

COPY

IN THE SUPERIOR COURT OF ATHENS-CLARKE COUNTY

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SUPERIOR/STATE COURT

2008 FEB 22 PM 12:55

STATE OF GEORGIA

BEVERLY LOGAN, CLERK  
CLARKE COUNTY, GEORGIA

ROBERT MANLOVE and WILLIAM  
HOFFMAN,

Plaintiffs,

vs.

UNIFIED GOVERNMENT OF  
ATHENS-CLARKE COUNTY, GEORGIA,

Defendant.

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Civil Action No. SU-08-CV-0227-SW

DOCKET INITIALS

RESPONSIVE PLEADINGS OF DEFENDANT

Comes now Unified Government of Athens-Clarke County ("Defendant") by and through counsel and files these responsive pleadings.

First Defense

Plaintiffs' complaint fails to state a claim upon which relief can be granted.

Second Defense

Defendant responds to the specific allegations of Plaintiffs' complaint as follows:

1.

Defendant denies that § 3-5-24 of the Code of Ordinances is overbroad or that it violates the Georgia Constitution as alleged by Plaintiffs in the opening paragraph of their complaint.

2.

Defendant is without sufficient information or belief to admit or deny the averments of paragraph 1 of the complaint.

3.

Defendant is without sufficient information or belief to admit or deny the averments of paragraph 2 of the complaint.

4.

Defendant admits the allegations of paragraph 3 of the complaint.

5.

Defendant admits the allegations of paragraph 4 of the complaint.

6.

Defendant is without sufficient information or belief to admit or deny the averments of paragraph 5 of the complaint.

7.

Defendant denies the allegations of paragraph 6 of the complaint.

8.

Defendant denies the allegations of paragraph 7 of the complaint.

9.

Defendant denies the allegations of paragraph 8 of the complaint.

10.

Defendant denies the allegations of paragraph 9 of the complaint.

11.

Defendant denies the allegations of paragraph 10 of the complaint.

12.

Defendant denies the allegations of paragraph 11 of the complaint.

13.

Defendant denies the allegations of paragraph 12 of the complaint.

14.

Defendant denies the allegations of paragraph 13 of the complaint.

15.

Defendant denies the allegations of paragraph 14 of the complaint.

16.

Defendant denies the portion of paragraph 15 that alleges that the "Ordinance does not require a complaint before a citation is issued." Defendant further states that citations are issued only (i) after a police officer receives a complaint from a third party and confirms the existence of a violation or (ii) when a police officer in the performance of his or her duties encounters evidence leading to the issuance of a citation. Defendant denies the remaining portion of paragraph 15 of the complaint and states further that the Mayor and Commission of Athens-Clarke County have determined that noises in violation of the ordinance disrupt the peace of the community and the public health and safety.

17.

Defendant is without sufficient information or belief to admit or deny the averments of paragraph 16 of the complaint.

18.

Defendant admits the allegations of paragraph 17 of the complaint.

19.

Defendant is without sufficient information or belief to admit or deny the averments of paragraph 18 of the complaint.

20.

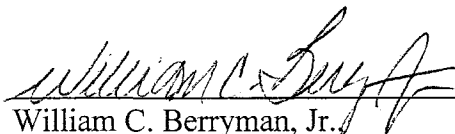
Defendant denies the allegations of paragraph 19 of the complaint.

21.

Defendant denies the allegations of paragraph 20 of the complaint.

Wherefore, Defendant respectfully requests that Plaintiffs' complaint be dismissed with prejudice, that all costs be cast against Plaintiffs, and that Defendant have such other and further relief as the Court deems proper under the circumstances.

Respectfully submitted, this 22<sup>nd</sup> day of February, 2008.

  
\_\_\_\_\_  
William C. Berryman, Jr.  
Athens-Clarke County Attorney  
State Bar ID # 055675

P.O. Box 427  
Athens, GA 30603  
(706) 613-3035

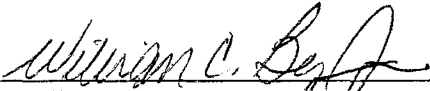
**CERTIFICATE OF SERVICE**

This is to certify that I have this date served a true and correct copy of the foregoing **Responsive Pleadings of Defendant**, upon counsel by depositing a copy of same in the U.S.

Mail with sufficient postage thereon to insure delivery to:

Charles A. Jones, Jr., Esq.  
The Law Offices of Charles A. Jones, Jr., LLC  
1720 Epps Bridge Parkway, Suite 108-319  
Athens, Georgia 30606

This 22<sup>nd</sup> day of February, 2008.

  
\_\_\_\_\_  
William C. Berryman, Jr., County Attorney  
Athens-Clarke County, Georgia  
State Bar ID # 055675

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