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**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

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**LOUIS CAPRA** )  
 )  
 **Plaintiff,** )  
 )  
 **v.** )  
 )  
 **COOK COUNTY BOARD OF REVIEW,** )  
 **LARRY ROGERS, JR.,** )  
 **JOSEPH BERRIOS,** )  
 **BRENDAN F. HOULIHAN,** )  
 **SCOTT M. GUETZOW,** )  
 **JOHN P. SULLIVAN,** )  
 **THOMAS A. JACONETTY,** )  
 )  
 **Defendants.** )

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**PLAINTIFF'S COMPLAINT**



Plaintiff Louis Capra represented by his attorneys, R. Tamara de Silva and Jonathan Lubin, respectfully states his Complaint against the Cook County Board of Review, Larry Rogers, Jr., Joseph Berrios, Brendan F. Houlihan, Scott M. Guetzow, John P. Sullivan, Thomas A. Jaconetty, (“Defendants”) as follows:

### **INTRODUCTION**

1. This is a civil rights action brought pursuant to 42 U.S.C. § 1983 et. Seq., the Judicial Code, 42 U.S.C. § 1355, 28 U.S.C. §§ 1331, 1343(a) and 1367, and the First, Fourth, Fifth, Fourteenth Amendments of the Constitution of the United States as incorporated and applied to state governments and the Illinois State Constitution.
2. The Plaintiff is seeking damages against the Defendants for depriving Plaintiff while acting under the color of law as elected officials of the Cook County Board of Review, of rights secured by the Constitution and laws of the United States of America.

### **JURISDICTION AND VENUE**

3. This is a civil rights action brought pursuant to 42 U.S.C. § 1983 et. Seq., the Judicial Code, 42 U.S.C. § 1355, 28 U.S.C. §§ 1331, 1343(a) and 1367, and the First, Fourth, Fifth, Fourteenth Amendments of the Constitution of the

United States as incorporated and applied to state governments and Illinois State Constitution.

4. This Court has jurisdiction pursuant to the Judicial Code, 28 U.S.C. §§ 1331, 1343(a) and 1367 and under the doctrine of pendent jurisdiction.
5. Venue is proper pursuant to Judicial Code, 28 U.S.C. § 1391(b) because all defendants reside in this District.

### **PARTIES**

6. Louis Capra is a resident of Cook County, Illinois and owns real property in Cook County.
7. Cook County is an Illinois municipality located within the Northern District of Illinois. The Cook County Board of Review (“the Board”) is a government office of Cook County.
8. Defendants Larry R. Rogers, Jr., Joseph Berrios and Brendan F. Houlihan, are Commissioners at the Board of Review, who are sued in their individual capacities for actions they took by virtue of their authority as Commissioners of the Board of Review acting within the scope of their employment and elected office.
9. Defendant Scott M. Guetzow is Chief Deputy Commissioner of the Board of Review and is sued in his individual capacity for actions he allegedly took by virtue of his employment at the Board of Review.

10. Thomas A. Jaconetty and John P. Sullivan are both First Assistant Commissioners at the Board of Review and are sued in their individual capacities for actions they allegedly took by virtue of their employment and office at the Board of Review.

### **FACTUAL ALLEGATIONS**

11. The Cook County Board of Review's (the "Board") role is to hear appeals of property tax valuations made by the Cook County Assessor's office. The Board does not have original jurisdiction over property valuations. It only hears appeals. The Assessor's office estimates the value of each property in Cook County. Property taxes are based upon the assessment of the Assessor's office. Property owners elect to appeal their assessments to the Board.
12. Illinois law at 35 ILCS 200/9-145 *et. seq.* (specifically notes 30, 22-35) suggests that the Board of Review use three or four set methods by which to determine whether the assessed taxes on a property should be raised, lowered or kept the same.
13. The Illinois Constitution mandates that, taxes upon real property must be levied uniformly by valuation.
14. The Board of Review Defendants have no consistently applied or set method for the adjudication of tax appeal claims.

15. The Board of Review Defendants have established and institutionalized a system of pay for play wherein real estate tax appeal lawyers that contribute to the campaign funds and campaign committees of the Commissioners achieve better results for their clients than non-contributing lawyers and non-contributing taxpayers.
16. There is virtually no statutory check or balance on their functions as Commissioners of the Cook County Board of Review to employ the Board of Review as a means to breathtakingly unabashed self-dealing, capriciousness and corruption that is contrary to the law and above the law.
17. When the Plaintiff appealed his 2007 property taxes, the Board of Review's Commissioners, lowered the property's valuation such that it would save over \$45,000.00 per year.
18. In or around spring of 2009, Fox News and an internet blog, the Illinois Review raised questions about undue influence at the Board of Review.
19. The story ran on the Illinois Review, a sensationalistic blog, by transforming Rep. Froehlich into an instant pariah and generating a great deal of McCarthy-esque bad publicity surrounding Rep. Froehlich, and all those who were alleged to be guilty by mere association to him, including the Plaintiff.
20. Upon information and belief, the Defendants decided to make a scapegoat out of the Plaintiff by engaging in a campaign of character assassination for the purposes of political gain and the appearance of clean hands because of scrutiny upon the Defendants by the news

media, an internet blog and specifically the Cook County State's Attorney's Office.

21. Plaintiff never engaged in any illegal or improper behavior with Rep. Paul Froehlich and does not even know Rep. Froehlich. Defendants proceeded on the mistaken and arbitrary assumption that Plaintiff was somehow connected to Froehlich; but this was not true.
22. Rep. Froehlich never promised Plaintiff a reduction in their property taxes in exchange for campaign contributions.
23. Rep. Froehlich is not a Commissioner on the Board of Review, and does not have the authority to grant a property tax rate reduction. The only people who had the authority to hear appeals from the Assessor's assessment are the three Commissioners named in this civil rights action.
24. In response to the Fox News Report, and the Illinois Review postings, and for the appearance of clean hands, the Board required Plaintiff to appear and answer questions regarding his relationship with Rep. Froehlich.
25. The Board used the United States mails to fraudulently induce the appearance of the Plaintiff at these hearing all the while disguising their real purpose.
26. The Board required Plaintiff to appear through counsel or otherwise on June 18, 2009 ostensibly they said to discuss the assessment appeal. However, instead of asking any questions about the assessment, and the value of the properties in question, Defendants, in apparent homage to Torquemada, asked

repeated questions about the relationship between property owners and Rep. Froehlich.

27. At no time did the Defendants bother to question Rep. Froehlich or report the results of any internal investigation of their own “protocol” for the adjudication of real estate tax appeals.
28. The Defendants did not ask whether Plaintiff had given money or other consideration to Rep. Froehlich in return for property tax reductions.
29. At no time was the Rep. Froehlich the subject of a subpoena, indictment or investigation.
30. At no time was the Plaintiff the subject of a subpoena, indictment or investigation.
31. Not even at the Board’s impromptu hearings was there any testimony taken under oath suggesting that the Plaintiff exercises illegal influence over the Board through Rep. Froehlich, or otherwise.
32. Despite the lack of any evidence suggesting that the 2007 and 2008 assessments were overly high, the Board arbitrarily rescinded the reduction in property taxes that it itself granted close to one year prior, affecting the 2008 and 2009 appraisals of the Plaintiff’s property, stating simply, “we can do anything we want.”
33. Defendant Guetzow summarized his colleagues’ positions when he said, on June 18, 2009, that the concern regarding Plaintiff was “a larger issue between the relationship between the people involved” (in other words, the suspicion

of a relationship between the Plaintiff and Rep. Froehlich and suspected associates of Rep. Froehlich).

34. Every American has a Constitutional right to associate with any political candidate or person without fear that their choice of association will earn them higher taxes.
35. Plaintiff was selected in McCarty-esque manner, out of every property owner in Cook County merely for his suspected association with Rep. Froehlich.
36. Similarly situated property owners, who were not thought to have an association with Rep. Froehlich or even people thought to be associated with Rep. Froehlich, were not singled out thusly.
37. The new assessment generated by the Board of Review did not accurately reflect the property's actual value, as evidenced by the fact that the Board of Review itself, before discriminatorily singling out Plaintiff, found that the property was worth significantly less.
38. Plaintiff appealed their decision to the Illinois Property Tax Appeal Board ("PTAB"). However, PTAB has not rendered any decision. It appears that PTAB will not render any decision for an unconscionably long time, if ever. On information and belief, the Board has already red-flagged Plaintiff's case with PTAB.
39. On information and belief, the denial of any subsequent property tax appeal before the Board was as a result of Plaintiff's relationship with Rep. Froehlich, and not due to the merits of Plaintiff's appeal.

40. Like the 2009 decision to rescind Plaintiff's rate-change, this decision was in retaliation against Plaintiff for being thought to be affiliated with, and donating to, the campaign of Rep. Paul Froehlich or other political reasons - not having to do with the statutory bases for adjudicating tax appeals.
41. Similarly situated taxpayers who were not suspected of associating with Rep. Paul Froehlich were not denied the right to petition the Board of Review.
42. Both in 2009, and 2010, Plaintiff was never given an opportunity to have his appeal heard on the merits. Instead, Defendants denied Plaintiff the due process owed to them under the Constitution of the United States.
43. Under Illinois law, property owners may either appeal to PTAB or to the Circuit Court but not both.
44. Though Plaintiff appealed the 2009 decision (affecting the 2008 property taxes) to PTAB, PTAB does not have the authority to review issues of substantive due process or equal protection, and Plaintiff's choice of either venue is Hobson's choice itself.
45. Therefore, the Board's decision will be granted undue deference before PTAB, if PTAB ever even gets around to hearing Plaintiff's appeal of the 2009 decision.
46. Upon information and belief, PTAB may take up to seven or eight years to reach a decision on Plaintiff's 2008 appeal, another seven to eight years for 2009 and so on. It may take up to another two to four years after PTAB's decision for the Plaintiff to get his money back. The Plaintiff has paid his

assessed taxes before appealing, but may have to wait up to ten or twelve years on each year appealed to get their over-payment of assessed taxes back (Plaintiff may have to wait until 2017 for their 2008 appeal to PTAB, 2018 for their 2009 appeal, 2019 for 2010, etc.).

47. Commissioners of the Board are powerful members of the Cook County Democratic Party and exert political influence over the State judiciary. The Plaintiff cannot expect justice in this matter in Circuit Court because there are inherent conflicts of interests between many members of the State judiciary and at least two of the Defendants.
48. Joseph Berrios has been Chairman of the Cook County Democratic Party for over four years. He has been a Committeeman of the Cook County Democratic Party for over eighteen years. The Cook County Democratic Party slates all democratic judicial candidates in countywide elections and in the Subcircuits of Cook County. Mr. Berrios was also Vice Chairman of Slating for the Judiciary Committee of the Cook County Democratic Party for almost a decade. Upon information and belief, he has been involved in slating over two hundred of the approximately four hundred and forty-five circuit court judges and the appointment of many others for the past twenty-two years.
49. Slating of judicial candidates is a distinctly political process that has shown a very high correlation if not being the cause of success in a judicial election.

50. The political process of slating of judges creates an inherent conflict of interest based upon as in all political exchanges an implied or understood system of favors. This presents a real problem for the Plaintiff were he thrown into State court suing politically powerful Defendants for civil rights violations.
51. The election of state judges in Cook County is a distinctly more political process far different from the appointment of Federal Judges. While the election and appointment of judges at any level and in any jurisdiction is not an apolitical process-it is far more politically so in Cook County. Many, if not most of the state judges elected in Cook County were slated by the Democratic Party of Cook County. Non-slated candidates for judgeship are rarely successful in Cook County.
52. There is a great likelihood that in state court, Plaintiff would be before a judge who owes his position, in some way, to the political party currently chaired by Defendant Joseph Berrios. This creates an inherent conflict of interest for many of the state judges who would have heard an appeal brought before them or this very action.
53. The Cook County Democratic Party's tentacles of influence pierce all branches of government from the legislature to the judiciary constituting a vast combine with considerable influence.
54. Defendant Larry Rogers, Jr., who is simultaneously a successful personal injury lawyer, was President of the Cook County Bar Association, which rates and effectively recommends candidates for judicial office.

55. There is no plain, adequate, and complete state remedy in this matter, due to the highly political nature of the Board's decision, the powerful political influence of the Defendants, the nature of the cause of action against Defendants and the fact that PTAB has not given an indication that they are hearing the appeal, brought over one year ago, in which there has been no ruling.

**COUNT I**  
**FOURTEENTH AMENDMENT – VIOLATION OF EQUAL PROTECTION**  
**CLAUSE**  
**Against Board of Review, Rogers, Berrios, Houlihan, Guetzow, Sullivan, and**  
**Jaconetty**

56. Plaintiff incorporates and realleges paragraphs 1 through 55 as if fully rewritten herein.

57. The Defendant's actions against the Plaintiff were irrational, wholly arbitrary and the result of illegitimate animus.

58. In their actions of singling out the Plaintiff and their property for treatment unlike all others, the Defendants were motivated by personal and political considerations unrelated to their duties as Commissioners and employees of the Cook County Board of Review. Upon information and belief, no similarly situated person who had not engaged in the protected activity of associating with Rep. Froehlich was subjected to the similar scrutiny or punishment other than the Plaintiff.

59. At all relevant times, the Defendants were acting under the color of state law.

60. The Defendants violated the Plaintiff's rights under the Fourteenth Amendment to equal protection of the laws.

61. As a direct and proximate result of said acts, Plaintiff has also suffered and continues to suffer, emotional and mental trauma, anxiety, stress, loss of reputation, loss of economic relations, pain and suffering and other damages, some of which are permanent.

**COUNT II**  
**FOURTEENTH AMENDMENTS – DUE PROCESS VIOLATION**  
**Against Board of Review, Rogers, Berrios, Houlihan, Guetzow, Sullivan, and**  
**Jaconetty**

62. Plaintiff incorporates and realleges paragraphs 1 through 61 as if fully rewritten herein.

63. The Defendants did not allege a valid reason for their refusal to hear Plaintiff's appeal in 2010.

64. The Defendants' actions deprived the Plaintiff of his liberty without due process of law and violated the Due Process Clause of the Fifth and Fourteenth Amendments.

65. At all relevant times the Defendants were acting under the color of state law.

66. As a direct and proximate result of said acts, Plaintiff has also suffered and continue to suffer, emotional and mental trauma, anxiety, stress, loss of economic relations, pain and suffering and other damages, some of which are permanent.

**COUNT III**  
**FIRST AMENDMENT- FREEDOM OF SPEECH**  
**Against Board of Review, Rogers, Berrios, Houlihan, Guetzow, Sullivan, and**  
**Jaconetty**

67. Plaintiff incorporates and realleges paragraphs 1 through 66 as if fully rewritten herein.
68. The First Amendment to the United States Constitution protects a wide spectrum of free speech including the right of a person to speak to another about real estate taxes in Cook County, to petition the government for redress of grievances and the right of free association-even with a politically unpopular state representative or for that matter, anyone else.
69. The Board of Review Defendants improperly targeted the Plaintiff's right to associate with Rep. Froehlich and anyone they suspected to be associated with Rep. Froehlich.
70. In targeting the Plaintiff's right of association as distinguished from the political associations of many others, the Defendants were not acting out of any legitimate governmental interest.
71. At all relevant times, the Defendants were acting under the color of state of law.
72. As a direct and proximate result of said acts, Plaintiff has also suffered and continue to suffer, emotional and mental trauma, anxiety, stress, loss of

economic relations, pain and suffering and other damages, some of which are permanent

**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff prays that this Honorable Court:

- A. Enter judgment for the Plaintiff and against the Defendants for the stated violations of 42 U.S.C. § 1983 et. Seq., and the First, Fourth, Fifth, and Fourteenth Amendments of the Constitution of the United States as incorporated and applied to state governments, the Illinois State Constitution.
- B. Award Plaintiff reasonable attorney fees and cost of suit;
- C. Award Plaintiff compensatory and punitive damages where applicable; and
- D. Grant such other and further relief, as this Court deems equitable and just.

Respectfully submitted,

By: **/s/ R. Tamara de Silva** (Plaintiff's Lead Counsel)

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June 14, 2011

By: **/s/Jonathan Lubin**

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**VII. JURY DEMAND**

Plaintiff demands a jury to hear and decide all issues of fact.

Respectfully submitted, June 14, 2011

**/s/R. Tamara de Silva**

R. Tamara de Silva

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