

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

Latasha Holloway, *et al.*,

*Plaintiffs,*

v.

City of Virginia Beach, *et al.*,

*Defendants*

Civil Action No. 2:18-cv-0069

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**PLAINTIFFS' OPPOSED MOTION FOR STAY OF PROCEEDINGS**

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On July 27, 2022, the Fourth Circuit issued a judgment, ECF No. 304, vacating this Court's March 31, 2021 order and remanding the case to the district court for further proceedings consistent with its decision. Plaintiffs respectfully submit this motion to stay the proceedings in this matter until March 2023, after the 2022 election for Virginia Beach City Council has been conducted and the newly elected Council has had an adequate opportunity to decide how to proceed with elections going forward. Defendant Virginia Beach opposes the motion.

**STANDARD**

The district court may use its discretion when determining whether to stay proceedings. *See Landis v. N. Am. Co.*, *See Gibbs v. Plain Green, LLC*, 331 F. Supp. 3d 518, 525 (E.D. Va. 2018), (citing *Landis v. N. Am. Co.*, 299 U.S. 248, 254 (1936) (“[T]he power to stay proceedings is incidental to the power inherent in every court to control the disposition of the causes on its docket with economy of time and effort for itself, for counsel, and for litigants.”)). “The party seeking a stay must justify it by clear and convincing circumstances outweighing potential harm

to the party against whom it is operative.” *Williford v. Armstrong World Indus., Inc.*, 715 F.2d 124, 127 (4th Cir. 1983). In particular, the district court should consider “(1) the interests of judicial economy; (2) hardship and equity to the moving party if the action is not stayed; [and,] (3) potential prejudice to the non-moving party.” *Buzzell v. JP Morgan Chase Bank*, No. 3:13-CV-668, 2015 WL 5254768, at \*2 (E.D. Va. Sept. 9, 2015) (*quoting Meyers v. Bayer AG*, 143 F. Supp. 2d 1044, 1049 (E.D. Wis. 2001)).

### **ARGUMENT**

*First*, the interests of judicial economy weigh heavily in favor of granting a stay of proceedings. On November 8, 2022, the City of Virginia Beach will hold an election for six seats on the City Council—Districts 1, 2, 4, 6, 8, 9, and 10—<sup>1</sup> using the ten-district plan adopted by the Court’s December 22, 2021 Order, ECF No. 290.<sup>2</sup> The newly elected councilmembers will commence their term on January 1, 2023. *See* Virginia Beach Charter, 1962, c. 147 § 3.02:1. Following the Fourth Circuit’s judgment, the City of Virginia Beach stated that “what method or methods [of election are] to be considered, will be up to a new City Council in 2023.” Any proceedings by this court ahead of the new Council’s determination of how to proceed with elections would be premature and result in a waste of judicial resources. If the Council elects to pursue a charter change to a system of election that protects the rights of minority voters in Virginia Beach, the need for further litigation may be obviated. And, if it elects to pursue a charter change to a system which denies minority voters their rights, issuing a stay of proceedings at this time

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<sup>1</sup> City of Virginia Beach, Candidates List at 2-3, *available at* [https://www.vbgov.com/government/departments/voter-registrar/Documents/Candidate%20List/2022/November/November2022\\_Candidates\\_List.pdf](https://www.vbgov.com/government/departments/voter-registrar/Documents/Candidate%20List/2022/November/November2022_Candidates_List.pdf)

<sup>2</sup> City of Virginia Beach, *Holloway vs. City of Virginia Beach*, <https://www.vbgov.com/government/departments/communications-office/hot-topics/Pages/Holloway-vs-VaBeach.aspx>.

would ensure that further litigation is properly responsive to the system which the Council proposes. Judicial economy therefore weighs in favor of a stay of proceedings.

*Second*, Plaintiffs will experience hardship if the action is not stayed. As was demonstrated by the extensive motions practice, pre- and post-trial briefing, and fact-intensive trial presentation in this case, significant time and attention will be required of the Plaintiffs and their counsel should it be necessary to continue this case. Plaintiffs will be prejudiced if they must undertake these efforts, without full information or understanding, in advance of a determination by the City Council of what system of election it proposes to utilize for future elections.

*Third*, the City of Virginia Beach will not experience any prejudice if the stay of proceedings is granted. Rather, the City will benefit from the ability to devote its attention to preparing for and conducting the 2022 election, a significant task which will take tremendous effort. And a stay of proceedings is consistent with the City's position that the task of determining how to proceed with City Council elections after 2022 rests with the City Council whose term begins in January 2023. Waiting to commence proceedings until March 2023 will provide the new Council with the opportunity to consider and decide upon the method of election they propose to utilize for future City Council elections, with sufficient time to defend that system, if necessary, prior to the next regularly-scheduled City Council election in November 2024.

### **CONCLUSION**

Judicial economy, the hardship on the Plaintiffs should proceedings continue at this time, and the lack of prejudice to the Defendant should the stay be granted counsel in favor of this court using its discretion to grant Plaintiffs' Motion for a Stay of Proceedings. Plaintiffs respectfully request that this court grant their motion and stay proceedings in this matter until March 2023.

Dated October 5, 2022

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that on October 5, 2022, the foregoing document was filed electronically with the Clerk of the Court using CM/ECF system, and that the following counsel of record were served by CM/ECF:

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