

**BEFORE THE FIRE CIVIL SERVICE COMMISSION
OF THE CITY OF CLARKSBURG, WEST VIRGINIA**

STEPHEN McINTIRE, fire chief,

Case No: _____

Civil Service Member,

v.

TIFFANY FELL,

Removing Officer,

**DEMAND FOR MANDATORY PUBLIC HEARING BEFORE THE CIVIL SERVICE
COMMISSION REGARDING THE ILLEGAL AND RETALIATORY TERMINATION
OF STEPHEN McINTIRE, THE FIRE CHIEF FOR THE CLARKSBURG FIRE
DEPARTMENT, PURSUANT TO W.VA CODE 8-15-25**

NOW COMES the Civil Service Member and Fire Chief Stephen McIntire, by and through his counsel of Teresa C. Toriseva, Esq., Andrew A. Carpenter, Esq., and TORISEVA LAW, and demands a public hearing pursuant to W.Va. Code 8-15-25 regarding his illegal and retaliatory termination from employment. In support of the same, the Civil Service Member states the following:

1. The Civil Service Member, Fire Chief Stephen McIntire is a professional fire fighter and a current active member of IAFF Local 89.
2. The current employment status of Fire Chief Stephen McIntire is suspended with pay pending the outcome of a civil service hearing and ruling.
3. Tiffany Fell is the City Manager for the City of Clarksburg and is the “removing officer” as defined by West Virginia Code §8-15-1, *et. seq.*
4. West Virginia Code grants jurisdiction to local civil service commissions to hear cases involving fire fighter positions, pay, rank, termination, suspension, etc. and includes in that authority the power to issue subpoenas. *See* W. Va. Code § 8-15-15.

5. West Virginia Code §8-15-25(a) states as follows:

(a)No member of any paid fire department subject to the civil service provisions of this article may be removed, discharged, suspended or reduced in rank or pay **except for just cause**, which may not be religious or political, except as provided in section twenty-four of this article; and **no such member may be removed, discharged, suspended or reduced in rank or pay** except as provided by the civil service provisions of this article, and in no event until the member has been furnished with a written statement of the reasons for the action. **In every case of such removal, discharge, suspension or reduction, a copy of the statement of reasons therefor and of the written answer thereto, if the member desires to file such written answer, shall be furnished to the firemen's civil service commission and entered upon its records. If the member demands it, the commission shall grant a public hearing, which hearing shall be held within a period of ten days from the filing of the charges in writing or the written answer thereto, whichever shall last occur. At the hearing, the burden shall be upon the removing, discharging, suspending or reducing officer, hereinafter in this section referred to as "removing officer", to show just cause for his or her action, and in the event the removing officer fails to show just cause for the action before the commission, then the member shall be reinstated with full pay, forthwith and without any additional order, for the entire period during which the member may have been prevented from performing his or her usual employment, and no charges may be officially recorded against the member's record. The member, if reinstated or exonerated, shall, if represented by legal counsel, be awarded reasonable attorney fees to be determined by the commission and paid by the governing body. A written record of all testimony taken at the hearing shall be kept and preserved by this commission, which record shall be sealed and not be open to public inspection unless an appeal is taken from the action of the commission. (Emphasis added.)**

6. On June 24, 2024, Fire Chief McIntire was removed from the position of Fire Chief and was discharged from employment with the Clarksburg Fire Department for illegal and unlawful reasons. *See Exhibit "1"*.

7. Fire Chief McIntire's employment was terminated after being questioned about his involvement as a civil plaintiff in two wage and hour lawsuits against the City alleging that it failed to properly calculate and pay the City's fire fighters their regular rates of pay and overtime pay.

8. While the removing officer has the burden proof to show justification for the removal, discharge, and termination, the Civil Service Member respectfully reserves the right to present any evidence he may deem necessary and relevant to the removing officer's actions that

result in his termination. Not all evidence is or could be presented in this or through this document. The Civil Service Member reserves the right to file a separate Answer to the "Notice of Charges."

WHEREFORE Civil Service Member Fire Chief Stephen McIntire demands the Civil Service Commission hold a public hearing within ten (10) days, award him full relief available under W. Va. Code § 8-15-15, award him any further relief deemed just and proper, and issue the subpoenas for the following City representatives to appear and testify at said hearing:

- Tiffany Fell
- Jim Malfregoet
- Cherie Greathouse
- John Workman
- Jerry Riffle
- Ashley Carr

The Civil Service Member reserves the right to call any fire fighter to testify and reserves the right to call any additional witnesses to rebut the testimony of the removing officer's evidence.

**Respectfully Submitted,
Fire Chief Stephen McIntire Civil Service
Members,**



Teresa C. Toriseva, Esq. WV ID# 6947
Andrew A. Carpenter, Esq. WV ID # 14542
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CITY OF CLARKSBURG

WEST VIRGINIA

OFFICE OF
CITY MANAGER

June 24, 2024

Stephen McIntire
Rt 3 Box 38
Clarksburg, WV 26301

Re: Discharge and Removal from Position – City of
Clarksburg Fire Department

Dear Chief McIntire:

Based upon actions arising from the painting of a mural in the fire chief's office at the main fire station at 465 W Main Street, Clarksburg WV 26301, the City of Clarksburg is removing you from the position of Fire Chief, discharging you from the Fire Department, and terminating your employment with the City of Clarksburg. We have enclosed a Notice of Charges hereto.

You may file a written answer to the Notice of Charges within ten days after the date of this letter. Or, you may request a hearing before the Firemen's Civil Service Commission of the City of Clarksburg, West Virginia, within the same time period. Finally, you may both file an answer and request a hearing within that ten day time period.

Pending your answer and/or request for hearing and the hearing, if held, we are suspending the removal, discharge, and termination described herein. However, you will be suspended with pay during such duration.

Sincerely,

Tiffany Fell, City Manager



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CERTIFICATE OF SERVICE

Service of the foregoing **Demand for Mandatory Public Hearing** was had upon the following via the manner listed below on this 27th day of June, 2024 to:

Tiffany Fell
City Manager
222 W Main Street
Clarksburg, WV 26301
(Certified mail, Return Receipt Requested)

Richard Marsh
City Attorney
222 W Main Street
Clarksburg, WV 26301
(Certified mail, Return Receipt Requested)

The Fire Civil Service Commission
c/o Annette Wright, City Clerk
222 W Main Street
Clarksburg, WV 2630
(Email and Certified mail,
Return Receipt Requested)



Teresa C. Toriseva, Esq. WV ID# 6947
Andrew A. Carpenter, Esq. WV ID # 14542
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