

12-Person Jury

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**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, LAW DIVISION**

JAMES GARDINER,

Plaintiff,

v.

CITY OF CHICAGO, a municipal
corporation, CITY OF CHICAGO BOARD
OF ETHICS, an independent city agency,
CITY OF CHICAGO OFFICE OF
INSPECTOR GENERAL, an independent
and nonpartisan agency, DEBORAH
WITZBURG, individually.

No.:

JURY DEMANDED

COMPLAINT AT LAW

Plaintiff, James Gardiner, through his attorneys, Tobin & Munoz, LLC, and for his Complaint ("Complaint") against Defendants, CITY OF CHICAGO, a municipal corporation, CITY OF CHICAGO BOARD OF ETHICS, an independent city agency, CITY OF CHICAGO OFFICE OF INSPECTOR GENERAL, an independent and nonpartisan agency, DEBORAH WITZBURG, an individual, (collectively, "Defendants"), states as follows:

SUMMARY OF ALLEGATIONS

1. The City, the CBOE, the OIG, and Deborah Witzburg conspired to prosecute Alderman Gardiner maliciously, knowing that their accusation that Gardiner had knowingly cited a "political critic" with an improper citation for overgrown weeds lacked any factual or evidentiary basis.
2. The defendants violated due process, withheld exculpatory evidence, and relied on demonstrably false testimony to create illegitimate probable cause charges against

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Alderman Gardiner and litigated those charges to harass, punish, and drive him out of elected office.

PARTIES

3. Plaintiff, James Gardiner (hereinafter "Gardiner"), is an individual residing in Cook County, Illinois. The residents of the 45th Ward of the City of Chicago first elected James Gardiner as Alderman on February 26, 2019, and he has continuously served as the Alderman of the 45th Ward since he was sworn in on May 20, 2019.
4. Defendant, City of Chicago (the "City"), is a municipal corporation incorporated under the State of Illinois with its principal place of business in Cook County, Illinois.
5. Defendant, City of Chicago Board of Ethics (the "CBOE"), is an independent City agency located in the State of Illinois, County of Cook. The CBOE is responsible for administering and enforcing the City's governmental ethics ordinance by overseeing compliance and adjudicating alleged violations.
6. Defendant, City of Chicago Office of Inspector General (the "OIG"), is an independent and purportedly a nonpartisan agency within the State of Illinois with its principal place of business in Cook County, Illinois. The City's OIG is responsible for conducting inquiries and investigations in order to prevent, detect, or identify misconduct, fraud, corruption, and abuse of authority and resources. From these inquiries and investigations, the OIG issues reports of findings and recommendations to the CBOE.
7. Defendant, Deborah Witzburg ("Witzburg"), upon information and belief, is an individual residing in Cook County, Illinois. Witzburg became the Inspector General of the OIG in April of 2022. Witzburg sent the CBOE, on June 6, 2023, the Report of Inspector General Investigation (the "Report") to Gardiner seeking a finding of

probable cause based on allegations that Gardiner, in his role as the Alderman, violated the Governmental Ethics Ordinance (the "Ordinance").

FACTUAL ALLEGATIONS COMMON TO ALL COUNTS

8. Alderman Gardiner is a Firefighter/EMT and has served since he joined the Chicago Fire Department on May 2nd 2005. Gardiner took a leave of absence to serve as Alderman.
9. On May 20, 2019, Gardiner was sworn into office as Alderman of the 45th Ward after a successful grassroots election campaign.
10. The Alderman did not have connections or backing with or by other politicians in the city.
11. Alderman Gardiner was an outspoken critic of former Chicago Mayor Lori Lightfoot's administration.

(I) The Defendants' History with Alderman James Gardiner Demonstrate the Defendants' Malice

12. The Defendants abused their authority several times in a targeted campaign against Gardiner. Below are two notable instances of demonstrated malice:

(i) The CBOE gave Alderman Gardiner Bad Advice to Implicate him in a First Amendment Lawsuit

13. An individual posted inflammatory and derisive content in 2021 on Gardiner's official Alderman page on Facebook. Similar content had been posted since the page's creation in 2019.
14. Gardiner considered blocking this individual, however he was concerned with the First Amendment implication of blocking this individual and sought consultation from the CBOE.

15. Defendant CBOE advised Gardiner that he could block this individual without any issue.
16. Pursuant to the advice of the CBOE, Gardiner blocked this individual.
17. Alderman Gardiner was subsequently sued by the blocked individual for violating the First Amendment.
18. Alderman Gardiner was forced to settle this case.
19. The City refused to indemnify Alderman Gardiner despite him taking this action in connection with his political office pursuant to the advice from the Board of Ethics.
20. On April 18, 2025 a former member of City’s Corporation Counsel messaged Gardiner regarding the decision to refuse Gardiner indemnification. The former Counsel confirmed that the City refused to give indemnification to Gardiner by instruction of then-mayor Lori Lightfoot.
21. This former City Corporation Counsel explained that “Mayor Lightfoot, apparently, had some sort of grudge against you”

(ii) The City Weaponized their Authority over the Fire Department’s Promotional Process to Punish Gardiner and the Fire Fighters who Supported him

22. Alderman Gardiner took a leave of absence from the Chicago Fire Department to become Alderman for the 45th ward.
23. The Chicago Fire Department had a long-standing Promotional Plan with a list of firefighter candidates to be promoted to the high-ranking position of Lieutenant of the Fire Department.
24. This Promotional Plan had been in place for over a decade.
25. When Alderman Gardiner was set to fill the next Lieutenant position, the City refused to fill Lieutenant positions for several months.

26. The City suddenly cancelled the list, harming dozens of veteran firefighters who had relied on that list to project their career path.
27. The list only returned after the firefighters affected by this decision threatened a class action lawsuit against the City.
28. The firefighters drafted a pleading against the City to bring the list back. In these pleadings, the Firefighters cited the enmity of the contemporaneous administration under Lori Lightfoot towards Alderman Gardiner as the reason the Promotional List was pulled.
29. Never in the history of the Chicago Fire Department had a Promotional List ever been taken down only to be reinstated.
30. After reinstating the Promotional List, the City informed Alderman Gardiner that he would only be able to accept the promotion to Lieutenant if he stepped down as an Alderman.
31. Alderman Ivan Rittenburg served as Police Captain, promoted in 1982 during his leave of absence from the Chicago Police Department, simultaneously with his role as Alderman of the 40th ward.

(II) The Defendants used a Summary of Investigation Report Riddled with Unverified Accusations and Outright False Statements, while Concealing Evidence, to Improperly Find Probable Cause and Charge Gardiner with Several Violations of the Governmental Ethics Ordinance

32. On May 3, 2023, after Gardiner's successful re-election campaign, Deborah Witzburg, Inspector General of the OIG, sent Gardiner a letter informing him that the OIG intended to request a probable cause finding by the CBOE regarding alleged violations of the Ordinance.

33. On June 6, 2023, Witzburg, on behalf of the OIG, sent the Summary Report of Investigation (the “Report”) to the CBOE that summarized the OIG's investigation into Gardiner.
34. The OIG claimed it initiated the investigation into Gardiner on January 14, 2021 and concluded on January 12, 2023 in the Report.
35. Under §2-56-050(b)(2), the OIG must request a probable cause finding in accordance with §2-156-385 prior to the conclusion of the investigation.
36. The OIG requested a probable cause finding several months after it claimed to conclude the investigation on January 12, 2023.
37. The CBOE refused to consider or entertain at any point that this Report was statutorily untimely.
38. The OIG’s Report alleged that Gardiner, in his official capacity as the Alderman of the 45th Ward, directed City employee Andrew Szorc (“Szorc”), superintendent of the 39th Ward, to issue (2) two citations for “weeds on property over 10 inches causing rodent problem” and for “weeds in excess of 10 inches” to the home of a political critic ("Czosnyka"), knowing the citations would be unfounded due to an ordinance allowing for “native plants.”
39. The Report also falsely claimed that Gardiner misused city property by directing his staff to make anonymous 311 calls about Czosnyka’s property regarding the weeds.
40. The OIG’s claims were knowingly and demonstrably false. Gardiner never directed any individual, let alone Szorc, to make citations against Czosnyka. Gardiner never directed staff to make anonymous 311 calls against Czosnyka.

41. There was no registry of gardens with “native plants” at the time Szorc issued the citation. It was only in 2021, two years after Szorc issued citations to Czosnky, did Alderman Hopkin introduce an Ordinance to register gardens with “native plants” to make it easier to know which yards would be protected by the “native plants” ordinance for the purposes of informing ward superintendents which gardens were protected.
42. Neither Szorc nor Gardiner had knowledge that Czosnyka’s yard contained “native plants.”
43. The OIG is required to set forth all the evidence that it compiled during its investigation into Gardiner and include as an attachment, all relevant evidence and supporting materials that the OIG gathered during its investigation into Gardiner.
44. The OIG failed to comply with the above-listed requirements in ¶43 at all relevant times.
45. There is purported evidence referenced in the index of the Report that was never disclosed to the CBOE or Gardiner.
46. The CBOE never investigated this evidentiary discrepancy.
47. The Report relied heavily on information and testimony provided by Tanya King (“King”), a former, disgruntled staff member of Gardiner who frequently falsely accused Gardiner of impropriety after she quit a few months into her role on Gardiner’s staff. Many of the accusations and allegations in the Report are based solely on King’s accusations and statements.
48. At all relevant times the OIG had access to photos that Tanya King falsely claimed to have taken on behalf of Gardiner for the purported scheme.

49. At all relevant times the OIG had metadata to demonstrate that those photos did not originate from Tanya King's phone.
50. The OIG intentionally failed to verify any information or accusations obtained through King, but persisted in using said information as the basis for its recommendation and charges although the metadata in their possession proved she was lying.
51. Gardiner had an in-force restraining order against Tanya King at the relevant times of the OIG's purported investigation.
52. The City knew that Tanya King had previous criminal convictions and advised Gardiner that she had lied on her application for employment.
53. The OIG intentionally ignored the fact that Tanya King had previously failed to disclose her criminal history when hired by the City when assessing her credibility.
54. On June 12, 2023, the CBOE held a meeting, without Gardiner or his counsel, where the CBOE concluded and voted that Gardiner had committed five (5) violations under each of §2-156-020 (Fiduciary Duty) & -060 (City-Owned Property) of the Ordinance based solely on the Report.
55. The CBOE voted that there was probable cause to conclude Gardiner had allegedly violated his fiduciary duty and improperly used City property by:
 - a. Sending text messages to Tanya King verifying the address of Czosnyka;
 - b. Directing Andrew Szorc to issue citations for weeds over 10 inches to Czosnyka, knowing that an ordinance protecting "native plants" would render the citations unfounded;

- c. Sending and Receiving texts to his future superintendent, Charles Sikanich, and Tanya King about Czosnyka's property;
 - d. Two instances of directing City employees to place anonymous 311 complaints regarding Czosnyka's yard, knowing that the complaint would be unfounded due to an ordinance protecting "native plants."
56. The CBOE voted without reviewing all the evidence the OIG was required to produce.
57. The CBOE made no attempt to avail themselves of all the evidence that OIG had gathered throughout its investigation, especially exculpatory evidence.
58. Had the CBOE reviewed the evidence, they would have seen that the photos Tanya King claimed to have taken did not originate from her phone.
59. On June 13, 2023, the OIG issued a letter to Gardiner which served to inform Gardiner that the CBOE voted unanimously to determine that there was probable cause to conclude that Gardiner had violated §2-156-020 (Fiduciary Duty) and §2-156-060 (City-Owned Property) of the Ordinance.
60. In a subsequent July 14, 2023 quarterly report, Inspector General Deborah Witzburg stated that the Gardiner case was "the first-ever finding of probable cause in an OIG Ethics investigation of a sitting member of City Council."
61. On July 25, 2023, Deborah Witzburg went onto Chicago Tonight on WTTW and gave statements regarding the investigation. WTTW immediately knew and stated that the investigation centered around Alderman James Gardiner.
62. Multiple news stations immediately identified Gardiner as the subject of this probable cause finding and widely disseminated the allegations throughout the Chicago area.

63. Upon information and belief, the defendants leaked the identity of the subject of CBOE's probable cause finding to multiple news stations.
64. Upon information and belief, Inspector General Deborah Witzburg, the OIG, and/or the CBOE leaked this information before the CBOE actually voted to charge Gardiner with the violations, breaching confidentiality requirements imposed by the Ordinance.
65. The CBOE told Gardiner that his case would be before the CBOE in August at their monthly meeting.
66. Gardiner filed a request for an extension of time to attend the following meeting in September but the CBOE denied his request.
67. In reliance on the representations of the CBOE that he must attend its August meeting, Gardiner waited for his case to be called before the CBOE at the August meeting. However, after several hours of waiting, the CBOE informed Gardiner that they had run out of time to hear his case and asked him to attend the following meeting in September.
68. Gardiner attended the CBOE's September meeting.
69. The CBOE allowed Gardiner to respond to the evidence presented against him. Gardiner and his counsel pointed out the deficiencies in evidence and due-process in the proceedings against him. The CBOE asked him to return the following month.
70. Gardiner then attended the October CBOE meeting. The CBOE inquired for additional information regarding this matter. Gardiner and his Counsel re-iterated his points of contention in law and fact from the previous meeting.
71. The CBOE did not vote or make a decision while Gardiner was present.

72. The CBOE voted at its October 16, 2023 meeting and "unanimously determined" that Gardiner violated §2-156-020 and -060 of the Ordinance a total of ten (10) times and the CBOE subsequently voted to fine Gardiner a total of \$20,000.00, the maximum fine.
73. Upon information and belief, the CBOE informed the press of their decision before informing Gardiner.
74. Gardiner learned of the CBOE's decision through a reporter, Heather Cerone from WTTW, who asked him what he thought of the CBOE's decision against him 20 minutes after he left the meeting.
75. It was only on October 19, 2023, three days later, that the CBOE sent Gardiner a Notice of Violation letter laying out the (5) five purported violations of fiduciary duty and the (5) five purported instances of misuse of city-owned property.
76. Deborah Witzburg stated on WTTW after the October CBOE meeting that her goal was to address Chicago's "deficit of legitimacy." Witzburg described the case against Gardiner as "Landmark" and stated "The arc of corruption in Chicago is long. We are bending it back." Witzburg further declared that, "It should and does send a message that bad actors will be held accountable. Those who abuse positions of public trust will be punished for doing so."
77. Gardiner exercised his right to challenge the CBOE's findings and requested a hearing on the merits ("Merits Hearing) under a sitting judge ("Hearing Officer").
78. On February 9, 2024, the City filed its Statement of Charges. The Statement of Charges only contained (9) nine total violations, (4) four purported violations of fiduciary duty and (5) five purported instances of misuse of city-owned property.

79. Under Section 2-156-465(b)(7) of the Municipal Code of Chicago, the maximum fine for violations of the nature the city charged Gardiner with is \$2,000 per violation. The maximum allowable fine the City could recommend for the (9) nine violations listed in the Statement of Charges was \$18,000.

80. The City improperly recommended a monetary fine of \$20,000 in its Statement of Charges, knowingly exceeding the maximum allowed fine by the Municipal Code.

(III) The City’s Case Against Alderman James Gardiner Relied on Withholding Substantiative and Exculpatory Evidence, Demonstrating the Case Lacked any Actual Probable Cause

81. The Ordinance required the City to produce, amongst other material, “a copy of all documents the city intends to introduce at the hearing” and “any potentially exculpatory material in the city’s possession from the inspector general’s investigation” within 30 days of serving the Statement of Charges pursuing a fine against Alderman Gardiner.

82. The City failed to produce the above material to Gardiner within 30 days of service of the Statement of Charges.

83. On May 8, 2024, Gardiner requested leave to issue discovery. This motion was continued several times by the Hearing Officer to allow the parties to meet and confer.

84. On June 10, 2024, June 12, 2024, June 21, 2024, and September 9, 2024, the City tendered incomplete productions of documents. The City failed to produce all the material required under the Ordinance, including the exculpatory evidence which would “vindicate” Gardiner.

(i) Defendants withheld GPS Data which Demonstrated that, Contrary to their Claims, Andrew Szorc Issued the Citation in his City Vehicle during the Course of his Ordinary Duties as Superintendent

85. On September 9, 2024, at the status hearing on the Motion for Discovery, the City produced June 22, 2019 GPS tracking information for a City vehicle which was assigned to Ward Superintendent Szorc, who issued the Citations against Czosnyka as alleged in the Statement of Charges.
86. The June 6, 2023 OIG Report used by defendants to establish a probable cause finding against Gardiner claimed that “there are no GPS records on June 22, 2019 for the vehicle.”
87. The City claimed that Szorc was not on duty that day and issued the citation solely for the benefit of the Alderman.
88. The City falsely claimed Szorc used his own personal vehicle to issue these citations.
89. The GPS tracking information, which had been in the City’s exclusive possession, contradicted the allegations and testimony that the OIG and CBOE had alleged and relied upon to charge Gardiner for violations of the Ordinance.
90. This never previously disclosed evidence that was in the defendants’ exclusive possession, even when it denied its existence, demonstrated that Szorc used a City vehicle and made his usual rounds in connection with his duties as a ward superintendent when issuing a citation to Czosnyka.
91. Szorc did issue citations against Czosnyka but it was merely a part of his regular course of duties as a Superintendent of the 39th Ward.

92. On September 20, 2024, Gardiner filed a Motion to Compel Production of Exculpatory Evidence. On October 25, 2024, Gardiner filed a Notice to Produce various documents that Gardiner had not yet been provided.
93. The City withheld exculpatory evidence prior to the Merits Hearing and admitted it continues to withhold exculpatory evidence.
94. The Merits Hearing commenced on November 18, 2024.
- (ii) Defendants presented the False Testimony of Tanya King at the Merits Hearing
95. On November 18, 2024, Tanya King, the City's key case-in-chief witness, testified before the Hearing Officer.
96. King testified under oath that on July 14, 2019, Gardiner told her to take pictures of Czosnyka's house.
97. King further testified that she then texted the pictures that she personally took of Czosnyka's home to Gardiner and Charles Sikanich.
98. On January 7, 2025, after the City rested its case, a retired police officer (the "Informant"), who lived a few blocks away from Czosnyka, communicated with Gardiner that he had learned of the settlement of the previous First-Amendment case spawned from Gardiner's consultation with defendant CBOE.
99. The Informant advised Gardiner that he had information and documents related to the City's then pending matter against Gardiner.
100. The Informant provided Gardiner with (5) five digital cellphone photographs, including their metadata, that demonstrated that the Informant had taken the same photographs that Tanya King falsely testified she personally took and sent to Gardiner and Sikanich. The OIG used Tanya King's testimony with these photographs as a

- basis to charge Gardiner even though the photos' metadata, which was in the defendants' exclusive possession, revealed that she did not take those photos as claimed.
101. The Informant further provided that he posted these photos on a Facebook page stating that "It's that time of year to go online and report [Czosnyka] for have[sic] an overgrown yard that is attracting rodents and Mosquitos. It's at [Czosnyka's address]."
102. The Informant is the individual who rallied residents of the 45th Ward to place the anonymous 311 calls about Czosnyka's property contrary to the City's allegations in its Statement of Charges.
103. Gardiner discovered and surfaced additional 311 calls regarding Czosnyka's property that the City ignored during its investigation.
104. The Informant also explained that he texted Tanya King the same photographs on July 14, 2019 before she forwarded those photographs to Gardiner and Sikanich.
105. King falsely testified at the Merits Hearing under oath that the Alderman directed her to take the photos that the Informant actually captured.
106. The information provided by the Informant refuted and rebutted the City's "facts" and allegations of the Statement of Charges as well as King's sworn testimony during the 2024 Merits Hearing. Gardiner then moved to add the Informant as a witness on January 9, 2025.
107. In response to the newly disclosed information from the Informant, the City filed a Notice of Disclosure. The contents explained that the City's Attorneys called Tanya King where she explained that she did receive the photos from the Informant on July

- 14, 2019 and “may” have saved those photos and sent them to Gardiner and Sikanich the same day.
108. King followed up by stating that she did take photos of Czosnyka’s home but she deleted those photos from her phone and they were not saved on her iCloud account where it could be retrieved or restored.
109. Tanya King provided no evidence that these photos ever existed.
110. This Notice of Disclosure directly contradicted Tanya King’s testimony at the Merits Hearing against Gardiner.
111. The OIG inexplicably reported that on May 4, 2023, it had copied over the entire contents of King’s phone.
112. Rather than preserve the contents of King’s phone during the investigation, the OIG destroyed messages, including the exculpatory evidence that showed the photos originated from the Informant.
113. The original digital copies of the photos, which the OIG and the City had exclusive possession of and never tendered to Gardiner, contained metadata that demonstrated the Tanya King did not take the photos that she claimed to have taken in sworn testimony.
114. Chief Paul Reschke stated the OIG destroyed the contents of King’s phone from their portable hard drive at Tanya King’s request.
115. The OIG and the City knew or should have known these photos did not originate from Tanya King.

(iii) The Date the Defendants claimed the OIG Initiated its Investigation was false and Calculated to allow them to Unlawfully Build a Case Beyond the OIG's Given Jurisdiction and Authority

116. Tanya King also testified under oath that she provided all the details about the “conspiracy to issue tickets” in December 2019 to the OIG.
117. Another City witness at the Merits Hearing, Nathan Gallaway, an investigator for the OIG, testified under oath that he interviewed Tanya King on or about late-2019 to early-2020 regarding the weed citations and that he took notes of this interview.
118. Nathan Gallaway admitted under oath that he did not recall verifying any of the information provided by Tanya King.
119. The OIG had been investigating this case since at-least late 2019 to early 2020.
120. Investigating Gardiner in December 2019 would require the OIG to have opened the investigation into Gardiner prior to the date it claimed in its Report: January 14, 2021.
121. Under the Ordinance, the OIG must conclude investigations into violations of the Ordinance no later than (2) two years after initiating an investigation.
122. The OIG purports that it concluded its investigation into Gardiner on January 12, 2023. The OIG improperly investigated Gardiner for over (3) three years, well past the OIG's statutory and jurisdictional authority.
123. The OIG provided a false date for when it initiated its investigation into Gardiner knowing it well exceeded the statutory time frame allotted for such an investigation.
124. The Hearing Officer ordered the City to produce the report the investigator testified about because it had not been previously disclosed.
125. The City rested its case following the testimony of the investigator.

126. The City continues to conceal the report that the Court ordered it to produce.

(IV) The City Attempted to Continue to Pursue the Charges against Gardiner and Conceal its Malicious and Bad-Faith Behavior after Gardiner Caught them Withholding Substantive and Exculpatory Evidence that it Exclusively Possessed.

127. The Hearing Officer ordered the City to produce any and all exculpatory evidence in its possession following the testimony of the OIG investigator witness and the new evidence produced by Informant.

128. Instead of complying with Court's order, the City filed a motion to amend the statement of charges on February 19, 2025. Gardiner objected to this motion on February 21, 2025.

129. The City's amendments were proposed after the City had rested its case in the Merits Hearing and prior to Gardiner's case-in-chief.

130. The proposed amendments to the defendants' Statement of Charges increased the purported charges from (9) nine total charges to (12) twelve total charges.

131. The City's proposed amendments introduced new and substantive changes in the charges made against Alderman Gardiner.

132. The City's proposed amendments removed some of the original charges, essentially admitting that the newly surfaced evidence as well as the exculpatory evidence in the defendants' exclusive possession refuted the City's original charges.

133. The Hearing Officer denied the City's motion to amend the Statement of Charges on February 24, 2025. The Hearing Officer set the next case management conference for March 10, 2025.

134. On March 10, 2025, the OIG and the City again refused to produce the exculpatory evidence to the City's retained attorneys for tender to Gardiner. The City's attorneys requested a two-week continuance, which the Hearing Officer granted.
135. At the next hearing on March 24, 2025, the City's retained attorneys orally moved to dismiss the Statement of Charges due to their inability to meet their obligation to tender the exculpatory discovery, blaming the OIG for refusing to tender the material to the City's retained attorneys.
136. The OIG informed the City's attorneys that "additional potentially relevant material has been identified by OIG and we cannot at this time meet discovery requirement[sic]."
137. The City chose to attempt to dismiss the case rather than reveal the exculpatory evidence to Gardiner.
138. The Hearing Officer refused to allow the City to dismiss the case after it had rested its case in the Merits Hearing.
139. After the March 24, 2025 hearing, the City submitted a proposed Order and Ruling designed to conceal their illegal conduct. The proposed Order and Ruling proposed that the Statement of Charges be dismissed, to have confidentiality requirements remain in force, and to have the matter taken off-call. The Hearing Officer denied the proposed order.
140. The Hearing Officer issued his Report and Recommendation which recommended to the CBOE that Gardiner should be found not liable on all counts of the Statement of Charges.

141. In his Report and Recommendation, the Hearing Officer held:
- [T]here is no basis in the applicable ordinances or rules that would allow the City to investigate a subject, bring formal charges, conduct a full presentation of the merits of its case, and then dismiss the charges and avoid a recommendation on those charges. There is nothing in the applicable ordinances or rules that would allow the prosecution to dismiss its case after it has rested based on the investigative body's failure or refusal to disclose to the prosecutors all the exculpatory material in its possession from the investigation.
142. The Hearing Officer also addressed the inflated \$20,000 fine, stating it was “unclear how the [City] arrived at the \$20,000 amount for the fine recommendation. . . . The Maximum fine for each of the nine offenses that the Statement of Charges alleges would total \$18,000.”
143. The Hearing Officer’s Report and Recommendation forced the CBOE to clear Gardiner of all charges.
144. In the CBOE’s Opinion, the CBOE blames the OIG for failing to provide them the exculpatory evidence, stating that:
- . . . The Board expects all OIG Reports to advise and present the Board of and with all evidence related to its submission. That evidence must include all evidence supportive of the proposed charges and, equally important and critical, evidence that is exculpatory or tends to disprove or challenge the OIG's conclusions. The Hearing Officer's Report states that the City moved to dismiss the charges before him because the City could not meet its

obligation to serve exculpatory evidence from the OIG investigation “because additional potentially relevant material has been identified by the OIG and we [the City] cannot at this time meet discovery requirements.’ . . . Hearing Officer goes on to correctly note there is no basis for the City to move to dismiss the charges after it has rested its case based on the investigative body's failure or refusal to disclose to the [City] all exculpatory material in its possession from the investigation.

- 145. The CBOE blamed the OIG despite making no effort to obtain the full record at any of the multiple hearings they held to charge the Alderman.
- 146. The CBOE, at no point, attempted to inquire about the evidentiary deficiencies in the case.
- 147. The CBOE, at no point, contacted the OIG to request it to produce a fulsome record of all evidence in its possession despite clear indications that the evidence produced was not complete.
- 148. A member of the City’s Corporation Counsel orally informed Gardiner that even after it became apparent that Gardiner would be found not liable for violations of the Ordinance, the City wanted to continue with charges against Gardiner. This member of the Corporation Counsel’s Office remarked on the absurdity of the situation.

COUNT I — MALICIOUS PROSECUTION v. DEFENDANTS CITY OF CHICAGO, THE CHICAGO BOARD OF ETHICS, CHICAGO’S OFFICE OF THE INSPECTOR GENERAL, and DEBORAH WITZBURG

- 149. Paragraphs 1 through 148 are hereby incorporated and re-alleged herein as part of this Count I.

150. The City, the OIG, Deborah Witzburg, and the CBOE initiated an original proceeding against Gardiner on June 6, 2023 by sending the Report to the CBOE and recommending a probable cause finding.
151. The proceeding terminated on June 17, 2025 when the CBOE issued a finding that Gardiner was not liable on all counts alleged in the Statement of Charges.
152. Throughout the investigation and during the proceedings, there existed the absence of probable cause.
153. The City, the CBOE, Deborah Witzburg, and the OIG used fabricated evidence, intentionally failed to verify evidence, and withheld evidence in order to initiate a false probable cause finding.
154. The City, the CBOE, Deborah Witzburg, and the OIG acted with malice in the following ways:
- a. the OIG and Deborah Witzburg intentionally ignored facts and law to pursue a probable cause finding against Gardiner,
 - b. the OIG and Deborah Witzburg gave a false date it claimed to have initiated the investigation to build this case far past its jurisdiction and authority;
 - c. the OIG and Deborah Witzburg continued its investigation into Gardiner beyond the two-year period as outlined in the Ordinance.
 - d. the OIG and Deborah Witzburg knowingly overlooked the issues of validity and credibility of various witnesses that offered information against Gardiner to pursue their case against him;
 - e. the OIG and Deborah Witzburg intentionally failed to verify the accuracy of information obtained during its investigation into Gardiner;

- f. the OIG and Deborah Witzburg hid and withheld evidence that challenged its claims;
- g. the OIG, Deborah Witzburg, and the City knowingly withheld GPS data that demonstrated the claims in the OIG's report were false;
- h. the OIG and Deborah Witzburg knowingly offered false information from noncredible sources to pursue a case against Gardiner;
- i. the OIG, Deborah Witzburg, and the City knowingly withheld metadata that demonstrated the testimony of Tanya King was false;
- j. the OIG and Deborah Witzburg destroyed evidence that demonstrated the testimony of Tanya King was false;
- k. the OIG and Deborah Witzburg knowingly hid and withheld evidence from the CBOE in order to obtain a probable cause finding and to charge Gardiner;
- l. the OIG and Deborah Witzburg breached the confidentiality requirements imposed by the Ordinance to sway public opinion;
- m. CBOE endorsed inaccurate and false statements of law and fact and failed to acknowledge advisory opinions and Illinois case law that undermined its ability to seek to conduct a merits hearing against Gardiner;
- n. CBOE failed to acknowledge that the OIG Report was untimely for a proper recommendation;
- o. CBOE failed to ever seek the full record of the OIG's investigation despite clear indications the record before it was incomplete;
- p. the City, OIG, CBOE, and Deborah Witzburg failed to turn over to Gardiner exculpatory evidence it gathered against Gardiner in its investigation;

- q. the City pursued a fine above the maximum amount allowable for the number of violations charged against Gardiner according to the Municipal Code;
- r. the City prosecuted this case while intentionally withholding exculpatory evidence;
- s. the City attempted to pursue the case even after it was clear the charges were based on false information; and
- t. the City attempted to add charges after it was apparent that Gardiner would be cleared of its initial charges.

155. As a result, Gardiner incurred pain and suffering and suffered a loss of reputation throughout these proceedings.

156. As a result, Gardiner suffered emotional distress from repeated and sustained litigation against him based off of false pretenses.

157. Gardiner was forced to retain Counsel to defend himself against the illegitimate claims of the defendants.

158. Gardiner incurred substantial legal fees fighting the false claims of the defendants.

WHEREFORE, Plaintiff, JAMES GARDINER, demands judgment in his favor and against Defendants' CITY OF CHICAGO, a municipal corporation, CITY OF CHICAGO BOARD OF ETHICS, an independent city agency, and CITY OF CHICAGO OFFICE OF INSPECTOR GENERAL, an independent and nonpartisan agency, and DEBORAH WITZBURG, an individual, in an amount in excess of (\$1,000,000) One-Million Dollars, plus costs and post-judgment interest.

COUNT II — INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS v. DEFENDANTS

CITY OF CHICAGO, THE CHICAGO BOARD OF ETHICS, CHICAGO’S OFFICE OF THE

INSPECTOR GENERAL, and DEBORAH WITZBURG

159. Paragraphs 1 through 148 are hereby incorporated and re-alleged herein as part of this Count II. Plaintiff further incorporates and re-alleges ¶154.

160. The City of Chicago, Chicago’s Office of the Inspector General, the Chicago Board of Ethics, and Deborah Witzburg used fabricated evidence, offered false testimony, and withheld exculpatory evidence in an intentional and bad faith attempt to discredit, punish, and silence plaintiff Alderman James Gardiner and drive him from elected office.

161. The defendants hindered efforts to obtain a fair evidentiary hearing on the merits of their bad faith charges of breaches of fiduciary duty and improper use of city property against Gardiner.

162. The defendants pursued or induced back-to-back litigation and other abusive and punitive measures all targeted at Alderman James Gardiner.

163. The defendants maliciously withheld, destroyed, and used fabricated evidence to attempt to pursue vexatious litigation against Alderman James Gardiner.

164. Defendants leaked information to the press to prejudice residents of Chicago against Alderman James Gardiner.

165. The behavior described in the above ¶¶154 & 160-164 is objectively extreme and outrageous.

166. The defendants' conduct demonstrates it either intended to cause severe emotional distress or recklessly disregarded the probability that their conduct would cause extreme emotional distress.

167. The defendants knew that using their power and authority over the plaintiff afforded to them by their office and the Municipal Code to spread falsehoods about Alderman Gardiner's integrity and litigate a case based on false pretenses while withholding exculpatory evidence would inflict severe emotional distress upon plaintiff Alderman James Gardiner.

168. Due to the constant negative attention and threats directed at Gardiner through the actions of the defendants, Alderman James Gardiner suffered from extreme distress.

169. Due to the actions of the defendants, the Gardiner's family has suffered severe emotional distress from having constant negative attention directed at Gardiner based on false information and baseless accusations.

170. No reasonable man could be expected to endure the distress inflicted by the defendants.

WHEREFORE, Plaintiff, JAMES GARDINER, demands judgment in his favor and against Defendants' CITY OF CHICAGO, a municipal corporation, CITY OF CHICAGO BOARD OF ETHICS, an independent city agency, and CITY OF CHICAGO OFFICE OF INSPECTOR GENERAL, an independent and nonpartisan agency, and DEBORAH WITZBURG, an individual, in an amount in excess of (\$1,000,000) One-Million Dollars, plus costs and post-judgment interest.

COUNT III — CONSPIRACY v. DEFENDANTS CITY OF CHICAGO, THE CHICAGO
BOARD OF ETHICS, CHICAGO’S OFFICE OF THE INSPECTOR GENERAL, and
DEBORAH WITZBURG

171. Paragraphs 1 through 148 are hereby incorporated and re-alleged herein as part of this Count III. Plaintiff further incorporates and re-alleges ¶154.

172. The City, the OIG, and the CBOE joined together to intentionally engage in abuse of their authority in a targeted campaign against Alderman James Gardiner in order to discredit, punish, and silence a critic to drive him from his elected office.

173. There existed a common plan to fabricate (5) five false charges of Violations of Fiduciary Duty and (5) five false charges of Improper Use of City Property based on fabricated and false claims that Gardiner knowingly induced his staff to place anonymous 311 calls and issued false citations to silence one of his own critics based on improperly citing him for having weeds in his yard over 10 inches, knowing that those citations would be overturned due to an ordinance allowing for “Native Plants.”

174. Each of the defendants engaged in acts in furtherance of this conspiracy in the following ways:

- a. The OIG initiated and continued an investigation into the plaintiff far beyond the limits on their authority and jurisdiction as dictated in the Municipal Code;
- b. The OIG withheld substantive and exculpatory evidence to push a bad-faith and improper finding of probable cause against the plaintiff;
- c. The OIG failed to verify the accuracy of information provided by its witnesses and used said information to pursue a bad-faith and improper finding of probable cause against the plaintiff;

- d. Inspector General Deborah Witzburg or those under her control used the
OIG's authority to withhold substantive and exculpatory evidence to pursue a
bad-faith and improper finding of probable cause against the plaintiff;
- e. Inspector General Deborah Witzburg or those under her control used the
OIG's authority to selectively withhold evidence that was unfavorable to the
defendants' litigation at the Merits Hearing;
- f. The CBOE voted to find probable cause and charge the plaintiff with (5) five
false charges of Violations of Fiduciary Duty and (5) five false charges of
Improper Use of City Property without investigating into the evidentiary
deficiencies in this case;
- g. The CBOE voted to find probable cause and charge the plaintiff based on the
OIG's untimely Report submitted past the OIG's statutory and jurisdictional
authority.
- h. The CBOE made no effort to avail themselves of all the evidence the OIG
collected throughout the course of its investigation with clear indications of
evidentiary deficiencies;
- i. The City pursued charges against the Alderman while withholding
exculpatory evidence that refuted the claims in its Statement of Charges;
- j. The City attempted to add additional charges once it was clear that plaintiff
would not be found liable of its original charges;
- k. The City, once caught, attempted to dismiss the case and render any findings
confidential rather than receive the ruling it originally pursued;

175. The plaintiff was cleared of all charges on June 17, 2025 pursuant to a recommendation by the Hearing Officer to the CBOE to find plaintiff not liable of all charges.

176. As a result of defendants' conspiracy, Gardiner sustained loss of reputation, emotional distress, and sustained legal expenses in excess of \$100,000.

WHEREFORE, Plaintiff, JAMES GARDINER, demands judgment in his favor and against Defendants' CITY OF CHICAGO, a municipal corporation, CITY OF CHICAGO BOARD OF ETHICS, an independent city agency, and CITY OF CHICAGO OFFICE OF INSPECTOR GENERAL, an independent and nonpartisan agency, and DEBORAH WITZBURG, an individual, in an amount in excess of (\$1,000,000) One-Million Dollars, plus costs and post-judgment interest.

Plaintiff demands trial by jury on all counts.

/s/ Craig D. Tobin
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One of Plaintiff's attorneys

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