

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

DR. SHIVA AYYADURAI,)
SHIVA 4 SENATE,)
Plaintiffs,)
)
) Civil Action NO.: 1:18-cv-10772-RWZ
vs.)
)
CITY OF CAMBRIDGE,)
Defendant.)

**DEFENDANT CITY OF CAMBRIDGE’S ASSENT TO PLAINTIFFS’
MOTION FOR VOLUNTARY DISMISSAL AND MOTION TO STRIKE**

Defendant City of Cambridge (the “City”)¹ hereby assents to dismissal of the instant action, but moves to strike the assertions contained in Plaintiff Dr. Shiva Ayyadurai’s Declaration (the “Declaration”), which is attached to the Plaintiffs’ Motion for Voluntary Dismissal (“Motion”). As grounds therefore, the City states that the Declaration contains false and misleading statements, including statements referring to alleged representations of the City that the City did not make to Plaintiffs as the so-called “terms of surrender” were never agreed upon by the City. The City requests that the Plaintiffs’ Motion for Voluntary Dismissal be allowed without consideration of the Declaration, and that the Declaration be stricken.

As further grounds therefore, the City states as follows:

On April 5, 2018, the City’s Inspectional Services Department issued a zoning enforcement order concerning a sign affixed to a bus located at the 701 Concord Avenue, Cambridge, MA (the “Enforcement Order”). See, Complaint, ¶¶19-20, and Exhibit D to the

¹ The City has appeared in the instant action for the limited purpose of filing this Assent and Motion to Strike, and the City does not waive any of its defenses to the Complaint, including insufficient service of process, pursuant to Fed.R.Civ.P. Rule 12(b)(5).

Complaint. On April 22, 2018, the Plaintiffs filed the instant action seeking declaratory and injunctive relief concerning the Enforcement Order.

By letter dated May 11, 2018, the Commissioner of the City of Cambridge Inspectional Services Department rescinded the Enforcement Order based upon representations regarding the use of the bus that displayed the sign for events and driving to different locations. See, the May 11, 2018 letter, a true and accurate copy of which is attached hereto as Exhibit A. A copy of the May 11, 2018 letter was provided to counsel for the Plaintiffs on May 16, 2018, and mailed by Certified Mail to Plaintiff Dr. Shiva Ayyadurai on May 16, 2018.

The City has not entered into a settlement agreement with the Plaintiffs, nor has the City agreed to any terms of settlement or so-called “terms of surrender.” Furthermore, the City vehemently denies the allegations contained in the fifth, sixth and seventh Whereas Paragraphs of the Declaration, and specifically, the City denies that it is “fearful that the Preliminary Injunction bring imposed on them would lead to the Defendants losing a federal lawsuit,” that it is “fearful that the risk of discovery and depositions in a lawsuit would lead to exposing Elizabeth Warren’s potential involvement in forcing the City’s actions against the Plaintiffs,” and that it initiated negotiations and agreed upon the purported “terms of surrender.” The allegations contained in the fifth, sixth and seventh Whereas Paragraphs of the Declaration are false and baseless self-serving statements made by Plaintiff Ayyadurai.

Accordingly, the Court should not consider these statements when acting upon the Plaintiffs’ Motion for Voluntary Dismissal, and should strike the Declaration. However, because the Plaintiffs are voluntarily seeking dismissal and the instant action has been rendered moot due to the rescission of the Enforcement Order, the city respectfully requests that the Court grant the Plaintiffs’ assented to Motion.

WHEREFORE, the City respectfully requests that the Plaintiffs' Motion for Voluntary Dismissal be allowed without consideration of the Declaration, and that the Declaration be stricken.

CITY OF CAMBRIDGE
By its Attorney,

/s/ Megan B. Bayer

Megan B. Bayer (BBO# 669494)
City of Cambridge Law Department
Cambridge City Hall
795 Massachusetts Avenue
Cambridge, MA 02139
(617) 349-4121
mbayer@cambridgema.gov

DATED: May 18, 2018

LOCAL RULE 7.1 CERTIFICATION

Pursuant to Local Rule 7.1, counsel for the Defendant City of Cambridge hereby certifies that she has, in good faith, conferred with counsel for the Plaintiffs prior to the filing of this motion.

/s/ Megan B. Bayer

Megan B. Bayer

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the above document was served upon the following of record via ECF:

Timothy Cornell
Patrick Dolan
Cornell Dolan, P.C.
One International Place, Suite 1400
Boston, MA 02110

/s/ Megan B. Bayer

Dated: May 18, 2018

Megan B. Bayer