

IN THE SUPREME COURT OF OHIO

City of East Liverpool,

Appellant,

vs.

Columbiana County  
Budget Commission, et al.,

Appellees.

Case No. 06-1129

Appeal from the  
Ohio Board of Tax Appeals

Case Nos. 2003-T-1301  
2004-T-844  
2005-T-1474

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**MOTION FOR RECONSIDERATION OF APPELLANT CITY OF EAST LIVERPOOL**

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John R. Varanese, Esq. (0044176)  
(Counsel of Record)  
85 East Gay St., Ste. 1000  
Columbus, Ohio 43215-3118  
614.220.9440 Fax 614.220.9441

Charles L. Payne (0007369)  
East Liverpool City Law Director  
617 St. Clair Ave.  
East Liverpool, Ohio 43920  
330.385.0351 Fax 330.3858852

John J. Kulewicz (0008376)  
Vorys, Sater, Seymour & Pease  
52 East Gay St.  
P.O. Box 1008  
Columbus, Ohio 43216-1008  
614.464.5634 Fax 614.719.4812

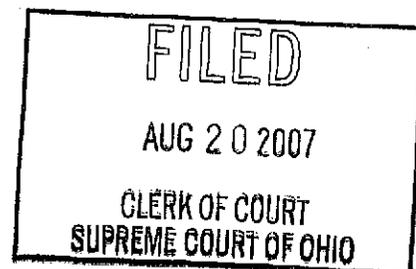
**Counsel for Appellant  
City of East Liverpool**

Nicholas M. Barborak (0073069)  
Asst. Pros. Atty.  
Columbiana Cty. Courthouse  
Lisbon, Ohio 44432  
330.424.9511 Fax 330.424.0944

**Counsel for Appellee Columbiana Cty.  
Budget Comm., Columbiana Cty. and  
Columbiana Cty. Park Dist.**

Stephen W. Funk, Esq. (0058506)  
Roetzel & Andress  
222 S. Main St., Ste. 400  
Akron, Ohio 44308  
330.376.2700 Fax 330.424.0944

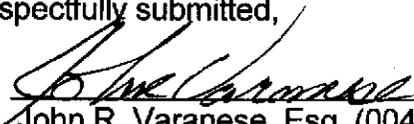
**Counsel for Columbiana Cty.  
Townships**



## MOTION FOR RECONSIDERATION

Appellant, City of East Liverpool, by and through counsel, respectfully requests the Court, pursuant to S. Ct. Prac. R. XI, to reconsider that part of its decision addressing the reasons why H.B. 329 does not violate its citizens' rights under the Equal Protection clauses of the Ohio and United State's Constitutions. The bases supporting this motion are set forth in the memorandum attached hereto.

Respectfully submitted,

By: 

John R. Varanese, Esq. (0044176)

85 East Gay St., Ste. 1000

Columbus, Ohio 43215

Ph: 614.220.9440

Fax: 614.220.9441

[jrvlawof@netwalk.com](mailto:jrvlawof@netwalk.com)

Counsel for Appellant,  
City of East Liverpool

## MEMORANDUM IN SUPPORT

Appellant's first assignment of error of its Notice of Appeal facially challenged the constitutional sufficiency of H.B. 329 by alleging that amended R.C. 5747.53(C) and 5747.63(C) deprived the citizens of East Liverpool legislative representation in the legislative vote of Columbiana County municipalities and townships in the approval of an alternate formula for distributing the ULGF and ULGRAF in Columbiana County. The court's discussion of East Liverpool's citizens' equal protection rights under H.B. 329 neither addressed nor determined this assignment of error.

The Court employed an as-applied/economic injury equal protection analysis in its decision rather than the facial/ non-economic injury equal protection analysis that this assignment of error required. Paragraphs 28 and 29 of the Court's decision clearly discuss an as-applied analysis of equal protection based on East Liverpool's citizens' legal interest in the city's treasury, though not under any error assigned by Appellant.

The basis of Appellant's first assignment of error was not that the application of H.B. 329 caused an economic injury to the citizens based on a perceived unfairness in the alternate formula approved thereunder, but rather that the citizens suffered a non-economic injury in the form of a lack of legislative representation caused by the General Assembly's deliberate exclusion of the their legislative authority from participating in the legislative approval vote under R.C. 5747.53(C) and 5747.63(C).

Legislative representation in legislative matters is the hallmark of equal protection of the laws in a democracy. East Liverpool's citizens have no legislative representation in the legislative vote of political subdivisions under amended R.C. 5747.53(C) and 5747.63(C). Moreover, General Assembly's rational goal of true and

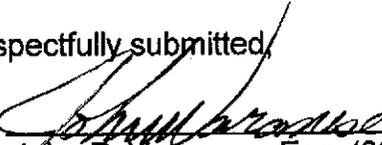
legitimate countywide consensus can only be achieved if all Columbiana County citizens are legislatively represented in the R.C. 5747.53(C) and 5747.63(C) legislative approval vote. While the General Assembly can make rational distinctions between political subdivisions concerning the degree of legislative representation (the weight of the vote), it cannot completely eliminate a targeted group of citizens' legislative representation in an effort to achieve a consensus. After all, what good is consensus if all groups who might oppose a given action can be excluded from legislative participation/representation?

### CONCLUSION

The Court's equal protection discussion in its decision did not address the equal protection claim presented in Appellant's first assignment of error of its Notice of Appeal. Having recognized East Liverpool's ability to assert the equal protection rights of its citizens on their behalf, the Court should have proceeded to address Appellant's first assignment of error under the facial/non-economic injury equal protection claim presented for review.

Respectfully submitted,

By:

  
John R. Varanese, Esq. (0044176)

85 East Gay St., Ste. 1000

Columbus, Ohio 43215

Ph: 614.220.9440

Fax: 614.220.9441

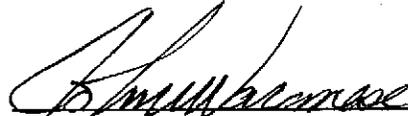
[jrvlawof@netwalk.com](mailto:jrvlawof@netwalk.com)

Counsel for Appellant,

City of East Liverpool

## CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of Appellant's Motion for Reconsideration was served upon the parties noted below by regular U.S. Mail, this 20th day of August, 2007.



John R. Varanese

Stephen W. Funk, Esq. (0058506)  
Roetzel & Andress  
222 S. Main St., Ste. 400  
Akron, Ohio 44308  
330.376.2700 Fax 330.424.0944

Nicholas M. Barborak (0073069)  
Asst. Pros. Attorney  
105 Market St.  
Columbiana Cty. Courthouse  
Lisbon, Ohio 44432

William W. Wilkins,  
Tax Commissioner of Ohio  
c/o Marc Dann, Ohio Attorney General  
30 East Broad St., 17<sup>th</sup> Fl.  
Columbus, Ohio 43215

J. Bradley Allison, Esq.  
139 Market St.  
E. Palestine, Ohio 44113

Daniel A. Blasdell, Esq.  
28 W. Friend St  
Columbiana, OH 44408

Jack Meier, Clerk-Treasurer  
New Waterford Village  
POB 287  
New Waterford, OH 44445-0287

Brook Zellers, Esq.  
City of Salem Law Director  
166 N. Union Ave.  
Salem, Ohio 44460

Chris Cottrell, Clerk  
Lisbon Village Hall  
Lisbon, Ohio 44432

Regina Carman, Treasurer  
Summitville Village  
POB 56  
Summitville, Ohio 43962

Debra Blazer, Clerk-Treasurer  
Hanoverton Village  
POB 177  
Hanoverton, Ohio 44423

Sharon Hebron, Clerk-Treasurer  
Rogers Village  
POB 227  
Rogers, Ohio 44455

Jean Nocera, Treasurer  
Washingtonville Village  
POB 137  
Washingtonville, Ohio 44909

June Garlough, Clerk-Treasurer  
Leetonia Village  
30 E. Main St.  
Leetonia, Ohio 44431

Melissa Baker, Clerk-Treasurer  
Salineville Village  
5 State St.  
Salineville, Ohio 43945