UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

Christopher Davis, *et al*.

Plaintiffs,

v.

Richard C. Grimes, in his official capacity as Chief of the Weymouth Police Department, *et al*.,

Defendants,

and

Commonwealth of Massachusetts,

Intervenor.

Civil Action No.
1:13-cv-10246-FDS

INTERVENOR COMMONWEALTH'S RESPONSE TO PLAINTIFFS' STATEMENT OF UNDISPUTED MATERIAL FACTS

Under Rule 56(c) and Local Rule 56.1, the Intervenor, Commonwealth of Massachusetts, hereby submits its response to Plaintiffs' Statement of Material Facts, Document 37. By submitting this response, the Commonwealth does not assert that any disputes of fact are material.

Paragraph 1

When Plaintiff Chris Davis applied for an LTC in March 2012, the instructions posted on the Weymouth Police Department's website said: "New & Renewals for a Class A LTC for Protection of Life or All Lawful Purposes must . . . be able to document that you have 'good reason to fear injury' as required by MGL Ch 140, Sec 131. Other permits will be for hunting and target."[Declaration of Chris Davis ("C. Davis Dec.")¶ 5 & Ex. 1; Joint Ex. X at ¶ 5]

Response 1: Not disputed**.**

Paragraph 2

However, when Mr. Davis showed this policy to Chief Grimes's designee, the designee said it was not the Police Department's current policy, and that the current policy had not been reduced to writing. [C. Davis Dec. ¶ 8]

Response 2: Not disputed.

Paragraph 3

In January 2013, and also at the time of this motion, the instructions for obtaining an LTC that are posted on the Police Department's website include the following statement on the first page, at paragraph 4: "New & Renewal Class A&B LTC's will be issued for Hunting and Target only." [Declaration of Thomas Bolioli ¶¶ 7-8 & Ex. 1; Joint Exhibit W at ¶ 4]

Response 3: Not disputed.

Paragraph 4

Chief Grimes disclaimed the above policy (state in paragraph 3) in discovery. [Chief Grimes's Answers to Plaintiffs' First Interrogatories, Joint Exhibit D at ¶ 5].

Response 4: Not disputed.

Paragraph 5

Former Defendant Chief Gemme of the Worcester Police Department previously had a policy of imposing sporting-type restrictions on all first-time LTC's, but he rescinded this policy and was dismissed from this lawsuit. [Stipulation (Doc. No 24) ¶¶ 2-4]

Response 5: The information set forth in the foregoing statement, even if true, is not material to the issues raised in this case. The Commonwealth is without sufficient knowledge to admit or deny information pertaining to a party that was dismissed from this case with prejudice. See Doc. 24.

Paragraph 6

During the pendency of this case, the Boston Globe *published an article [Brian MacQuarrie, "Want a gun license in Massachusetts? Much depends on where you live," Boston Globe (Mar. 10, 2013)] that detailed some Chiefs' practices, observing that some routinely issue unrestricted LTC's to qualified applicants, while others are "reluctant" to do so, others require a special showing, and other have adopted blanket policies. [Newspaper articles are self-authenticating under FRE 902(6). This newspaper article is available at http://www.boston.com/news/local/*

massachusetts/2013/03/10/want-gun-license-massachusetts-much-depends-where-you-live/04SFWtTEpGdtEHm5mTQuSO/singlepage.html]

6. Response: Disputed. The newspaper article is not in the record, and is not material to the plaintiffs' legal claims. See FRCP 56. It contains inadmissible hearsay, and is itself inadmissible hearsay. See FRE 802.

FRE 902(6) concerns the waiver of the requirement of extrinsic evidence to establish authenticity of a newspaper or periodical. The Commonwealth does not dispute the fact that the Boston Globe published the article, but the content of that article, which is what plaintiffs refer to and ask this Court to consider, does not fall within any hearsay exception provided by the FRE. See FRE 801-807.

MARTHA COAKLEY
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I hereby certify that this document was filed through the Electronic Case Filing (ECF) system and thus copies will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF); paper copies will be sent to those indicated on the NEF as non registered participants on or before July 31, 2013.

/s/ William W. Porter
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