

Winston-Salem is Stonewalling Your Right to Defend Yourself

As you may know, the City of Winston-Salem recently passed an ordinance banning lawful gun owners from carrying firearms for self-defense in in the City's greenways and in large sections of parks in defiance of the General Assembly's legislation limiting localities' authority to regulate where firearms can be carried. Now the City is trying to tie up the lawsuit against its illegal bans by delaying the discovery process with stall tactics.

The City weaseled around the statutory limits on the its power by expanding the definition of the terms: "recreational facility, athletic field, athletic facility, and playground" (which were limited exceptions to legislation which otherwise restricted the ability of local governments to regulate firearms) to include areas adjacent to these locations, lakes, walking trails, greenways, picnic tables, spectator seating, eating shelters, and other areas. Already in clear excess of their authority, the City has also not fulfilled its obligation to clearly and conspicuously post restricted areas—which was required by the General Assembly—and has created a veritable spider web of unmarked, forbidden areas which subject unaware law-abiding citizens who exercise their constitutional right to self defense to criminal prosecution and penalties.

Since Winston-Salem passed this Ordinance, Rights Watch International, and several private citizens, have filed suit against the City to overturn this ban due to it clearly exceeding the statutory authority granted to the City by the General Assembly, and the ban's infringement on citizen's constitutional rights. After the City tried to move the case from this state's courts to the federal courts (in an attempt at judge shopping and delay tactics which the federal court prevented them from doing) the City is now objecting to discovery which the plaintiffs in this case are legally entitled to under the North Carolina Rules of Civil Procedure. Discovery is a stage in the legal process where parties request information, in the form of questions, requests for documents, etc., in order to prepare for trial. With limited exceptions, parties must provide information requested of them so long as it reasonably relates to the case at hand (or will provide avenues to other evidence related to the case) and is not privileged.

Winston-Salem has objected to two-thirds of the requests made by plaintiffs. The City objected to the plaintiffs requests as burdensome/irrelevant requests and invoked various privileges and statutory limitations as reasons for not answering the requests. The City, however, has no legitimate basis for almost all of its objections and is merely using your tax dollars to delay and drain the plaintiffs seeking to protect their and your rights. For example, the City refuses to provide the plaintiffs with:

- The identity of each person involved in drafting the illegal Ordinance.
- Documents written by the City and its employees relating to the City's definition of: "playground, athletic facility, athletic field, and swimming pool" in the Ordinance.
- Documents related to the research, development, drafting, and debate on the Ordinance.
- Police reports for crimes occurring at the parks, greenways, lakes, picnic shelters, and recreational facilities in the past three years.

The City's objection to producing police reports in areas affected by the Ordinance does lead one to wonder: "why do they not want to disclose where crimes are occurring?" The report system is computerized and one would assume they have methods of searching based on locations. It is rather preposterous to propose that it would be overly burdensome to assign some bureaucrat to go through the records by address of the crime and pick out all of the reports with incidents in areas where the

Ordinance imposes bans. More likely, perhaps, it is because these “gun-free zones” are havens for criminals and will clearly illustrate that the imposition on citizens’ rights is not beneficial or tenable.

While most of the City’s objections are delay tactics with little validity, its most baseless was its refusal to name the individuals involved in the drafting of the Ordinance. Work product only applies to tangible things, not individuals, involved in the preparation for litigation. Legislative immunity only protects legislators from testifying, but it does not prevent the disclosure of their identities by other parties. Attorney-client privilege would not apply because the act of working on legislation does not necessitate an attorney-client relationship and only covers communications and documents. Finally, there is a statutory argument given in the form of N.C.G.S. 160A-168 which provides for the confidentiality of public employee personnel records. However, it clearly states that certain information is still public record, and that exception includes employee names.

By refusing to give this information, the City makes sure that the plaintiffs cannot even identify the City employees involved—which prevents them from determining whether there is any merit to the City’s objections to most of the other requests. The objections made by the City are legal *boilerplate* made to obstruct and obfuscate the process and delay the lawsuit while increasing its expenses. The refusal to identify possible witnesses flouts the City’s obligations that are clear under years of case law that requires litigants to be open and honest about the identities of witnesses whom they know are likely to have information about the case. As a result of this obstruction, the plaintiffs must file a motion to compel in order to move ahead with discovery. This will result in the plaintiffs wasting their time and money preparing the motion and presenting it to the court, and the court wasting its time dealing with the motion. All the while, the defendant City of Winston-Salem knows that the plaintiffs are entitled to most of the information, and the City is merely using its vast resources (your tax dollars) to delay the case in hopes of limiting your constitutional right to self-defense.