

QUESTION 8 THE ANSWER TO THIS QUESTION SHOULD GO IN BLUEBOOK III

John Smith and Peter Ryan were next-door neighbors in the city of Delta. Smith was also Mayor of Delta, a city known for well-manicured lawns and well-kept homes. Across the street from Mayor Smith and Ryan lived John Johnson, with whom Smith and Ryan had a longstanding dispute over Johnson's failure to maintain the standards of Delta.

In fact, Johnson's house was in poor condition--his lawn was always long, his bushes were rarely trimmed, paint was chipping off his house, and vines were growing over some of his windows. As a result, Smith and Ryan wanted Johnson out of the neighborhood, but Johnson refused to move--or to fix up his property.

Mayor Smith contacted the city inspector, who viewed Johnson's property with the Mayor and Ryan and informed them that he found no violation of any city ordinance. Mayor Smith and Ryan disagreed with the inspector's assessment. At the next city council meeting, after regular business concluded, Mayor Smith (who, as Mayor, presides over each council meeting) said that Johnson "could not take proper care of a doll house--his property is a nuisance, an embarrassment to the entire neighborhood, and is in violation of our ordinances." Johnson, also in attendance, objected and said that his house had passed an inspection. In response to inquiries from council members, the city inspector testified to council that there were no violations, and city council took no action against Johnson.

After the meeting ended and the council left, Ryan complained to any citizen who would listen that Johnson had caused his house to be "in violation of several ordinances and his house should be condemned," or minimally, he should be jailed (the ordinances are criminal in nature).

Johnson sued both Mayor Smith and Ryan for slander. After admitting that they made the respective statements, Smith and Ryan separately moved for dismissal. Smith sought dismissal on two separate immunity grounds, while Ryan argued that no genuine issue of material fact existed that Johnson could not establish a prima facie case of slander.

Should the motions be granted? Explain your answers.

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