

RESOLUTION
OF THE
COUNCIL OF THE CITY OF STAUNTON, VIRGINIA,
REGARDING LITIGATION RELATED TO THE CITY OF STAUNTON
VS. DEBRA CHILTON-BELLONI CONTINUED
ZONING AND BUILDING CODE VIOLATIONS

Recitals

~~A. — A. The City and its Zoning Administrator have been involved in proceedings for more than 10 years related to walls on property in a residential zone on North Augusta Street, in the City of Staunton, that have been found to violate the City's Zoning laws and were also required to have but lacked a City building permit, being constructed without such permit. Current litigation involves two proceedings: the City's appeal of the 2018 decision, by a 3-2 vote of the Staunton Board of Zoning Appeals, which now has been reversed by the Circuit Court yet another time as to the same walls, in granting the property owner a variance from zoning requirements applicable to others in the City, styled *City of Staunton, Virginia v. Chilton Belloni*, CL18000404-00; and the City's enforcement action through an injunction proceeding, styled *Angle v. Chilton Belloni*, CL14000311-00, which remains stayed pending further proceedings. These cases (the Litigation) have also consumed extensive judicial resources, because of the erroneous, unlawful decisions of the Staunton Board of Zoning Appeals.~~

~~B. — Annexed and incorporated by reference as Exhibit A is a copy of the Circuit Court's final order, entered May 19, 2020, reversing the Staunton Board of Zoning Appeals for the second time as to the walls, which represents the fourth straight time that the Staunton Board of Zoning Appeals has been reversed in granting variances for the property owner and two other property owners as to height and location restrictions under Chapter 18.120 of the Staunton City Code.~~

~~C. — Annexed and incorporated by reference as Exhibit B is a copy of the Circuit Court's December 2, 2019 letter opinion referenced and incorporated in the May 19, 2020 final order.~~

~~D. — The property owner filed a notice of appeal from the Circuit Court's May 19, 2020 final order, a copy of which is annexed and incorporated as Exhibit C.~~

~~E. — Because of the erroneous decision making by the Staunton Board of Zoning Appeals, the City has had to commit and expend substantial resources, including funds totaling more than \$95,000.00 for legal fees in the Litigation so as to defend its zoning laws and the rule of law.~~

~~F. — Soon after the entry of the Circuit Court's May 19, 2020 final order, which had been delayed by actions on behalf of the property owner, the City filed on June 9, 2020 a motion for referral to the judicial settlement mediation process; a copy of the motion is annexed and incorporated as Exhibit D. In essence, the City sought to have the ongoing dispute referred to the mediation process under Virginia Supreme Court's judicial settlement program. With the~~

47 agreement of counsel for the parties, the Circuit Court entered an order making the referral. A copy
48 of the Circuit Court's referral order is annexed and incorporated as **Exhibit E**.
49

50 ~~G. — Because of the appellate timeline under the Rules of the Virginia Supreme Court,~~
51 ~~it appears likely or possible that the mediation process may not be concluded before the City may~~
52 ~~have to expend further substantial resources in seeking affirmatively further to uphold its zoning~~
53 ~~laws and the rule of law in the Litigation. The City, through its Litigation counsel by letter dated~~
54 ~~July 20, 2020, a copy of which is annexed and incorporated as **Exhibit F**, sought the cooperation~~
55 ~~of the property owner's counsel to seek jointly from the Virginia Supreme Court an enlargement~~
56 ~~of time for appeal processes. The City Council understands that the Virginia Supreme Court has~~
57 ~~recognized the extraordinary circumstances already occasioned by the COVID-19 crisis and~~
58 ~~emergency, entering nine different orders that have enlarged or deferred various other court~~
59 ~~litigation timelines.~~

60
61 ~~H. — Instead of working with the City's Litigation counsel to seek enlargement of the~~
62 ~~appellate timeline, the property owner's counsel now has filed a petition for appeal on August 17,~~
63 ~~2020.~~

64
65 ~~I. — The City desires to expend no further substantial resources at this time in the~~
66 ~~Litigation, especially with having prevailed on every substantive issue in the Litigation and in~~
67 ~~related litigation in a total of four cases over the years. The Council of the City of Staunton adopts~~
68 ~~this resolution to memorialize its desire and its respectful, deliberative decision accordingly and~~
69 ~~its direction to the City's legal counsel, including Litigation counsel, to forego at this time any~~
70 ~~more substantial expenditure of legal time and financial and other resources in the Litigation,~~
71 ~~except such necessary time and other resources for mediation and for protection of the integrity of~~
72 ~~the court record. At this moment and in the foreseeable future, the City of Staunton, as with all~~
73 ~~localities, continues to have extraordinary demands being placed on its financial and other~~
74 ~~resources because of the COVID-19 pandemic emergency and crisis situation and most recently~~
75 ~~for the City of Staunton the added devastating flooding effects suffered on and after August 8 that~~
76 ~~occasioned the declaration by the local director of emergency management and affirmed by City~~
77 ~~Council by its resolution adopted August 13, 2020, a copy of which is annexed and incorporated~~
78 ~~as **Exhibit G**, preliminarily estimated to implicate damages totaling \$3 million dollars and making~~
79 ~~its decision and direction to its legal counsel through this resolution an even greater imperative.~~

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81 ~~J. — These recitals are an integral part of this resolution.~~
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83 **NOW, THEREFORE, BE IT RESOLVED** by the Council of the City of Staunton,
84 Virginia, the litigation and any action involving the City of Staunton vs. Debra Chilton-Belloni in
85 relation to the property located at 1403 North Augusta Street in the City of Staunton, Virginia,
86 otherwise known as the wall, shall cease in its entirety effective immediately.

87
88 In addition, the Staunton City Council respectfully **DIRECTS** its legal counsel, including
89 litigation counsel, to dispense with any further action in whatever form involving above cited case,
90 and unless already completed, litigation counsel is to provide the Supreme Court of Virginia a
91 professional notice of the withdrawal of the City of Staunton in said case of Debra Chilton-Belloni,
92 per the decision and under the direction of the Staunton City Council.

93 ~~_that particularly at this time of the COVID-19 crisis and emergency, with extraordinary demands~~
94 ~~on the financial and other resources of all localities, including the City of Staunton, and the added~~
95 ~~emergency of the devastating flooding effects suffered by the City of Staunton itself, businesses,~~
96 ~~and citizens, it respectfully **DIRECTS** its legal counsel, including Litigation counsel, to forego~~
97 ~~any more substantial expenditure of time and other resources in the Litigation, except for mediation~~
98 ~~and for protection of the integrity of the court record, and respectfully **DIRECTS** that, even though~~
99 ~~the property owner has filed a petition for appeal, Litigation counsel shall not prepare and shall~~
100 ~~not file a brief in opposition to the petition for appeal, provided, however, that Litigation counsel~~
101 ~~shall respectfully inform the Supreme Court of Virginia of City Council's decision and directive~~
102 ~~and that the City and Zoning Administrator are relying upon the complete record and authorities~~
103 ~~cited, the arguments previously made, the rulings of the Circuit Court, and the Circuit Court's final~~
104 ~~order, also providing to the Virginia Supreme Court a copy of this adopted resolution.~~

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106 Adopted this ~~27th~~-10th day of ~~August~~September, 2020.
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Andrea W. Oakes, Mayor

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111 Attest: Suzanne F. Simmons
112 Suzanne F. Simmons, Clerk of Council
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