OFFICE OF METRO COUNCIL CLERK DATE 10/27/17 TIME: 0020 SC

LOUISVILLE / METRO COUNCIL COURT

COMMONWEALTH OF KENTUCKY LOUISVILLE/METRO GOVERNMENT JEFFERSON COUNTY



### IN THE MATTER OF THE REMOVAL CHARGES AGAINST DISTRICT TWENTY-ONE COUNCILMAN DAN JOHNSON

ORDER	

This matter came before the Louisville Metro Council Court ("Council Court"), on Respondent's Applications for Subpoenas to compel the attendance of nineteen (19) witnesses. Respondent also seeks to compel the production of documents and things with Subpoenae Duces Tecum on those same witnesses. This Court having considered the applications and being otherwise sufficiently informed, it provides as follows:

### **SUBPOENAS**

The Council Court has implied authority to issue subpoenas and compel testimony in the procedure for removal once formal charges were issued by the Charging Committee. See Stansbury v. Maupin, 599 S.W.2d 170, 172 (Ky. 1980). Louisville Metro Council Removal Hearings and Procedures. Rule 15, entitled Subpoenas, provides:

Upon a showing or proper need at the request of the Charging Committee or the Respondent, the Council Court shall issue subpoenas over the signature of the Chair to compel the attendance of witnesses or the production of documents or other documentary evidence in conjunction with the Council Court's hearing on the removal charges. Applications for subpoenas shall set forth the substance of the anticipated proof or relevance of the documentary evidence or testimony to be obtained and the need therefore in support of the application.

Removal Rule 15 [emphasis supplied].

Given that the following witnesses are either parties to this matter, have provided affidavits, were listed as witnesses by both parties, or have been identified in the Complaint or

Exhibits tendered by the Charging Committee (thereby putting their testimony at issue), a proper showing has been found and subpoenas shall issue for the following:

- RICK BLACKWELL
- SARAH DAVASHER
- CHRIS DOOLIN
- ROBIN ENGLE
- STEVE GAHAFER
- NICOLE GEORGE
- JESSICA GREEN
- ERIN HINSON
- ELIZABETH HOFFMAN
- ANGELA LEET
- KENT OYLER
- JOAN STEWART
- DAVID TANDY
- DAVID YATES

The Council Court will not act as a serving agent for these subpoenas. It will be incumbent upon the Respondent's representative to serve the same.

With regard to the following individuals, who were requested to be subpoenaed by Respondent, but did not appear in the Complaint or exhibits thereto, and where, more importantly, there was no particularized showing of proper need in compliance with Rule 15, subpoenas will not issue for the following based on the reasons stated below:

- PHILLIP BAILEY. No showing of particularized or proper need was made for Mr. Bailey and, as such a subpoena shall not issue. Additionally, this Court notes that Mr. Bailey is a protected person within the ambit of KRS § 421.100 and he cannot be compelled to testify as to his sources of information. Moreover, while Respondent makes mere mention of "exculpatory information" as a basis to examine Mr. Bailey and his books and papers, it does not appear that Respondent has any good faith belief that such material exists and is merely seeking to examine this reporter as part of a fishing expedition. Finally, Mr. Bailey's published sources—that is, those that have provided statements to the press that they have relevant evidence in this matter—would be subject to process making Mr. Bailey unnecessary in this matter.
- <u>JANE DOE</u>. The Council Court cannot issue a Subpoena in the name of an unknown. Should the testimony of Ms. Sarah Davasher reveal the name of Jane

Doe and a particularized showing of need regarding Jane Doe is made by Respondent, the Council Court will consider issuing a subpoena. The Charging Committee's Complaint at Paragraph 11 has made this person's testimony germane to this determination.

- <u>GREG FISCHER</u>. The Respondent has not made a particularized showing of need with regard to this witness. The mere attendance at the event does not establish that the mayor has relevant testimony regarding the allegations contained in the complaint.
- <u>BILL HOLLANDER</u>. The Respondent has not made a particularized showing of need with regard to these witnesses. While Respondent has alleged in his application that Jessica Green has spoken to them confidentially, the substance of these supposed confidential communications was not stated and there has been no showing that questioning Councilwoman Green herself would not satisfy Respondent's need.
- PAT MULVIHILL. The Respondent has not made a particularized showing of need with regard to these witnesses. While Respondent has alleged in his application that Jessica Green has spoken to them confidentially, the substance of these supposed confidential communications was not stated and there has been no showing that questioning Councilwoman Green herself would not satisfy Respondent's need. In addition, "A legislative decision-maker will not be disqualified simply because he or she has taken a public position on a policy issue related to the dispute, or demonstrated a bias or pre-disposition toward a certain result." Warren County Citizens for Managed Growth, Inc. v. Bd. of Commissioners of Bowling Green, 207 S.W.3d 7, 17 (Ky. App. 2006) (citing Hilltop Basic Resources Inc. v. County of Boone, 180 S.W.3d 464 (Ky. 2005).

### SUBPOENA DUCES TECUM

The same particularized showing required for the issuance of a subpoena in this matter is likewise required of the Subpoena Duces Tecum requesting the production of papers and things. In this regard, Respondent's application is deficient. Respondent appears to merely issue a Subpoena Duces Tecum upon these witnesses as an afterthought. Again, Rule 15 provides, in pertinent part,

Applications for subpoenas shall set forth the substance of the anticipated proof or relevance of the documentary evidence or testimony to be obtained and the need therefore in support of the application

Given that there has been no showing of need or the substance of the anticipated proof, the requests for Subpoenae Duces Tecum are hereby DENIED.

President David Yates

Chair, Metro Council Court

Copies to:

Chair Pro Tem, Bill Hollander

Members, Council Court

Matthew Golden, Assistant Jefferson County Attorney

Sarah Martin, Assistant Jefferson County Attorney

Jamie McKiernan, Assistant Jefferson County Attorney

Annale Renneker, Assistant Jefferson County Attorney

Deborah Kent, Counsel for Charging Committee

Thomas McAdam, Counsel for Respondent Dan Johnson



### SUBPOENA DUCES TECUM

Commonwealth of Kentucky Louisville/Metro Government Jefferson County

# In the Matter of the Removal Charges Against Councilman DAN JOHNSON

1.	Louisvi 601 We	ick Blackwell lle Metro Council lle City Hall st Jefferson Street lle, Kentucky 40202	OFFICE OF METRO COUNCIL CLERK RECEIVED DATE 10/22/19 TIME: 0020
2.	You are commanded to appear before/produce do  Louisville Metro Council Court  Louisville Metro Council Chambers  601 West Jefferson, 3 <sup>rd</sup> Floor  Louisville, Kentucky 40202  Date:Wednesday, November 1, 2017		ne:1:00 p.m
3.	Dan Johnson	Γhe Charging Commit	ree 🗹 The Respondent, Councilman
••	produce documents/	and/or other tangible is	tems
	You are required to bring with you any on	d all documents, men	toranda, emails, communications,
ph thi			Johnson, or the subject matter of
5.	Signature & Title of Issuing Officer  What Com	Thomas A. McAdai 2950 Breckenridge Louisville, Kentuck	
	Date 10/26/17		Name of Requesting Party
		Telephone No	. (502) 584-7255
	PDOC	DE OF SERVICE	
	PROC	OF OF SERVICE	
6.	Served by delivery of a true copy to:		
	or reason not served:		
	This day of	, 2017	

By Officer:

day of



### SUBPOENA DUCES TECUM

Commonwealth of Kentucky Louisville/Metro Government Jefferson County

## In the Matter of the Removal Charges Against Councilman DAN JOHNSON

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2. You are commanded to appear before/produce doc  Louisville Metro Council Court  Louisville Metro Council Chambers  601 West Jefferson, 3 <sup>rd</sup> Floor  Louisville, Kentucky 40202	uments/or other tangible evidence for use at:		
Date: Wednesday, November 1, 2017	Time: 1:00 p.m.		
3. To appear /testify/ produce on behalf of: The Dan Johnson	he Charging Committee 🗹 The Respondent, Councilman		
. You are required to: ☑ testify ☑ produce documents/and/or other tangible items			
	all documents, memoranda, emails, communications,		
this hearing.	ng Councilman Dan Johnson, or the subject matter of		
Signature & Title of Issuing Officer ov Mohr Cand	Thomas A. McAdam, III, Attorney at Law 2950 Breckenridge Lane, Suite 9 Louisville, Kentucky 40220		
Date / 8 / 26 / 17	Name of Requesting Party		
	Telephone No. (502) 584-7255		
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	Orbertee		
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or reason not served:			

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### **SUBPOENA**

Commonwealth of Kentucky Louisville/Metro Government Jefferson County

	In the Matter of the Removal Charg	ges Against Cou	ncilman DAN JOHNSON
1.	Departmen Louisville 501 West J	Doolin nt of Public Works Metro Hall Jefferson Street Kentucky 40202	OFFICE OF METRO COUNCIL CLERK RECEIVED DATE 10/22/17 TIME: 0020 10
2.	You are commanded to appear before/produce docur  Louisville Metro Council Court  Louisville Metro Council Chambers  601 West Jefferson, 3 <sup>rd</sup> Floor  Louisville, Kentucky 40202  Date: Wednesday, November 1, 2017		e evidence for use at:  ne: 1:00 p.m.
	The state of the s		1.00 p.m.
3.	Dan Johnson		ee 🗹 The Respondent, Councilman
5.	Signature & Title of Swing Office Con  Date    5   26   7	2950 Breckenridge Louisville, Kentuck	
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		OF SERVICE	
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	This day of	, 2017	

By Officer:



### **SUBPOENA** -DUCES TECUM

Commonwealth of Kentucky Louisville/Metro Government Jefferson County

	In the Matter of the Removal Ch	arges Against Cou	ncilman DAN JOHNSON
1.	Louisvi 601 We	Robin Engle ille Metro Council ille City Hall est Jefferson Street ille, Kentucky 40202	OFFICE OF METRO COUNCIL CLERK RECEIVED DATE 10/27/12 TIME: 2020 ×
2.	You are commanded to appear before/produce do  Louisville Metro Council Count  Louisville Metro Council Chambers  601 West Jefferson, 3 <sup>rd</sup> Floor  Louisville, Kentucky 40202  Date: Wednesday, November 1, 2017	ocuments/or other tangible	
3.	To appear /testify/ produce on behalf of: Dan Johnson	The Charging Committe	ee 🗹 The Respondent, Councilman
4.	You are required to: ☑ testify ☑ produce documents/	and/or other tangible it	ems
ph thi	You are required to bring with you any an otographs, or audio or video recordings related to bearing.	d all documents, mem ting Councilman Dan	oranda, emails, communications, Johnson, or the subject matter of
5.	Signature & Tiple of Issuing Officer Me ho Cour	Thomas A. McAdam 2950 Breckenridge L Louisville, Kentucky	
	Date / 26/17	Telephone No.	Name of Requesting Party (502) 584-7255
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### **SUBPOENA** DUCES TECUM

Commonwealth of Kentucky Louisville/Metro Government Jefferson County

	In the Matter of the Removal Cha	rges Against Councilman DAN JOHNSON
1.	Arthur l 219 Wes	ve Gahafer President Kling Center st Ormsby Avenue le, Kentucky 40203  OFFICE OF METRO COUNCIL CLERK RECEIVED DATE 10/20/17 TIME: 2020 A. Cla
2.	You are commanded to appear before/produce doc Louisville Metro Council Court Louisville Metro Council Chambers 601 West Jefferson, 3 <sup>rd</sup> Floor Louisville, Kentucky 40202	cuments/or other tangible evidence for use at:
	Date: Wednesday, November 1, 2017	Time:1:00 p.m
3.	To appear /testify/ produce on behalf of: The Dan Johnson	The Charging Committee  The Respondent, Councilman
4.		and/or other tangible items
plo thi		all documents, memoranda, emails, communications, ing Councilman Dan Johnson, or the subject matter of
5.	Signature & Title of Issuing Officer	Thomas A. McAdam, III, Attorney at Law 2950 Breckenridge Lane, Suite 9 Louisville, Kentucky 40220
	Date 60/36/17	Name of Requesting Party  Telephone No. (502) 584-7255
	PROO	F OF SERVICE
6.	Served by delivery of a true copy to:	
	or reason not served:	
	This day of	, 2017



Commonwealth of Kentucky Louisville/Metro Government Jefferson County

# In the Matter of the Removal Charges Against Councilman DAN JOHNSON

1.	Uni 221	Nicole George at School of Social Work versity of Louisville, Belknap Campus 7 South Third Street disville, Kentucky 40208  OFFICE OF METRO COUNCIL RECEIVED DATE 10/23/12 TIME: 020
2.	You are commanded to appear before/produce  Louisville Metro Council Court  Louisville Metro Council Chambers  601 West Jefferson, 3 <sup>rd</sup> Floor  Louisville, Kentucky 40202	e documents/or other tangible evidence for use at:
	Date:Wednesday, November 1, 20	Time:1:00 p.m
3.	To appear /testify/ produce on behalf of: Dan Johnson	The Charging Committee   The Respondent, Councilman
4.	1	nts/and/or other tangible items
ph thi		and all documents, memoranda, emails, communications, relating Councilman Dan Johnson, or the subject matter of
5.	Signature & Title of Issuing Officer	Thomas A. McAdam, III, Attorney at Law 2950 Breckenridge Lane, Suite 9 Louisville, Kentucky 40220
	Date 10/20/17	Name of Requesting Party  Telephone No. (502) 584-7255
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	or reason not served:	
	This day of	, 2017
	By Officer:	Title

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By Officer:



# SUBPOENA DUCES TECUM

Commonwealth of Kentucky Louisville/Metro Government Jefferson County

	In the Matter of the Removal Charges Against Councilman DAN JOHNSON			
1.	The Louisville Metro Council Court to:	: Hon. Jessica Green Louisville Metro Council Louisville City Hall 601 West Jefferson Street Louisville, Kentucky 40202	OFFICE OF METRO COUNCIL CLERK RECEIVED DATE 10/21/17 TIME: 2020 SQ	
2.	You are commanded to appear before/pr  Louisville Metro Council Court  Louisville Metro Council Chambers  601 West Jefferson, 3 <sup>rd</sup> Floor  Louisville, Kentucky 40202	roduce documents/or other tangible	le evidence for use at:	
	Date:Wednesday, November 1	<u>1, 2017</u> Tir	me: <u>1:00 p.m.</u>	
3.	3. To appear /testify/ produce on behalf of: The Charging Committee ☑ The Respondent, Councilman Dan Johnson			
4.	<ul> <li>You are required to:</li></ul>			
	You are required to bring with you			
	otographs, or audio or video recording incaring.	ngs relating Councilman Dan	Johnson, or the subject matter of	
5.	Paus Sou Meho Courl Signature & Tible of Issuing Officer	Thomas A. McAdar 2950 Breckenridge Louisville, Kentuck		
	Date (1) (26/17		Name of Requesting Party	
		Telephone No	. (502) 584-7255	
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### **SUBPOENA** DUCES TECUM

Commonwealth of Kentucky Louisville/Metro Government Jefferson County

	In the Matter of the Removal Charges Against Councilman DAN JOHNSON			
1.	Louisville 601 West	Hinson e Metro Council e City Hall Jefferson Street e, Kentucky 40202	OFFICE OF METRO COUNCIL CLERK RECEIVED DATE 10/27/12 TIME: 0020 100	
2.	You are commanded to appear before/produce doct Louisville Metro Council Count Louisville Metro Council Chambers 601 West Jefferson, 3 <sup>rd</sup> Floor Louisville, Kentucky 40202	iments/or other tangil	ble evidence for use at:	
	Date: <u>Wednesday, November 1, 2017</u>	T	ime: 1:00 p.m.	
3.	3. To appear /testify/ produce on behalf of: The Charging Committee ☑ The Respondent, Councilman Dan Johnson			
4.	<ul> <li>4. You are required to:</li></ul>			
	You are required to bring with you any and all documents, memoranda, emails, communications,			
-	stographs, or audio or video recordings relations in the straige.	ng Councilman Da	n Johnson, or the subject matter of	
5.	Signature & Title of Issuing Officer Man Court	Thomas A. McAda 2950 Breckenridge Louisville, Kentuc		
	Date (1)		Name of Requesting Party	
		Telephone N	To. (502) 584-7255	
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By Officer:

day of



### **SUBPOENA** DUCES TECUM

Commonwealth of Kentucky Louisville/Metro Government Jefferson County

In the Matter of the Remove	al Charges Against Counc	ilman DAN JOHNSON	
	Ms. Elizabeth Hoffman Louisville Metro Council Louisville City Hall 601 West Jefferson Street Louisville, Kentucky 40202	OFFICE OF METRO COUNCIL CLERK RECEIVED DATE 10/21/17 TIME: 2020 LOG	
2. You are commanded to appear before/pro  Louisville Metro Council Court  Louisville Metro Council Chambers  601 West Jefferson, 3 <sup>rd</sup> Floor  Louisville, Kentucky 40202  Date:Wednesday, November 1,			
3. To appear /testify/ produce on behalf of: The Charging Committee ☑ The Respondent, Councilman Dan Johnson			
. You are required to: ☑ testify ☑ produce documents/and/or other tangible items			
•	and all documents memor	anda amaila aans itations.	
Signature & Title of Issuing Officer Court	Thomas A. McAdam, Il 2950 Breckenridge Lan- Louisville, Kentucky 40	e, Suite 9	
Date 60/26/17	N	ame of Requesting Party	
	Telephone No. (	502) 584-7255	
	PROOF OF SERVICE		
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### **SUBPOENA** DUCES TECUM

Commonwealth of Kentucky Louisville/Metro Government Jefferson County

	In the Matter of the Removal Char	ges Against Cou	ncilman DAN JOHNSON
1.	Louisville 601 West	gela Leet Metro Council City Hall Jefferson Street , Kentucky 40202	OFFICE OF METRO COUNCIL CLERK RECEIVED DATE 10/27/12 TIME: 0020 10
2.	You are commanded to appear before/produce docu  Louisville Metro Council Court  Louisville Metro Council Chambers 601 West Jefferson, 3 <sup>rd</sup> Floor  Louisville, Kentucky 40202  Date:Wednesday, November 1, 2017		le evidence for use at: me: 1:00 p.m.
3.	To appear /testify/ produce on behalf of: The Dan Johnson	e Charging Commit	tee 🗹 The Respondent, Councilman
4.	You are required to: ☑ testify ☑ produce documents/an	d/or other tangible i	tems
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5.	Signature & Title of Issuing Officer le fro Council	Thomas A. McAda 2950 Breckenridge Louisville, Kentuck	
	Date 10/36/17	Telephone No	Name of Requesting Party  D. (502) 584-7255
	PROOF	OF SERVICE	
6.	Served by delivery of a true copy to:		
	or reason not served:		
	This day of	, 2017	



### **SUBPOENA** DUCES TECUM

Commonwealth of Kentucky Louisville/Metro Government Jefferson County

	in the Matter of the Removal Char	ges Against Cou	nciiman dan Johnson
1.	Greater I 614 West	t Oyler ecutive Officer Louisville, Inc. Main Street e, Kentucky 40202	OFFICE OF METRO COUNCIL CLERK RECEIVED DATE 10/22/17 TIME: 2020 1 Co
2.	You are commanded to appear before/produce docu  Louisville Metro Council Count  Louisville Metro Council Chambers  601 West Jefferson, 3 <sup>rd</sup> Floor  Louisville, Kentucky 40202	iments/or other tangib	le evidence for use at:
	Date: Wednesday, November 1, 2017	Tiı	me: 1:00 p.m.
3.	To appear /testify/ produce on behalf of: The Dan Johnson	e Charging Committ	tee 🗹 The Respondent, Councilman
4.	<ul> <li>You are required to:</li></ul>		
ph thi			Johnson, or the subject matter of
5.	Signature & Title of ssuing Officer Metro Court	Thomas A. McAdar 2950 Breckenridge Louisville, Kentuck	
	Date 10/26/17	Telephone No	Name of Requesting Party  2. (502) 584-7255
	PROOF	OF SERVICE	
6.	Served by delivery of a true copy to:	or service	
	or reason not served:		
	This day of	, 2017	

By Officer:

day of



### **SUBPOENA DUCES TECUM**

Commonwealth of Kentucky Louisville/Metro Government Jefferson County

In the Matter of the Removal Charges Against Councilman DAN JOHNSON						
1.	Arthur 219 Wes	nn Stewart ve Director Kling Center st Ormsby Avenue lle, Kentucky 40203	OFFICE OF METRO COUNCIL CLERK RECEIVED DATE 10/27/17 TIME: 0020 SO			
2.	You are commanded to appear before/produce doctorise Metro Council Court  Louisville Metro Council Chambers  601 West Jefferson, 3 <sup>rd</sup> Floor  Louisville, Kentucky 40202  Date: Wednesday, November 1, 2017					
	Date: Wednesday, November 1, 2017	Time	e:1:00 p.m			
<ul> <li>3. To appear /testify/ produce on behalf of: The Charging Committee ☑ The Respondent, Councilman Dan Johnson</li> <li>4. You are required to: ☑ testify ☑ produce documents/and/or other tangible items</li> <li>You are required to bring with you any and all documents, memoranda, emails, communications, photographs, or audio or video recordings relating Councilman Dan Johnson, or the subject matter of this hearing.</li> </ul>						
5.6	Signature & Title of Issuing Officer	Thomas A. McAdam, I 2950 Breckenridge Lar Louisville, Kentucky 4	e, Suite 9			
·	Date / 56/17	Telephone No.	fame of Requesting Party (502) 584-7255			
	7000					
6. Served by delivery of a true copy to: or reason not served:						

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# SUBPOENA DUCES TECUM

Commonwealth of Kentucky Louisville/Metro Government Jefferson County

## In the Matter of the Removal Charges Against Councilman DAN JOHNSON

In the Watter of the Removal Charges Against Councilman DAN JOHNSON							
1.	Bingham, 3500 PNC 101 South	Greenbaum, Doll, LLP OFFICE OF METRO COUNCIL CLER					
2.	2. You are commanded to appear before/produce documents/or other tangible evidence for use at:  Louisville Metro Council Chambers  Louisville Metro Council Chambers  601 West Jefferson, 3 <sup>rd</sup> Floor  Louisville, Kentucky 40202						
	Date:Wednesday, November 1, 2017_	Time:1:00 p.m					
3.	To appear /testify/ produce on behalf of: The Charging Committee  The Respondent, Councilman Dan Johnson						
4.	<ul> <li>You are required to:</li></ul>						
You are required to bring with you any and all documents, memoranda, emails, communications, photographs, or audio or video recordings relating Councilman Dan Johnson, or the subject matter of this hearing.							
5.	Signature & Title of Issuing Officer	Thomas A. McAdam, III, Attorney at Law 2950 Breckenridge Lane, Suite 9 Louisville, Kentucky 40220					
	Date/0/36/17	Name of Requesting Party Telephone No. (502) 584-7255					
PROOF OF SERVICE							
ó.	Served by delivery of a true copy to:						
	or reason not served:						
	This day of	, 2017					
	By Officer:	Title					



# SUBPOENA DUCES TECUM

Commonwealth of Kentucky Louisville/Metro Government Jefferson County

## In the Matter of the Removal Charges Against Councilman DAN JOHNSON

		8					
1.	Louisville 601 West	rid Yates Metro Council City Hall Jefferson Street , Kentucky 40202	OFFICE OF METRO COUNCIL CLERK RECEIVED DATE 10/27/17 TIME: 5020 S.C.				
2.	You are commanded to appear before/produce documents/or other tangible evidence for use at:  Louisville Metro Council Court  Louisville Metro Council Chambers 601 West Jefferson, 3 <sup>rd</sup> Floor  Louisville, Kentucky 40202						
	Date:Wednesday, November 1, 2017	Tim	e:1:00 p.m.				
3.	3. To appear /testify/ produce on behalf of: The Charging Committee 🗹 The Respondent, Councilman Dan Johnson						
4.	<ul> <li>You are required to:</li></ul>						
You are required to bring with you any and all documents, memoranda, emails, communications, photographs, or audio or video recordings relating Councilman Dan Johnson, or the subject matter of this hearing.							
5.	Signature & Title of Issuing Officer Cours	Thomas A. McAdam, 2950 Breckenridge La Louisville, Kentucky	ine, Suite 9				
	Date 10/04/17		Name of Requesting Party (502) 584-7255				
PROOF OF SERVICE							
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5.	Served by delivery of a true copy to:						
	or reason not served:						
	This day of	, 2017					