

OFFICE OF METRO COUNCIL CLERK *KGH*

SEP 9 2011 AM 11:22

RECEIVED

DATE 9-9-11 TIME: 11:22AM

LOUISVILLE METRO
COUNCIL COURT

COMMONWEALTH OF KENTUCKY
LOUISVILLE METRO GOVERNMENT
JEFFERSON COUNTY



**IN THE MATTER OF THE REMOVAL CHARGES AGAINST DISTRICT ONE
COUNCILWOMAN JUDY GREEN**

**ORDER IN RE: CHARGING COMMITTEE'S MOTION
TO EXCLUDE EVIDENCE OF RESPONDENT**

*** **

This matter is before the Council Court on the Charging Committee's motion, in part, for entry of an order directing Respondent to file witness and exhibit lists with the Council court as required by the rules and procedures governing the pending proceedings.

The Council Court has previously entered an order directing Respondent to comply with a subpoena issued by the Council Court at the request of the Charging Committee's counsel for certain documentary evidence. Respondent did not produce any requested documents but filed a response to the order objecting in part and stating in part that Respondent had no documents responsive to the subpoena.

Pursuant to Rule 8 of the Louisville Metro Council Removal Hearing Rules and Procedures ("Rules"), as well as the Council Court's Scheduling Order, each party is required to file a witness list and exhibit list with The Council Court,.....at least ten (10) calendar days

prior to the scheduled hearing on the removal charges. The Charging Committee has complied and Respondent has not complied with this obligation. Specifically, Respondent filed nothing and the hearing is scheduled to begin on Monday, September 12, 2011.

Counsel for the Charging Committee has requested in his pleading that should the Council Court enter another order to Respondent to comply with Rule 8, and she fail to do so, that she be barred from introducing any evidence during the removal hearing.

Rules for courts, quasi-judicial bodies and administrative courts are promulgated for a purpose. The purpose, in part, is to provide necessary governance of court procedure and practice and to promote justice by ensuring a fair and expeditious process. Court rules are also necessary to provide parties, especially in civil matters, the opportunity to discover reliable and relevant evidence and to combat what is sometimes referred to as trial by ambush or surprise. The Rules used in this proceeding address these purposes adequately and fairly. Respondent's counsel has cited the Rules in prior arguments made in Respondent's behalf.

Respondent has ignored the Rules in connection with witnesses and exhibits. The Council Court's attorney, the Jefferson County Attorney, held a conference call on September 7th with counsel for the Charging Committee and Respondent and was advised by Respondent's counsel that he would file a response to Mr. Hovious' request by close of business September 8th. That was not done.

Entering an order precluding a party from being able to present evidence in a proceeding is an extraordinary and regrettable step. However, Respondent's blatant and unexcused non-compliance with the Rules of this proceeding leaves no other reasonable alternative.

Therefore, being sufficiently advised it is hereby **ORDERED** as follows:

1. The Charging Committee's request that Respondent be prohibited from introducing

any evidence at the scheduled removal hearing, either by witnesses or exhibits, is

GRANTED and it is so **ORDERED**.

2. The Council Court will convene at 12:30 p.m. on September 12, 2011 for further proceedings.

September 9, 2011
DATE

Kelly Downard
KELLY DOWNARD, CHAIR
METRO COUNCIL COURT

cc: Marianne Butler, Chair Pro Tem
Kathy Herron, Metro Council Clerk
Mike O'Connell, Jefferson County Attorney
Gregg Hovious, Counsel for Charging Committee
Derwin Webb, Counsel for Respondent Judy Green