

STATE OF INDIANA ) IN THE BARTHOLOMEW CIRCUIT COURT  
 )SS:  
COUNTY OF BARTHOLOMEW ) CAUSE NO.: 03C01-2309-MI-4658

ROSS THOMAS, in his capacity as Chairman )  
of the Bartholomew County Democratic Party, )  
Plaintiff, )  
 )  
v. )  
 )  
JOSEPH FOYST, )  
Defendant. )

**DEFENDANT, JAY FOYST’S, MOTION TO STAY ENTRY OF ORDER AND FOR LEAVE TO CONDUCT TARGETED DISCOVERY TO DETERMINE WHETHER AND WHEN BRYAN MUNOZ CEASED BEING A RESIDENT OF COLUMBUS DISTRICT 6**

Comes now Defendant, Joseph “Jay” Foyst, by counsel, George “Jay” Hoffman, III, and in support of Defendant, Jay Foyst’s, Motion to Stay Entry of Order and for Leave to Conduct Targeted Discovery to Determine Whether and When Bryan Munoz Ceased being a Resident of Columbus District 6, states:

1. July 16, 2024, the Indiana Court of Appeals handed down their opinion wherein they reversed the Trial Court’s ruling and remanded with instructions to declare Munoz the winner of the 2023 general election for District 6 of the Columbus Common Council.

2. Since that ruling new information has come to light, that, upon information and belief, Bryan Munoz left his previous job as the Band Director at Columbus North High School at the end of 2022, rented an apartment at Slate at Fishers District Luxury Villas and Townhomes in Fishers, Indiana, and sold his residence in Columbus District 6.

3. In support of the facts set forth in paragraph two, Defendant provides the following information:

**Director of Bands**

Columbus North High School  
Jun 2019 - Jan 2023 · 3 yrs 8 mos  
Columbus, Indiana



**Director Of Bands**

East Noble High School  
Jun 2011 - Jun 2019 · 8 yrs 1 mo



**Director of Bands**

Central Noble Middle and High School  
Jan 2010 - Jun 2011 · 1 yr 6 mos

Excerpt from Mr. Munoz's LinkedIn Profile.

Travel Consultants · Education: Indiana Wesleyan University's Adult Program · Location: Columbu...



Facebook

<https://www.facebook.com>



## Bryan Munoz

Bryan Munoz. □. Studied at Indiana Wesleyan University. □. Lives in Fishers, Indiana. □. From Fort Wayne, Indiana. □. Followed by 4 people....



Bryan's post



**Maria Layton Yang**

[Amanda Devine](#) a bit 😞

2d Like Reply



**Bryan Munoz**  
my return is imminent!

5h Like Reply

2



**Maria Layton Yang**  
[Bryan Munoz](#) awesome!!

5h Like Reply



Write a reply...



**Sara McGinnis Stein**  
Congratulations! Do you have to move back then, or can you serve from your current location?

2d Like Reply

Excerpts from Mr. Munoz's Facebook Profile and Message Board.

Bryan Muñoz, the Democratic nominee for District 6, said he has been renting a place in Fishers to temporarily be closer to work while the legal challenge over his opponent's candidacy was playing out but has been maintaining residence in District 6 with what he described as a "close family friend."

"As I was waiting for the challenge to play out, I started staying closer to work in Indianapolis, but I still have residence in District 6," Muñoz told The Republic on Friday. "So, when the time comes to be sworn in, I'll be a resident of District 6. It's obviously a complicated situation because of how slow the judicial process took."

On Tuesday, a panel of appellate court judges in the Indiana Court of Appeals unanimously ruled that Republican Joseph "Jay" Foyst was not a valid candidate in the 2023 municipal election for District 6 because the Bartholomew County Republican Party failed to "meet a statutory deadline for filing a vacancy on a general election ballot."

Excerpt from July 20, 2024, article in The Republic.



File No.: 2403015

## WARRANTY DEED

THIS INDENTURE WITNESSETH, That **Bryan M. Munoz** (Grantor), of Bartholomew County, in the State of Indiana, CONVEY AND WARRANT(S) to **Ian Hartung and Maddisyn Hartung, husband and wife** (Grantee) of Bartholomew County, in the State of Indiana, for the sum of Ten and 00/100 Dollars (\$10.00) and other valuable consideration, the receipt of which is hereby acknowledged, the following described real estate in Bartholomew County, in the State of Indiana (hereinafter called the "Real Estate"):

Lot Number Twelve (12) in Cedar Ridge Section One, an Addition to the City of Columbus, as recorded May 24, 1979 in Plat Book "J", page 73, in the Office of the Recorder of Bartholomew County, Indiana.

The Address of such real estate is 2622 Cedarcrest Dr., Columbus, IN 47203  
commonly known as: Parcel No.: 03-96-08-320-001.500-005 AND 03-96-07-410-000.300-005

Subject to any and all easements, highways, rights-of-way, covenants, conditions, restrictions and other matters of record.

Subject to all current, non-delinquent real estate taxes and assessments.

Subject to all matters that would be disclosed by an accurate survey or physical inspection of said real estate.

Tax bills should be sent to Grantee at such address unless otherwise indicated below.

Warranty Deed for sale of 2622 Cedarcrest Drive, Columbus, IN, the address Mr. Munoz continues to list on his voter registration with the Bartholomew County Clerk.

4. It is unclear at this time when Bryan Munoz rented the apartment in Fishers, Indiana.
5. If Mr. Munoz moved to Fishers prior to the election in November 2023, then a determination as to whether he "resided" in District 6 at the time of the election could have disqualified him from being a candidate for Columbus Council for District 6:

### **3-8-1-27. Common council member — Second and third class cities.**

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A candidate for membership on common council of a second or third class city must:

- (1) Have resided in the city for at least one (1) year; and
- (2) Have resided in the district in which seeking election, if applicable, for at least six (6) months; before the election.

6. If Mr. Munoz moved to Fishers after the election then a determination as to whether he “resided” in District 6 could disqualify him as a member of Columbus Common Council:

### **36-4-6-2. Common council — Qualifications — Election — Residence — Term.**

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(a) A common council, which is the city legislative body, shall be elected under IC 3-10-6 by the voters of each city.

(b) A person is eligible to be a member of the legislative body **only if the person meets the qualifications prescribed by IC 3-8-1-27.**

(c) Residency in territory that is annexed by the city before the person files a declaration of candidacy or petition of nomination is considered residency for the purposes of subsection (b), even if the annexation takes effect less than one (1) year before the election.

(d) A member of the legislative body **must reside** within:

- (1) The city as provided in *Article 6, Section 6 of the Constitution of the State of Indiana*; and
- (2) The district from which the member was elected, if applicable.

(e) A member **forfeits office if the member ceases to be a resident of the district** or city.

(f) The term of office of a member of the legislative body is four (4) years, beginning at noon on January 1 after the election and continuing until a successor is elected and qualified.

7. Article 6, Section 6, of the Indiana Constitution also mandates all town officers shall reside within their town:

### **§ 6. Residence of local officers. [Effective upon contingency being met]**

(a) Except as provided in subsection (b), all county, township, and town officers, shall reside within their respective counties, townships, and towns; and shall keep their respective offices at such places therein, and perform such duties, as may be directed by law.

(b) The judge of a city or town court shall reside in:

(1) the county in which the city or town court is located; or

(2) the bordering Indiana county that is the closest Indiana county to the city or town in which the city or town court is located, calculated by measuring the shortest distance from the city or town limits to the county line.

8. Ind. Code 3-5-2-42.5 defines “residence” as follows:

### **3-5-2-42.5. Residence.**

“Residence” means the place:

- (1) Where a person has the person’s true, fixed, and permanent home and principal establishment; and
- (2) To which the person has, whenever absent, the intention of returning.

9. Ind. Code 3-5-5-2 sets forth the manner in which a person’s residence may be established as follows:

### **3-5-5-2. Establishment of residence.**

A person’s residence may be established by:

- (1) Origin or birth;
- (2) Intent and conduct taken to implement the intent; or
- (3) Operation of law.

10. Defendant respectfully submits Justice dictates the Trial Court stay the declaration that Munoz was the winner of the 2023 general election for District 6 of the Columbus Common Council and Defendant respectfully requests the Trial Court also allow Defendant targeted discovery to determine when Mr. Munoz moved from Columbus to Fishers, and when Plaintiff in

this matter became aware of that move, since a determination of Mr. Munoz’s “residence” could have disqualified him as a candidate, which would have adversely affected Plaintiff’s standing and/or was a real party in interest with the capacity to even bring the underlying action under Trial Rule 17.

**WHEREFORE**, Defendant, Joseph “Jay” Foyst, respectfully requests the Trial Court stay the declaration of Munoz as the winner of the 2023 general election for District 6 Columbus Common Council and to allow targeted discovery as set forth herein, and for all other relief the Court determines is just and proper.

Respectfully submitted,  
**HOFFMAN & NEWCOMB**

*s/George Hoffman, III*  
George Hoffman, III  
Attorney No. 16430-49  
Lawyer for Defendant, Joseph “Jay” Foyst

**CERTIFICATE OF SERVICE**

I certify the forgoing document was electronically filed and served upon the following counsel of record via IEFS, this 24th day of July, 2024.

Mr. Ross Thomas, Esq.  
Counsel for Plaintiffs  
3601 North Pennsylvania Street  
Indianapolis, IN 46205

Respectfully submitted,

*s/George Hoffman, III*  
George Hoffman, III  
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