candidate for election will be materially impaired.

Undue Burden. Rule 45 allows a person upon whom a subpoena has been served to object on the ground that the subpoena “subjects a person to undue burden.” For most if not all of the time-period covered by the subpoena, Tower, like virtually everyone in society, has conducted the vast bulk of written communications digitally with a computer or like device. Thus, the vast majority of documentation Tower has that is responsive to the subpoena is resident

in assorted digital storage devices, such as computers and Iphones. Tower is not personally competent to, or capable of, thoroughly searching such devices and therefore would have to retain the services of a professional information technology specialists to conduct such searches. Such specialists charge substantial fees for their services. Having to pay such a specialist would be an undue financial burden on Tower.

Additionally, even after a professional search were conducted Tower would be required to cull through all material identified as potentially responsive to identify material that is privileged, non-responsive, or otherwise confidential. Although Rule 45(d)(1) commands that a party issuing a subpoena for documents “must take reasonable steps to avoid imposing undue burden or expense” on Tower, *Plaintiffs have take no steps whatever to avoid same.*

Impingement on First Amendment Rights. Tower is in the throes of a political campaign. The wholesale release of the broad swath of information covered by the subpoena carries substantial potential of disclosure of campaign planning and strategy documents that are not in the public domain, that are highly confidential, and that are not otherwise available to Tower’s opponent in that political campaign. For example, Subpoena Request No. 45 would require Tower to produce all documents etc. “related to Tower’s decision to run in the November 5, 2019 special election....” (Many of the other items on the subpoenaed list would impinge on either Tower’s or his supporters’ rights of free association and speech. E.g., Items 39, 40, and 46.) Documents “related to” that decision would surely include lists of supporters, potential supporters, and lists of groups engaged in political expression, which are Constitutionally privileged.

Membership lists of groups engaged in political expression clearly deserve some First Amendment protection. The Supreme Court recognized this need in *NAACP v. Alabama*, 357 U.S. 449, 78 S.Ct. 1163, 2 L.Ed.2d 1488 (1958), which held that Alabama could not force the NAACP to reveal its membership list. The Court stated, ‘It is hardly a novel perception that compelled disclosure of affiliation with groups engaged in advocacy may constitute [an] effective * * * restraint on freedom of association * * *.’ *Id.* at 462, 78 S.Ct. at 1171.

* * *

[T]he litigant seeking protection need not prove *1268 **92 to a certainty that its First Amendment rights will be chilled by disclosure. It need only show that there is some probability that disclosure will lead to reprisal or harassment.

* * *


[L]itigants seeking to compel discovery must describe the information they hope to obtain and its importance to their case with a reasonable degree of specificity. See *Cervantes v. Time, Inc.*, 464 F.2d 986, 994 (8th Cir. 1972). Second, courts must determine whether the litigants seeking disclosure have pursued alternative sources. Even when the information sought is crucial to a litigant's case, disclosure should be compelled only after the litigant has shown that he has exhausted every reasonable alternative source of information. *National Right to Work, supra*, 590 F.2d at 1153.150 Because of the preferred position of First Amendment rights, ‘compelled disclosure * * * [is] normally the end, and not the beginning, of the inquiry.’ *Zerilli v. Smith, supra*, 656 F.2d at 713 (quoting *Carey v. Hume, supra*, 492 F.2d at 638). Infringement of First Amendment interests must be kept to a minimum.

Black Panther Party v. Smith, 661 F.2d 1243, 1265 (D.C. Cir. 1981), cert. granted, judgment vacated sub nom. *Moore v. Black Panther Party*, 458 U.S. 1118, 102 S. Ct. 3505, 73 L. Ed. 2d 1381 (1982), and cert. granted, judgment vacated, 458 U.S. 1118, 102 S. Ct. 3505, 73 L. Ed. 2d 1381 (1982).

Subpoena lacks signature. A subpoena issued under Rule 45 is required to be signed by the proponent or the Clerk. *Id.* Ex. A is signed by neither the proponent nor the Clerk.

WHEREFORE, Tower moves the Court to quash the subpoena in its entirety, or, alternatively, enter a protective order limiting its scope to materials reasonably calculated to lead to the discovery of admissible evidence, requiring Plaintiffs to bear the full costs of retaining the services of a professional information technology specialists to conduct such digital searches as are reasonably necessary to respond to the subpoena, and extending the subpoena response time to December 1, 2019 or sometime thereafter.

GUY TOWER

By:  _____

CERTIFICATE OF SERVICE

I hereby certify that on the 8th day of August, 2019 a true copy of the foregoing documents was mailed to all counsel of record, including:

Charquia V. Wright, VSB #92972
J. Gerald Hebert, VSB #38432
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A handwritten signature in black ink, appearing to read 'Guy Tower', written over a horizontal line.

Guy Tower

AO 88B (Rev. 02/14) Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action

UNITED STATES DISTRICT COURT
for the
Eastern District of Virginia

LATASHA HOLLOWAY and GEORGIA ALLEN

Plaintiff

v.

CITY OF VIRGINIA BEACH, ET. AL.

Defendant

Civil Action No. 2:18-cv-00069

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To: GUY TOWER

(Name of person to whom this subpoena is directed)

Production: YOU ARE COMMANDED to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material: See Attached Ex. A.

Place: Campaign Legal Center
1101 14th Street NW, Suite 400
Washington, DC 20005
Date and Time: 08/26/2019 9:00 am

Inspection of Premises: YOU ARE COMMANDED to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

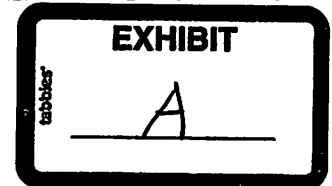
Place:
Date and Time:

The following provisions of Fed. R. Civ. P. 45 are attached - Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date:

CLERK OF COURT

OR



Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing (name of party) Plaintiffs Latasha Holloway and Georgia Allen, who issues or requests this subpoena, are:

J. Gerald Hebert, 1101 14th Street NW, Suite 400, Washington, DC 20005, (202)736-2200, ghebert@campaignlegal.org

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things or the inspection of premises before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. 2:18-cv-00069

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)* _____

on *(date)* _____

I served the subpoena by delivering a copy to the named person as follows: _____

_____ on *(date)* _____ ; or

I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of \$ _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)**(c) Place of Compliance.**

(1) *For a Trial, Hearing, or Deposition.* A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) *For Other Discovery.* A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) *Avoiding Undue Burden or Expense; Sanctions.* A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) *Command to Produce Materials or Permit Inspection.*

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) *Quashing or Modifying a Subpoena.*

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) *Producing Documents or Electronically Stored Information.* These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) *Claiming Privilege or Protection.*

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) *Contempt.*

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

EXHIBIT A

DOCUMENTS TO BE PRODUCED BY GUY TOWER

On or before August 26, 2019, you or your representatives must produce the following documents, communications, electronically stored information, objects and/or materials (collectively “documents” or “materials”) that are in your actual or constructive possession, custody, or control, and permit the inspection, copying, testing and/or sampling of the materials, that were created or used during the period January 1, 1995 and the present. The items listed below are intended to cover all responsive documents, electronically stored information and things in your possession, custody or control in your personal capacity.

1. Provide any and all documents, communications, and things related to any analysis conducted on racial voting patterns in Virginia Beach between January 1, 1995 and the present.
2. Provide any and all documents, communications, and things related to the relationship between race, voting, and electoral results in Virginia Beach from January 1, 2000 to the present.
3. Provide any and all documents, communications, and things related to any analysis conducted between January 1, 1995 and the present, which concluded that the City could or could not enact a new election system—with seven districts, ten districts, or any other number of districts—that included at least one district with a minority citizen voting age population of fifty percent or more.
4. Provide any and all documents, communications, and things showing Virginia Beach’s reliance on the Census Bureau’s American Community Survey data in its research, analysis, or allocation of funds or for any other official purpose.
5. Provide any and all documents, communications, and things in which you or your predecessors expressed support for or opposition to the May 1996 referendum on whether the City should adopt a ward system for city elections.

6. Provide any and all documents, communications, and things related to any proposal to institute a ward or district system made from June 1, 1996 to the present, including, but not limited to, proposals made in the form of legislation (enacted or proposed) or statements made during hearings, referendum recommendations, public testimony, or informal sessions or discussions conducted by or before the City Council.
7. Provide any and all documents, communications, and things related to any proposal to introduce any other electoral system—including alternative forms of voting such as ranked choice voting or cumulative voting—from June 1, 1996 to the present, including, but not limited to, proposals made in the form of legislation (enacted or proposed) or statements made during hearings, public testimony, or informal sessions or discussions conducted by or before the City Council.
8. Provide any and all documents, communications, and things related to the lack of minority representation on Virginia Beach City Council from January 1, 2000 to the present.
9. Provide any and all documents related to the difficulties for the minority community to elect candidates of their choice to Virginia Beach City Council from January 1, 2000 to the present.
10. Provide any and all documents, communications, and things addressing Virginia Beach's history of racial discrimination, from January 1, 2000 to present.
11. Provide any and all documents, communications, and things addressing racial disparities in health outcomes, education, income, policing, employment and housing in Virginia Beach, from January 1, 2000 to present.

12. Provide any and all documents, communications, and things related to allegations of racial discrimination in Virginia Beach and/or the City Council's response to allegations of racial discrimination from January 1, 2000 to the present.
13. Provide any and all documents, communications, and things related to the visit of students from historically Black colleges and universities (HBCUs) during College Beach weekend from January 1, 2000 to the present.
14. Provide any and all documents, communications, and things related to allegations of voter intimidation in Virginia Beach and/or the City's response to allegations of voter intimidation from January 1, 2000 to the present.
15. Provide any and all documents, communications, and things related to allegations of racial appeals or racist incidents in political campaigns in Virginia Beach from January 1, 2000 to the present.
16. Provide any and all documents, communications, and things involving or related to Hampton Roads Chamber and HRBizPAC, including all documents and communications related to endorsements and monetary contributions by those entities to you or your campaigns for City Council from January 1, 2000 to the present.
17. Provide any and all campaign-related communications between you and Hampton Roads Chamber, HRBizPAC, or any staff from Hampton Roads Chamber or HRBizPAC.
18. Provide any and all documents, communications, and things related to any efforts by you to recruit or encourage support for minority candidates for City Council between January 1, 2000 and December 31, 2018.

19. Provide any and all documents, communications, and things related to communications between Defendants Rouse and Wooten and current and former City Council members prior to their election to City Council in November 2018.
20. Provide any and all documents, communications, and things in the possession of all Defendants except Defendants Rouse and Wooten related to the candidacy of Defendants Rouse and Wooten prior to their election to City Council in November 2018.
21. Provide any and all documents, communications, and things related to or mentioning Latasha Holloway or Georgia Allen.
22. Provide any and all documents, communications, and things related to the candidacies and elections of Louisa Strayhorn, Dr. Amelia Ross-Hammond, John L. Perry, and Ron A. Villanueva.
23. Provide any and all documents, communications, and things related to the appointment and candidacy of Prescott Sherrod.
24. Provide any and all documents, communications, and things related to the Community Policing 5-Point Plan submitted by the Virginia Beach Interdenominational Ministers Conference, Virginia Beach NAACP chapter, and Virginia Beach African American Leadership Forum, Virginia Beach's response to the 5-point plan, and any analysis conducted of Virginia Beach's response to the 5-point plan.
25. Provide any and all documents, communications, and things related to the Virginia Beach Interdenominational Ministers Conference, Virginia Beach NAACP chapter, and Virginia Beach African American Leadership Forum from January 1, 2000 to the present.

26. Provide any and all documents, communications, and things related to racial disparities in access to transportation in Virginia Beach, including documents related to the rejection of a light rail project in Virginia Beach, from January 1, 2000 to present.
27. Provide documents sufficient to show the number of minority employees, their job titles, and percentage of minority employees working for Virginia Beach, including the number and percentage of minority employees in managerial positions since January 1, 2000.
28. Provide documents sufficient to show the number and percentage of minority citizens that have served on Virginia Beach's Boards, Commissions, and Committees since January 1, 2000.
29. Provide any and all documents, communications, and things related to requests to City Council for racial disparity studies of public contracting, education, housing, transportation, city hiring or other socioeconomic topics, any racial disparity studies conducted in Virginia Beach including the disparity analysis conducted in 2018, and any responses to such racial disparity studies from January 1, 2000 to the present.
30. Provide any and all documents, communications, and things related to Virginia Beach goals for public contracting with minority-owned businesses and Virginia Beach's progress toward meeting those goals, from January 1, 2000 to present.
31. Provide any and all documents, communications, and things related to your outreach to the minority community in Virginia Beach during your electoral campaigns.
32. Provide any and all video footage or transcripts of items 19, 20, and 21 in Defendants' initial disclosures pursuant to Rule 26 of the Federal Rules of Civil Procedure, identified as Virginia Beach City public hearings held on July, 14, 2011; August 9, 2011; and August 23, 2011.

33. Provide any and all documents, communications, and things related to the City Council's selection of Guy Tower to serve as the Beach District council member after David Nygaard's removal resulted in a vacancy.
34. Provide any and all documents, communications, and things related to the City Council's deliberation regarding the decision to not appoint Leah Malbon Davenport to the Beach District council seat.
35. Provide any and all documents, communications, and things related to the City Council's deliberation regarding the decision to not appoint Megin Kennett to the Beach District council seat.
36. Provide any and all documents, communications, and things related to the City Council's deliberation regarding the decision to not appoint Louisa Strayhorn to the Beach District council seat.
37. Provide any and all documents, communications, and things related to the City Council's deliberation regarding the decision to not appoint John Uhrin to the Beach District council seat.
38. Provide any and all documents, communications, and things related to the process by which the City Council selected Leah Malbon Davenport, Megin Kennett, Louisa Strayhorn, Guy Tower, and John Uhrin as finalists under consideration for filling the Beach District vacancy caused by David Nygaard's removal.
39. Provide any and all documents, communications, and things that relate to the views and/or preferences expressed for filling the Beach District vacancy by any person in the minority communities (blacks, Hispanics, Asians).
40. Provide any and all documents, communications, and things that relate to the views and/or preferences expressed for filling the Beach District vacancy by any person in the white

community.

41. Provide any and all documents, communications, and things related to the process by which the City Council publicized the temporary vacancy caused by David Nygaard's removal and solicited applications from residents to fill the Beach District seat.
42. Provide any and all documents, communications, and things related to any specialized outreach efforts made by the City Council to minority communities in Virginia Beach to publicize the Beach District vacancy and solicit applications from minority residents for the temporary Beach District vacancy.
43. Provide any and all documents, communications, and things related to the City Council's discussion of candidates for the November 5, 2019 special election for the Beach District council seat vacancy.
44. Provide any and all documents, communications, and things related to the City Council's discussion of Virginia Beach residents who have considered running for the Beach District council seat vacancy in the November 5, 2019 special election.
45. Provide any and all documents, communications, and things related to individual city council members discussing candidates for the November 5, 2019 special election for the Beach District council seat vacancy.
46. Provide any and all documents, communications, and things related to Guy Tower's decision to run in the November 5, 2019 special election for the Beach District council seat vacancy.

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
NORFOLK DIVISION**

AUG 8 2019

**LATASHA HOLLOWAY
and GEORGIA ALLEN,**

Plaintiffs,

v.

Civil Action No. 2:18cv69

CITY OF VIRGINIA BEACH, et al.,


Defendants.

AFFIDAVIT

I, Guy Tower, after being duly sworn, make the following affidavit:

1. I reside, work and conduct business in Virginia Beach, Virginia.
2. I have been a member of the City Council for the City of Virginia Beach since April 23, 2019 and currently am running for reelection to the City Council in November, 2019 for a contested seat.
3. I was served with a subpoena *duces tecum* from the plaintiffs on July 26, 2019.
4. The subpoena *duces tecum* has 46 requests for documents and materials from the years 1995 and 2000 which is long before I took office.
5. I have used a computer or similar device for the majority of my written communications for many years and am not qualified or competent to personally search these devices to obtain the materials and documents requested in the subpoena.
6. If I am required to divert time from my duties as a city council person and

candidate to comply with this subpoena prior to the upcoming November election, my campaign for public office and ability to discharge my existing Council duties will be materially impaired, and there is a high degree of probability that I will be required to make disclosure of confidential political campaign strategy materials having nothing whatever to do with the merits of Plaintiffs' claim, upon which I take no position at this time.

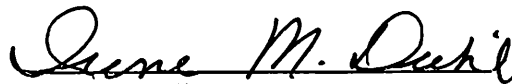


Guy Tower

COMMONWEALTH OF VIRGINIA

CITY OF VIRGINIA BEACH, to-wit:

The foregoing Affidavit was acknowledged and sworn to before me, a notary public in the in my City and State aforesaid, this 8th day of August 2019, by Guy Tower, he being personally known to me or having produced a state-issued driver's license as identification.



Irene M. Diehl
Notary Public

My Commission Expires: 12/31/2021

Registration No.: 191070

