

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

ANDREW GRAYSON,)	
)	
)	
Plaintiff,)	
)	
v.)	Case No. 10-C-4271
)	
THE VILLAGE OF LA GRANGE,)	
COOK COUNTY, ILLINOIS,)	
a municipal corporation, ELIZABETH)	TRIAL BY JURY DEMANDED
M. ASPERGER, BILL HOLDER,)	
MICHAEL HORVATH, MARK)	
KUCHLER, MARK LANGAN,)	
TOM LIVINGSTON, JIM)	
PALERMO, MICHAEL PILIPISZYN,)	
and MICHAEL LAPIDUS,)	
)	
Defendants.)	

COMPLAINT

Plaintiff ANDREW GRAYSON, by his attorneys Odelson & Sterk, Ltd., and complains against Defendants as follows:

NATURE OF THE ACTION

1. This is a civil rights action for declaratory, compensatory and equitable relief brought pursuant to 42 U.S.C. §1983 and the laws of the State of Illinois. Plaintiff Andrew Grayson (“Grayson”) was deprived of his rights under the Illinois Constitution and the First and Fourteenth Amendments to the United States Constitution when defendants conspired to destroy his business by enforcing a pretextual amendment to the La Grange Zoning Code which unlawfully purported to revoke his business license, preclude approval of Grayson’s building permit application, and denied Grayson’s right to operate his business within the Village of La Grange.

JURISDICTION AND VENUE

2. This Court has jurisdiction over Grayson’s federal claims pursuant to 28 U.S.C. §§ 1331 and 1343, and over Grayson’s supplemental state law claims pursuant to 28 U.S.C. § 1367.

3. Pursuant to 28 U.S.C. § 1391(b), the Northern District of Illinois is the proper venue for this action because the events giving rise to Grayson’s claims occurred in this judicial district and all parties reside in this district.

PARTIES

4. Grayson is a resident of the City of Berwyn, Cook County, Illinois. On May 22, 2009, Grayson received a business license from Defendant Village of La Grange to operate as All Star Jewelry and Loan within the Village of La Grange through April 30, 2010.

5. Defendant Village of La Grange (“Village”) is a non-home rule Illinois municipal corporation organized pursuant to the Illinois Municipal Code, and, on information and belief, is organized as a managerial form of government.

6. Defendant Elizabeth M. Asperger (“Asperger”) is currently the Village President of La Grange. She is sued in her individual capacity for acts taken under the color of state law.

7. Defendant Bill Holder (“Holder”) is currently a Trustee for La Grange. He is sued in his individual capacity for acts taken under the color of state law.

8. Defendant Michael Horvath (“Horvath”) is currently a Trustee for La Grange. He is sued in his individual capacity for acts taken under the color of state law.

9. Defendant Mark Kuchler (“Kuchler”) is currently a Trustee for La Grange.

He is sued in his individual capacity for acts taken under the color of state law.

10. Defendant Mark Langan (“Langan”) is currently a Trustee for La Grange.

He is sued in his individual capacity for acts taken under the color of state law.

11. Defendant Tom Livingston (“Livingston”) is currently a Trustee for La Grange. He is sued in his individual capacity for acts taken under the color of state law.

12. Defendant Jim Palermo (“Palermo”) is currently a Trustee for La Grange.

He is sued in his individual capacity for acts taken under the color of state law.

13. Defendant Robert Pilipiszyn (“Pilipiszyn”) is currently the Village Manager for La Grange. He is sued in his individual capacity for acts taken under the color of state law.

14. Defendant Michael LaPidus (“LaPidus”) was at all relevant times the President of the La Grange Business Association (“LGBA”). He is sued in his individual capacity for acts taken under the color of state law and/or for acting in concert with those acting under the color of state law.

STATEMENT OF FACTS

15. Prior to May 1, 2009, Grayson determined that he would like to operate a pawn and resale shop (“Resale Use”) at 71 South La Grange Road, La Grange, Illinois (“Property”).

16. On or about May 1, 2009, Grayson reviewed the LaGrange Zoning Code and determined from the clear language contained therein that the Resale Use was permitted at the Property.

17. The Property is located in the C-1 Central Commercial District, which generally constitutes the Village’s downtown area and attempts to create a “retail

environment at street level.” Accordingly, there are abundant retail-related uses within the C-1 Central Commercial District. (See Section 5-101 of the La Grange Zoning Code).

18. Pursuant to the plain language of the La Grange Zoning Code, as it appeared prior to July 13, 2009, the Resale Use was a permitted retail-related use within the C-1 Central Commercial District under the “Used Merchandise Store” classification. (See Section 5-102(C)(20) of the La Grange Zoning Code).

19. On or about May 2, 2009, Grayson mailed a letter to the Village Community Development Director, informing him of his intent to operate the Resale Use at the Property.

20. On or about May 6, 2009, Grayson went to the Village Hall to speak personally with Village Community Development Director about his business plans at the Property. At this meeting, Village Community Development Director confirmed Grayson’s interpretation that the Resale Use was a permitted use within the C-1 Central Commercial District under the “Used Merchandise Store” classification.

21. On or about May 18, 2009, Grayson submitted an application to the Village for a business license to operate a pawn and resale shop at the Property.

22. On or about May 20, 2009, in reliance upon the plain language of the La Grange Zoning Code as well as his conversations with Village Community Development Director, Grayson entered into a Commercial Lease (“Lease”) for the Property and tendered the sum of \$9,750.00 to the landlord of the Property. The Lease was to run from June 1, 2009 through May 31, 2016 and contained a five (5) year renewal option.

23. On or about May 21, 2009, Pilipiszyn, as Village Manager, reviewed Grayson’s business license application and determined that the Resale Use was permitted

at the Property under the Use Merchandise Store and, thereafter, approved the business license application.

24. Under Section 110.07(A) of the LaGrange Business Licensing Code, the Village Manager may only approve a business license application if he determined (i) that the application has been properly completed, and (ii) that the applicant has complied with all federal, State of Illinois and local laws and regulations.

25. In approving the business license application, Pilipiszyn made a use interpretation, pursuant to the authority delegated him under the La Grange Zoning Code, that the Resale Use was permitted in the C-1 Central Commercial District under the La Grange Zoning Code.

26. On or about May 22, 2009, the Village properly issued Grayson a business license, signed by Asperger, authorizing the operation of the Resale Use at the Property (“Business License”).

27. Under Section 110.12(A) of the LaGrange Business Licensing Code, once the Business License issued, the Village, through its Village Manager, could only revoke the Business License for cause, after notice and hearing.

28. Upon issuance of the Business License, or May 22, 2009, the Resale Use was lawfully being made by Grayson at the Property.

29. Throughout May and early June and in reliance upon the LaGrange Zoning Code and the Business License, Grayson — unemployed at the time and a married man with a nine-year old stepson and a baby that was due in July of 2009 — substantially changed his position and undertook substantial expenditures and obligations in expectation of operating the Resale Use at the Property, such actions included but were

not limited to: (i) executing the Lease; (ii) preparing architectural and engineering drawings; (iii) paying the security deposit as well as monthly rent payments under the Lease; (iv) the purchase of accounting software as well as software specific to the pawn broker business; (v) advertisement costs; (vi) installation of a phone system; (vii) Village and state license/permit fees; (viii) purchase of furniture; and (ix) legal and consulting fees.

30. The actions set forth in Paragraphs 27 and 28 were undertaken by Grayson in good faith and without notice that the Defendants would later attempt to unlawfully prohibit the Resale Use at the Property.

31. On or about May 30, 2009, Grayson put a sign in the window at the Property advertising his new business. Upon information and belief, Defendant LaPidus, several Village residents, and several area business owners reacted to Grayson's sign by placing extensive pressure on Asperger, Pilipiszyn, and the "Defendant Trustees," namely Holder, Horvath, Kuchler, Langan, Livingston, and Palermo, to prevent Grayson from opening the Resale Use at the Property, via e-mails, telephone calls, and in person contact.

32. On or about June 9, 2009, LaPidus sent an e-mail to La Grange Business Association ("LGBA") members announcing an "Urgent Meeting" for June 11, 2009. The e-mail disparaged Grayson's business and stated: (i) a "Pawn Shop in town devalues the progress of this village and business community has made over the last decade to make La Grange a top 10 downtown in Chicago," (ii) a "Pawn Shop will in fact have long term reverberating affect on our property values, both residential and business," and (iii) a "Pawn Shop does not compliment the businesses and restaurants we have in town

and will never, no matter how ‘upscale’ it looks be a business others will look at positively when starting or relocating to La Grange.”

33. LaPidus conveyed notice of the date, time and location of the “Urgent Meeting” to the public by other means, including in a publication called “the daily” on June 10, 2009, and invited the public to attend the “Urgent Meeting.”

34. Upon information and belief, Asperger, Pilipiszyn and the Defendant Trustees were aware of the “Urgent Meeting” and/or attended the “Urgent Meeting” on June 11, 2009.

35. At the “Urgent Meeting,” LaPidus urged those in attendance to “band together” to cause the Village to amend its Zoning Code “to eliminate the existence of a Pawn Shop category.”

36. On or about June 12, 2009, Grayson applied for building permits from the Village to remodel the Property into a space more suitable for the Resale Use. The proposed work did not implicate the regulations set forth in the La Grange Zoning Code. Rather, the proposed work included, but was not limited to: installation/relocation of nonbearing walls/partitions, installation of fixtures, wiring and plumbing—all matters outside the La Grange Zoning Code regulations. Further, the building permit application materials that Grayson submitted to the Village substantially complied with the Village Building Codes.

37. While the building permits were pending, LaPidus, Asperger, Pilipiszyn, and the Defendant Trustees conspired to formulate a plan which would prevent Grayson from further operating the Resale Use at the Property despite the fact that the Resale Use was being made upon issuance of the Business License.

38. The result of this conspiracy was an “Ordinance Amending Sections 5-102 and 5-105 of the La Grange Zoning Code Related to Permitted Uses and Special Uses in the C-1 Central Commercial District” (“Ordinance”).

39. The Ordinance expressly excluded pawnshops from the “Permitted Uses” section of the Village’s Zoning Code. The Ordinance further held that the “amendments *** approved in this Ordinance shall apply throughout the C-1 Central Commercial District and shall apply to all proposed, prospective, and potential uses in the C-1 Central Commercial District, except only uses for which a building permit or certificate of occupancy has been issued by the Village prior to the effective date of this Ordinance.” The Ordinance further held that it would be in full force and effect from and after its passage and approval.

40. The Ordinance was drafted and enacted with the express intent to prevent Grayson from operating the Resale Use at the Property, and there was no reasonable or rational public purpose whatsoever behind the actions of the Defendants.

41. The Village’s Plan Commission held a special public meeting for June 29, 2009 to consider the Ordinance. LaPidus and several members of the public appeared at this meeting and made several derogatory comments about Grayson and/or his business, including that businesses such as Grayson’s were “water hole(s) for criminals” and that “[t]hey’re toxic like led paint and asbestos and we don’t want that in our buildings . . . La Grange is upwardly mobile and pawn shops are downwardly mobile.”

42. At the conclusion of the June 29, 2009 meeting, the Village’s Plan Commission voted unanimously to recommend that the Village Board approve the Ordinance.

43. On or about July 7, 2009, Asperger and Defendant Trustees held a closed meeting in violation of the Illinois Open Meetings Act. Upon information and belief, Grayson and his business were discussed during this closed meeting and the Village, Asperger, and the individual Trustee Defendants continued the formulation of their plan to prevent Grayson from opening his business.

44. On July 13, 2009, the Village Board unanimously approved the Ordinance.

45. On or about July 15, 2009, Grayson met with Asperger and the Village Attorney in her office at the Village Hall. At this meeting, the Village, through Asperger, made it clear that as a result of the Ordinance Grayson's Resale Use was prohibited, his building permits would not be issued, and his Business License was revoked. Asperger then offered Grayson \$10,000.00 if he would release any and all claims he had against the Village, which he refused.

COUNT I

CLASS OF ONE EQUAL PROTECTION **(42 U.S.C. §1983 -- Fourteenth Amendment)**

1-46. Grayson repeats and re-alleges the allegations contained within Paragraphs 1 through 45 of above, as Paragraphs 1 through 45, inclusive, of Count I, as though fully set forth herein.

47. 42 U.S.C. §1983 prohibits persons acting under color of law from depriving persons of any rights, privileges or property secured by the Fourteenth Amendment to the Constitution, including the right to equal protection and to be treated equally with those that are similarly situated.

48. The purpose of the Equal Protection Clause to the Fourteenth Amendment

is to secure every person within a governmental entity's jurisdiction against intentional and arbitrary discrimination, whether occasioned by express terms of a statute or by its improper execution through duly constituted agents.

49. Accordingly, the Village, and its agents, may not treat Grayson differently from others similarly situated without rational basis.

A. Grayson was treated differently from other similarly situated business licensees without rational basis.

50. The Village, Asperger, Pilipiszyn and the Defendant Trustees treated Grayson differently from how they treated other similarly situated business licensees without legitimate or rational basis for such disparate treatment.

51. Grayson and other business licensees all properly received their business licenses pursuant to Section 110.01, *et seq.*, of the Village Business Licensing Code.

52. On information and belief, other business licensees are and have been afforded the processes guaranteed under Section 110.12 of the Village Business Licensing Code before a revocation for cause occurs.

53. Comparatively, the Village, Asperger, Pilipiszyn and the Defendant Trustees singled out Grayson and revoked his Business License without cause and without notice and hearing.

54. The procedures to be followed prior to the revocation of a business license under Section 110.12 of the Village Business Licensing Code are not discretionary.

55. Accordingly, all business licenses within the Village are and have been securely held, for business licenses can be revoked only for cause, after notice and hearing.

56. Since the business license was properly issued to Grayson, there existed

no rational basis to deny Grayson his procedural rights under Section 110.12 yet grant such procedural rights to other similarly situated business licensees.

B. Grayson was treated differently than other building permit applicants without rational basis, wherein Grayson's proposed work was limited to component material and the Village required Grayson to submit to zoning review.

57. The Village, Asperger, Pilipiszyn and the Defendant Trustees treated Grayson differently from how they treated other similarly situated building permit applicants without legitimate or rational basis for such disparate treatment.

58. When Grayson submitted his building permit application on June 12, 2009, his Resale Use was being made at the Property and he was in compliance with all zoning requirements.

59. As of June 12, 2010, no zoning amendment application which affected Grayson was pending.

60. The proposed work listed in the building permit application was for component material issues, *e.g.* HVAC, wiring, plumbing, installation and/or removal of non-load bearing walls, etc. Accordingly, Grayson was not proposing to undertake any structural changes to the building at the Property that would implicate the La Grange Zoning Code, *e.g.* the height of the building, the lot coverage, the setbacks, the floor area ratio, the use, etc.

61. On information and belief, other building permit applicants, whose use was permitted at the time of application and whose proposed work was limited to component material issues, have been reviewed and approved/denied by the Village without reference to the La Grange Zoning Code.

62. Comparatively, the Village, Asperger, Pilipiszyn and the Defendant

Trustees arbitrarily delayed and denied Grayson's building permit application pursuant to zoning considerations that were never implicated by the proposed work.

63. Since Grayson complied with all zoning requirements at the time of the building permit application and the proposed work did not affect zoning issues, there was no rational basis to treat Grayson's building permit application differently from other similarly situated building permit applicants conducting solely component material work.

C. Grayson was treated differently than other Used Merchandise Stores located within the C-1 Central Commercial District, without rational basis.

64. The Village, Asperger, Pilipiszyn and the Defendant Trustees treated Grayson differently from how they treated other similarly situated Used Merchandise Stores, for instance Jackson Square Mall, without legitimate or rational basis for such disparate treatment.

65. On information and belief, the Jackson Square Mall operates as an antique business within the C-1 Central Commercial District, and therefore is a permitted use under the Used Merchandise Store classification.

66. Prior to July 13, 2010, the Village classified antique stores and pawn shops as Used Merchandise Stores under the La Grange Zoning Code because, on information and belief, the Village determined the foregoing uses were so similar that there was no rational basis to justify disparate treatment of the uses.

67. Accordingly, both Jackson Square Mall and Grayson procured proper business licenses to operate their respective businesses within the C-1 Central Commercial District of the Village.

68. The Ordinance, enacted on July 13, 2009, amended the LaGrange Zoning Code by deleting pawn shops as a business under the Used Merchandise Store

classification yet allowed antique stores to remain.

69. The Village, Asperger, Pilipiszyn and the Defendant Trustees relied on this arbitrary distinction to prohibit his Resale Use, deny his building permits, and revoke his Business License; whereas, Jackson Square Mall was allowed to continue its use unaffected by the Ordinance.

70. The differential treatment afforded pawn shops and antique shops under the Ordinance results from arbitrary distinctions that are unrelated to the protection of the health, safety and welfare of general public.

* * * *

71. Lacking any rational basis for all of the foregoing distinctions, the actions of the Village, Asperger, Pilipiszyn and the Defendant Trustees were motivated by animus and improper motive, and resulted in violations of 42 U.S.C. §1983 and the equal protection clause.

72. The foregoing actions of the Village, Asperger, Pilipiszyn and the Defendant Trustees occurred in their official capacities and individual capacities, acting under color of law, to deprive Grayson of his equal protection rights.

COUNT II

SUBSTANTIVE DUE PROCESS (42 U.S.C. §1983 – Fourteenth Amendment)

1-73. Grayson repeats and re-alleges the allegations contained within Paragraphs 1 through 72 of above, as Paragraphs 1 through 72, inclusive, of Count II, as though fully set forth herein.

74. 42 U.S.C. §1983 prohibits persons acting under color of law from

depriving persons of any rights, privileges or property secured by the Fourteenth Amendment to the Constitution, including the right to due process.

75. The Fourteenth Amendment of the United States Constitution guarantees to all citizens due process of law and guarantees that the free and reasonable exercise of one's property rights shall not be deprived without due process of law; and without restrictions that are unreasonable and bear no rational relationship to the purposes of the general public welfare.

76. Upon passage of the Ordinance, the Resale Use at the Property constituted a nonconforming use under the La Grange Zoning Code.

77. Alternatively, Grayson maintained a vested property right under Illinois common law to utilize the Property for the Resale Use.

78. Further, Grayson maintained a property interest in the Business License.

79. The Village, Asperger, Pilipiszyn and the Defendant Trustees made clear that any right he had to utilize the Property for the Resale Use had been extinguished with the enactment of the Ordinance.

A. Grayson's Business License was arbitrarily revoked.

80. The Business License could only be revoked by the Village Manager for cause.

81. Circumstances that constitute cause are set forth in Section 110.12(A).

82. None of the listed circumstances were present at the time of the revocation; rather, the Village, Asperger, Pilipiszyn and the Defendant Trustees revoked the Business License for a completely arbitrary purpose—their constituents, led by LaPidus, opposed the business.

83. Such arbitrary administration of the La Grange Business License Ordinance, which singled out Grayson to be treated discriminatorily, amounts to a violation of his substantive due process rights.

B. The “grandfather” clause within the Ordinance was arbitrary and unreasonable, having no substantial relation to the public health, safety, morals and welfare as-applied to Grayson.

84. The arbitrary nature of the “grandfather” clause of the Ordinance was the result of a malicious conspiracy by the Village, Asperger, Pilipiszyn and the Defendant Trustees to extinguish Grayson’s nonconforming rights, or alternatively his vested rights, to operate a Resale Use at the Property.

85. More specifically, zoning regulations are distinct in character from building code regulations.

86. The purpose of zoning is to stabilize the use of property and protect the area from deleterious uses; whereas a building code relates to the safety and structure of buildings.

87. Building permits are designed to promote the public welfare from a standpoint wholly different from that promoted by zoning regulations.

88. Thus, to the extent that zoning authority may extend to the right to regulate and restrict the erection, construction or alteration of buildings, it does not authorize the regulation of component materials of a building—the domain of building codes. Rather, zoning authority generally is limited to the right to regulate and restrict the height and size of buildings and other structures, the percentage of the lot that may be occupied, the size of the yards, the density of population, the location, use and the extent of use of buildings.

89. In this case, prior to July 13, 2009, Grayson was making Resale Use at the Property which was permitted under the La Grange Zoning Code, and he had received the Business License evidencing such.

90. When Grayson submitted his building permit application, the proposed work was limited to component material issues, *e.g.* HVAC, wiring, plumbing, etc. Grayson was not undertaking structural changes to the building at the Property that would implicate the potential dangers protected against in the La Grange Zoning Code.

91. This reasoning is further evidenced in Section 12-102(B) of the La Grange Zoning Code wherein the Village recognizes that a nonconforming use will not lose its “nonconforming status” where proposed work to a structure involves “installation or relocation of nonbearing walls, nonbearing partitions, fixtures, wiring or plumbing.”

92. The Village, Asperger, Pilipiszyn and the Defendant Trustees extinguished Grayson’s property rights by arbitrarily making his zoning status contingent upon the issuance of a building permit that in no way implicated zoning matters.

93. Accordingly, the deprivation of Grayson’s property rights, through application of the “grandfather” clause of the Ordinance, was an arbitrary exercise of its zoning authority.

C. The exclusion of pawn shops from the Used Merchandise Store classification under the Ordinance was arbitrary and unreasonable facially and as-applied to Grayson.

94. The exclusion of pawn shops from the Used Merchandise Stores classification in the C-1 Central Commercial District was arbitrary and bore no rational relationship to the public health, safety and general welfare.

95. The purpose of the C-1 Central Commercial District is to promote a retail

environment.

96. Prior to July 13, 2009, the Village determined that businesses falling under the Used Merchandise Store classification were so similar that there was no rational basis to distinguish the uses.

97. A pawn shop contributes to a retail environment equally as antique shops or used book stores, all of which fall under the Used Merchandise Store classification.

98. The Village has no statistical evidence that a pawn shop diminishes surrounding property values more than any other business that falls under the Used Merchandise Store classification.

99. As evidenced by the surrounding circumstances, the Village purposefully excluded pawn shops from the Used Merchandise Store classification solely to obstruct Grayson's property rights.

100. Accordingly, the Ordinance was invalid to the extent it excluded pawn shops from the Used Merchandise Stores classification in the C-1 Central Commercial District, and, therefore, the Village, Asperger, Pilipiszyn and the Defendant Trustees unlawfully extinguished Grayson's property rights.

101. Lacking all rational basis, the actions of the Village, Asperger, Pilipiszyn and the Defendant Trustees were motivated by animus and improper motive, and resulted in violations of 42 U.S.C. §1983 and Grayson's substantive due process rights.

* * * *

102. All of the foregoing actions of the Village, Asperger, Pilipiszyn and the Defendant Trustees occurred in their official capacities and individual capacities, acting under color of law, to deprive Grayson of his substantive due process rights.

COUNT III

PROCEDURAL DUE PROCESS
(42 U.S.C. §1983 -- Fourteenth Amendment)

1-103. Grayson repeats and re-alleges the allegations contained within Paragraphs 1 through 102 above, as Paragraphs 1 through 102, inclusive, of Count III, as though fully set forth herein.

104. 42 U.S.C. §1983 prohibits persons acting under color of law from depriving persons of any rights, privileges or property secured by the Fourteenth Amendment to the Constitution, including the right to due process.

105. The Fourteenth Amendment of the United States Constitution guarantees to all citizens due process of law and guarantees that the free and reasonable exercise of one's property rights shall not be deprived without due process of law.

106. Grayson maintained a securely held property interest in the Business License as it could be revoked only for cause, after notice and hearing.

107. The Village, Asperger, Pilipiszyn and the Defendant Trustees deprived Grayson of his Business License without the requisite procedural protections set forth in Section 150.112(A) of the La Grange Business Licensing Code as well as those guaranteed under the Fourteenth Amendment.

108. The foregoing actions of the Village, Asperger, Pilipiszyn and the Defendant Trustees occurred in their official capacities and individual capacities, acting under color of law, to deprive Grayson of his procedural due process rights.

109. Grayson's constitutional right to procedural due process was violated where the Village, Asperger, Pilipiszyn and the Defendant Trustees revoked the Business License without providing Grayson with safeguards against arbitrary revocation.

COUNT IV

VIOLATION OF THE ILLINOIS CONSTITUTION

(Equal Protection: Article I, Section 2)

1-110. Grayson repeats and re-alleges the allegations contained within Paragraphs 1 through 109 above, as Paragraphs 1 through 109, inclusive, of Count IV, as though fully set forth herein.

111. Article I, Section 2, of the Illinois Constitution guarantees an individual shall not be denied equal protection under the law concerning their property rights.

112. The facts alleged in Paragraphs 52 through 74, inclusive, violated Grayson's equal protection rights under the Illinois Constitution.

COUNT V

VIOLATION OF THE ILLINOIS CONSTITUTION

(Substantive Due Process: Article I, Section 2)

1-113. Grayson repeats and re-alleges the allegations contained within Paragraphs 1 through 112 above, as Paragraphs 1 through 112, inclusive, of Count V, as though fully set forth herein.

114. Article I, Section 2, of the Illinois Constitution guarantees that the free and reasonable exercise of one's property rights shall not be deprived without due process of law.

115. The facts alleged in Paragraphs 79 through 105, inclusive, violated Grayson's substantive due process rights under the Illinois Constitution.

COUNT VI

**VIOLATION OF THE ILLINOIS CONSTITUTION
*(Procedural Due Process: Article I, Section 2)***

1-116. Grayson repeats and re-alleges the allegations contained within Paragraphs 1 through 115 above, as Paragraphs 1 through 115, inclusive, of Count VI, as though fully set forth herein.

117. Article I, Section 2, of the Illinois Constitution guarantees that the free and reasonable exercise of one's property rights shall not be deprived without due process of law.

118. The facts alleged in Paragraphs 109 through 112, inclusive, violated Grayson's substantive due process rights under the Illinois Constitution.

COUNT VII

**ILLINOIS COMMON LAW
*(Vested Rights Doctrine)***

1-119. Grayson repeats and re-alleges the allegations contained within Paragraphs 1 through 118 above, as Paragraphs 1 through 118, inclusive, of Count VII, as though fully set forth herein.

120. In light of the allegations contained herein, the denial of Grayson's building permit application as well as prohibiting the operation of the Resale Use violated Grayson's vested rights to use the Property as contemplated.

COUNT VIII

**ILLINOIS COMMON LAW
*(Conspiracy)***

1-121. Grayson repeats and re-alleges the allegations contained within Paragraphs 1 through 120 above, as Paragraphs 1 through 120, inclusive, of Count IX, as though fully set

forth herein.

122. On information and belief, LaPidus, Asperger, Pilipiszyn, Holder, Horvath, Kuchler, Langan, Livingston, and Palermo agreed or reached a mutual understanding to commit acts against Grayson to prevent him from exercising his property rights in his Business License. In furtherance of that agreement, these Defendants conspired to unlawfully utilize the Village's authority to revoke the Business License.

123. The object of the conspiracy was to pander to misplaced anger and elitism of Village residents and business owners and prevent Grayson from opening his business.

124. In entering into and carrying out their conspiracy, LaPidus, Pilipiszyn, Asperger, Holder, Horvath, Kuchler, Langan, Livingston, and Palermo's motivation was to further their political interests.

125. By their conduct as alleged above, LaPidus, Asperger, Pilipiszyn, Holder, Horvath, Kuchler, Langan, Livingston, and Palermo have conspired with each other and other unnamed co-conspirators, to violate rights guaranteed to Grayson under the aforementioned provisions of the Illinois and United States Constitutions.

COUNT IX

ILLINOIS COMMON LAW (Tortious Interference with Contractual Rights)

1-126. Grayson repeats and re-alleges the allegations contained within Paragraphs 1 through 125 above, as Paragraphs 1 through 125, inclusive, of Count IX, as though fully set forth herein.

127. Defendants Village, LaPidus, Asperger, Pilipiszyn, Holder, Horvath, Kuchler, Langan, Livingston, and Palermo tortuously interfered with the Lease between Grayson and Defendants Brannon and Trust by causing the Lease to terminate before its expiration.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Andrew Grayson respectfully pray for judgment against the Defendants, awarding relief as follows:

A. Enter judgment against Defendants Village, LaPidus, Pilipiszyn, Asperger, Holder, Horvath, Kuchler, Langan, Livingston, and Palermo, jointly and severally, declaring, pursuant to 28 U.S.C. §2201, that the Defendants violated Grayson's rights under the Federal and Illinois Constitutions as well as Illinois common law.

B. Enter a monetary judgment in Grayson's favor and against Defendants Village, LaPidus, Pilipiszyn, Asperger, Holder, Horvath, Kuchler, Langan, Livingston, and Palermo, jointly and severally: (i) for all monetary losses suffered by Grayson as a result of Defendants' actions, including lost income and profits; (ii) punitive damages to punish and deter these Defendants, and others, from engaging in similar conduct in the future; and, (iii) court costs and attorneys' fees under 42 U.S.C. § 1988;

C. Grant such additional relief deemed just.

JURY DEMAND

Grayson demands trial by jury on all issues for which a jury trial is permitted.

Respectfully submitted,
ANDREW GRAYSON, Plaintiff.

By: /s/ Mark H. Sterk
One of His Attorneys

Mark H. Sterk (ARDC# 03125540)
Richard F. Bruen, Jr. (ARDC #6242592)
Matthew Welch (ARDC #6294057)
ODELSON & STERK, LTD.
3318 W. 95th St.
Evergreen Park, IL 60805
(708) 424-5678
(708) 425-1898 (fax)

CIVIL COVER SHEET

The civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

<p>(a) PLAINTIFFS Andrew Grayson</p> <p>(b) County of Residence of First Listed Plaintiff <u>Cook</u> (EXCEPT IN U.S. PLAINTIFF CASES)</p> <p>(c) Attorney's (Firm Name, Address, and Telephone Number) Odelson & Sterk, Ltd. 3318 West 95th Street, Evergreen Park, IL 60805 (708) 424-5678</p>	<p>DEFENDANTS Village of LaGrange, Elizabeth Asperger, Bill Holder, Michael Horvath, Mark Kuchler, Mark Langan, Tom Livingston, Jim Palermo, Michael Pilipiszyn, Michael LaPidus</p> <p>County of Residence of First Listed Defendant <u>Cook</u> (IN U.S. PLAINTIFF CASES ONLY)</p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.</p> <p>Attorneys (If Known)</p>
---	---

<p>II. BASIS OF JURISDICTION (Place an "X" in One Box Only)</p> <p><input type="checkbox"/> 1 U.S. Government Plaintiff</p> <p><input type="checkbox"/> 2 U.S. Government Defendant</p> <p><input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)</p> <p><input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)</p>	<p>III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)</p> <p>(For Diversity Cases Only)</p> <p>Citizen of This State PTF <input checked="" type="checkbox"/> 1 DEF <input checked="" type="checkbox"/> 1</p> <p>Citizen of Another State <input type="checkbox"/> 2 <input type="checkbox"/> 2</p> <p>Citizen or Subject of a Foreign Country <input type="checkbox"/> 3 <input type="checkbox"/> 3</p> <p>Incorporated or Principal Place of Business In This State PTF <input type="checkbox"/> 4 DEF <input checked="" type="checkbox"/> 4</p> <p>Incorporated and Principal Place of Business In Another State <input type="checkbox"/> 5 <input type="checkbox"/> 5</p> <p>Foreign Nation <input type="checkbox"/> 6 <input type="checkbox"/> 6</p>
--	--

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (excl. vet.) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<p>PERSONAL INJURY</p> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Inj.	<p>PERSONAL INJURY</p> <input type="checkbox"/> 362 Personal Injury—Med. Malpractice <input type="checkbox"/> 365 Personal Injury—Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <p>PERSONAL PROPERTY</p> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <p>PROPERTY RIGHTS</p> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <p>SOCIAL SECURITY</p> <input type="checkbox"/> 861 HIA (1395f) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <p>FEDERAL TAX SUITS</p> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Satellite TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Security/Commodity/Exch. <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
<p>REAL PROPERTY</p> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<p>CIVIL RIGHTS</p> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 ADA—Employment <input type="checkbox"/> 446 ADA—Other <input checked="" type="checkbox"/> 440 Other Civil Rights	<p>PRISONER PETITIONS</p> <input type="checkbox"/> 510 Motions to Vacate Sentence <p>Habeas Corpus:</p> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<p>LABOR</p> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other

V. ORIGIN (PLACE AN "X" IN ONE BOX ONLY)

1 Original Proceeding 2 Removed from State Court 3 Remanded from Appellate Court 4 Reinstated or Reopened 5 Transferred from another district (specify) 6 Multidistrict Litigation 7 Appeal to District Judge from Magistrate Judgment

<p>VI. CAUSE OF ACTION (Enter U.S. Civil Statute under which you are filing and write a brief statement of cause.)</p> <p>42 USC Section 1983</p>	<p>VII. PREVIOUS BANKRUPTCY MATTERS (For nature of suit 422 and 423, enter the case number and judge for any associated bankruptcy matter perviously adjudicated by a judge of this Court. Use a separate attachment if necessary)</p>
--	---

VIII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 **DEMAND \$** 100,000+ **CHECK YES only if demanded in complaint:** **JURY DEMAND:** Yes No

IX. This case is not a refiling of a previously dismissed action. is a refiling of case number _____, previously dismissed by Judge _____

DATE: 7-9-10 SIGNATURE OF ATTORNEY OF RECORD: 