

IN THE CIRCUIT COURT FOR THE SIXTH JUDICIAL CIRCUIT
IN AND FOR PINELLAS COUNTY, FLORIDA
CIVIL DIVISION

CITY COMMISSIONER JOHN DOUTHIRT,
CITY COMMISSIONER NANCY OAKLEY,
Plaintiffs,

v.

Case No.: 18-000925-CI-15
UCN: 522018CA000925XXCICI

PETITION TO RECALL JOHN DOUTHIRT
COMMITTEE and ROBERT PRESTON as
Chairman;
PETITION TO RECALL NANCY OAKLEY
COMMITTEE and ROBERT PRESTON as
Chairman;
SUPERVISOR OF ELECTIONS, PINELLAS
COUNTY, FLORIDA, DEBORAH CLARK, a
Florida constitutional officer; and
CITY CLERK, CITY OF MADEIRA BEACH,
FLORIDA, CLARA VANBLARGAN, in her
official capacity,
Defendants.

**ORDER GRANTING MOTION FOR TEMPORARY INJUNCTION AND
GRANTING MOTION TO ADD CITY CLERK AS DEFENDANT**

THIS MATTER came before the Court on Plaintiff, City Commissioner John Douthirt, and Plaintiff, City Commissioner Nancy Oakley's Motion for Temporary Injunction seeking to enjoin a special recall election set for April 17, 2018. A hearing was held on April 3, 2018 on this Motion and Plaintiffs' Motion to add City Clerk, City of Madeira Beach, Florida, Clara Vanblargan, in her official capacity, as a defendant by interlineation. Without objection, the City Clerk is added as a defendant and the Clerk of the Circuit Court, Pinellas County, Florida is instructed to correct the case style accordingly. Concerning the temporary injunction request, upon consideration of the pleadings, the court file, arguments of counsel, and applicable law, the Court finds as follows:

Analysis

Section 100.361, Florida Statutes, provides for the municipal recall process.

The issuance of a temporary injunction requires the movant to plead and prove the following elements: (1) likelihood of irreparable harm; (2) unavailability of an adequate legal remedy; (3) a substantial likelihood of succeeding on the merits; and (4) considerations of the public interest supporting the entry of the injunction.

Findings

The Court finds as follows:

I. Irreparable Harm:

Plaintiffs, as public officials duly elected in the regular elective process, will suffer irreparable harm if the injunction is not granted.

II. No Adequate Remedy at Law:

The recall statute does not provide a statutory remedy for Plaintiffs and Plaintiffs have no adequate remedy at law.

III. Likelihood of Success on the Merits:

Plaintiffs have established a substantial likelihood of success and are entitled to an injunction. The vote by the City Commissioners to create and appoint a Budget Director at a duly noticed City Commission meeting held on May 9, 2017 does not violate an express prohibition contained in the City Charter. Pursuant to Section 166.241, Florida Statutes, the City Commission is required to adopt an annual budget. The City Charter does not expressly prohibit the City Commission from creating or hiring a Budget Director to assist the City Commission with preparing an annual budget. The grounds for recall set forth in the recall petition are legally insufficient to allege malfeasance as required by the recall statute.

IV. The Public Interest:

The public interest is served by enjoining recall elections that are based on legally insufficient recall petitions. The current recall petition is insufficient to allege malfeasance.

Accordingly, it is

ORDERED AND ADJUDGED that the temporary injunction sought by Plaintiffs be and is **granted** and accordingly the special recall election set for April 17, 2018 is enjoined.

IT IS FURTHER ORDERED that this Temporary Injunction be and is conditioned on the Plaintiffs posting a bond in the total sum of \$2,000.00 with the Clerk of the Circuit Court, Pinellas County, Florida, forthwith.

DONE AND ORDERED in Chambers in Clearwater, Pinellas County, Florida, this 4th day of April, 2018, at 5:26 P.M.



GEORGE M. JIROTKA
Circuit Court Judge

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