

IN THE SUPREME COURT OF OHIO

State of Ohio, et al.,	:	Supreme Court Case No. 08-0418
	:	
Appellants,	:	On Appeal from the Summit
	:	County Court of Appeals,
v.	:	Ninth Appellate District
	:	Court of Appeals
City of Akron,	:	Case No. 23660
	:	
Appellee.	:	

APPELLEE'S MEMORANDUM IN RESPONSE IN SUPPORT
OF JURISDICTION

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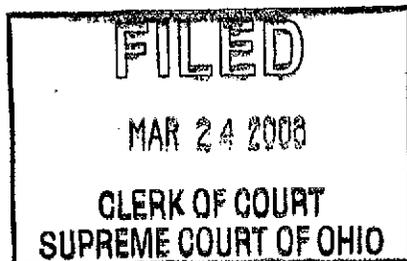


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Now come the Appellees, City of Akron and Mayor Plusquellic (collectively “Akron”) and hereby respectfully submits its memorandum in support of jurisdiction of this case. Filed contemporaneously with this memorandum is a motion to consolidate. The City of Akron respectfully requests this case be accepted for review and consolidated with *City of Lima v. State of Ohio*, Case No. 2008-0128, also before this court for a determination of jurisdiction on appeal.

EXPLANATION OF WHY THIS CASE IS A CASE OF PUBLIC OR GREAT GENERAL INTEREST AND INVOLVES A SUBSTANTIAL CONSTITUTIONAL QUESTION

“This case presents one of the classic legal questions: who gets to decide? In this case, the question is who gets to decide whether people unwilling to live in the City of Akron should be employed by the City, the citizens of Akron or members of the Ohio General Assembly.” (*State v. Akron*, 2008-Ohio-38 (App. Op.) at ¶1). R.C. 9.48, as enacted by the State legislature, would prevent a city from requiring its employees to live in the city that employs them. Akron and other municipalities throughout the State require their employees to reside in the City that employs them, as a qualification of employment. Whether the cities or the State gets to decide this issue is paramount to this case. This case, thus, presents a substantial constitutional question and a matter of great general interest.

All the parties in this case (the State, the Unions¹ and Akron) are in agreement that this case presents substantial constitutional questions regarding the General Assembly’s authority to pass legislation pursuant to Article II, Section 34 of the Ohio Constitution and the City of Akron’s home rule authority to enforce its residency charter provisions. Specifically, the issues before this Court are: (1) Whether R.C. 9.481 was properly promulgated pursuant to the State’s Article II, Section 34 authority to pass legislation for the general welfare of all employees; (2) whether

¹ Fraternal Order of Police, Akron Lodge No. 7 and Akron Firefighters Assn. IAFF Local 330 and their union presidents (collectively “the Unions”).

Akron's residency charter provisions are a matter of local self-government or a matter of statewide concern; and (3) whether Akron's residency requirements are an exercise of Akron's police powers and if so, whether R.C. 9.481 is a general law. The answers to these substantial constitutional questions affect all Ohio cities that have, or wish to have, residency requirements, and their millions of employees and residents.

A decision in this case would affect every governmental entity in the state. The legislation at issue affects every municipal employee at every level of employment. It prohibits a city from requiring any employee to live in the City, including those employees at the highest levels of authority. If the legislature has authority to interfere in a municipality's decisions concerning the essential qualifications of municipal employees, and to do so under the guise of "employee welfare", no employment decision, in any branch of government, is exempt from legislative meddling. The interests at stake are substantial and fundamental to the system of governance.

This case is also of great general interest. Cities across the State have challenged the constitutionality of R.C. 9.481. These cases are currently working their way through the courts. Akron, Cleveland, Cincinnati, Dayton, Lima, Toledo, and Youngstown are in litigation over the same issues presented to this Court in this Akron case. With each trial court (that has ruled thus far) granting summary judgment to the State of Ohio, and each appellate court (that has ruled thus far) reversing and granting judgment to the cities, it would be imprudent to assume that these issues will not reach this Court upon certification of a conflict. With the *Lima* and *Akron* cases currently before this Court, this case is ripe for adjudication now.

This Court's decision in this case would have significant social and economic ramifications for cities across the State. Municipal residency requirements serve the best interests of the citizens of our cities. City employees that live in the community they serve have a stake in that

community, more knowledge of conditions within the community, and more community involvement. Living in the community strengthens the bond between City employees and the persons they serve. Resident employees reflect the population of the community. Resident employees are involved in their community, frequent businesses near their homes and pay their taxes in the community they serve. They provide positive role models in the community, and offer more stability in the neighborhoods and schools. City employees on average earn more than the median income for families in Akron. Ninety-five percent of Akron employees own their homes. These are just some of the reasons Akron residents have indicated time and time again that they not only want City employees to work for them, but to live with them.

R.C. 9.481 infringes on a city's most fundamental authority and its primary responsibilities: to supply its citizens with crucial municipal services. Cities across Ohio have a duty to provide certain services to their residents. There are numerous incidents that require additional city personnel to be called in to respond from home after normal working hours, including water main and sewer line breaks, storm damage control, downed power lines and blocked streets, chemical spills, accidents, fires, floods, traffic device malfunctions, and power outages. R.C. 9.481 may permit Akron to require its volunteers to live in the City and its emergency personnel to live in an adjoining county, or as far as 68 miles away from the City. All other employees could live anywhere in the state of Ohio pursuant to R.C. 9.481. If R.C. 9.481 were upheld, the effects of that ruling would devastate the City.

Simply, if Akron's employees are permitted under R.C. 9.481 to live anywhere in the state of Ohio, citizens will not continue get the current level of municipal services, employees will flee the City, and the City will fail to prosper. The cities of Ohio, their employees, and their citizens await the final outcome of this case.

STATEMENT OF THE CASE AND FACTS

The Ohio General Assembly passed Sub.S.B. 82 in January, 2006, enacting R.C. 9.481. R.C. 9.481 purports to prohibit a political subdivision from requiring its permanent full-time employees to live within the political subdivision. On May 1, 2006, the day that R.C. 9.481 became effective, Akron filed a complaint seeking a declaration that R.C. 9.481 is unconstitutional facially and as applied to the City in that it improperly deprives the City of well-defined powers of local self-government, and violates the due process, equal protection and uniformity clauses of the Ohio Constitution. On May 2, 2006, the Unions filed a complaint against the City of Akron and Mayor Plusquellic seeking a declaration that R.C. 9.481 prevails over Akron City Charter 106(5b). The trial court consolidated the two cases, and Akron, the State, and the Unions filed cross-motions for summary judgment. On March 30, 2007, the trial court denied Akron's motion for summary judgment and granted summary judgment in favor of the State and the Unions. On April 4, 2007, the trial court granted a stay of its judgment.

The City timely appealed and on January 9, 2008, the Ninth District Court of Appeals correctly held that the State exceeded its authority pursuant to Art. II, § 34 when it enacted R.C. 9.481. The Court of Appeals further found that R.C. 9.481 is not a general law and that pursuant to the City's home rule authority, Akron may require its employees to live in Akron in accordance with Akron's Charter. The Unions and the State filed their notices of appeal and requested this Court to accept jurisdiction. Akron respectfully urges this Court to accept jurisdiction as well. In addition, and in the event this Court has accepted, or will accept, jurisdiction of *City of Lima v. State of Ohio* (Case No. 2008-0128), Akron respectfully requests this Court not "hold" this case, but rather consolidate this case with *Lima* for the reasons set forth in its motion for consolidation filed contemporaneously with this memorandum.

A. City of Akron Residency Requirements.

In 1912, Ohio citizens voted to amend the Ohio Constitution to include several provisions that expanded the self-governing powers of Ohio's municipalities. Through these amendments, municipalities were given the authority to adopt their own governing charters. Ohio Const. Art. XVIII, Section 7 established that "[a] municipality may frame and adopt or amend a charter for its government and may, subject to the provisions of section 3 of this article, exercise thereunder all powers of local self-government." Article XVIII, Section 3, as adopted in 1912, provided that "[m]unicipalities shall have authority to exercise all powers of local self-government and to adopt and enforce within their limits such local police, sanitary and other similar regulations, as are not in conflict with the general laws." Akron adopted a Charter on November 5, 1918. Section 1 of Akron's Charter authorizes the City to exercise all powers granted to municipalities under the Constitution.

Akron's Charter, adopted pursuant to the vote of the citizens of Akron, requires City employees, including classified and unclassified civil servants and elected and appointed City officials, who work primarily within the City, to live in the City. These voter-approved residency requirements for City employees have been part of the Akron's Charter for 30 years. In 1995, voters overwhelmingly rejected a charter amendment nearly identical to R.C. 9.481. That amendment would have created an exception to the City residency requirement permitting a classified City employee, after five years of service as a City employee, to reside in Summit County or in an adjoining county.

Repeatedly, City of Akron residents have insisted that they want the people whose salaries they pay to reside in the City of Akron. Unclassified and classified permanent (both full and

part-time) employees of the City are required to live in the City in accordance with the will of the citizens of Akron. R.C. 9.481 would overturn the voters' will.

B. R.C. § 9.481.

R.C. 9.481 became effective on May 1, 2006. With the enactment of R.C. 9.481, the State attempts to vacate long-standing local self-government powers provided to Akron and other municipalities by the Home Rule Amendment. Specifically, the statute attempts to preempt Akron City Charter §§105a and 106(5b) by prohibiting City residency requirements as a qualification of employment for permanent full-time City employees (while permitting Akron to require temporary, part-time, and unpaid employees to reside in the city limits.) The statute also authorizes the reinstatement of a specific residency restriction if accomplished in the manner specified by the State (and pursuant to statutory provisions that do not apply to a charter municipality. See, R.C. 731.28 and 731.31, cited in R.C. 9.481.)

The State of Ohio set forth its basis for enacting R.C. 9.481 in the statute: "employees of political subdivisions of this state have the right to reside any place they desire."² R.C. 9.481(C). If this is the basis for the statute, and it is the *only* reason cited by the legislature or asserted by the State in support of the statute, then the statute fails of its essential purpose. Employees do not have the "right to reside any place they desire" pursuant to R.C. 9.481; all employees may be required to live in the State and certain employees may be required to live in the county of or an adjacent county to the city that employs them.

R.C. § 9.481 is an unauthorized, unwarranted intrusion by the General Assembly into the

² Of course, municipal employees do not have a right to employment with the City and a concurrent right to live elsewhere. *Buckley v. City of Cincinnati* (1980), 63 Ohio St.2d 42, 44, citing *McCarthy v. Philadelphia Civil Service Commission* (1976), 424 U.S. 645, 96 S.Ct. 1154, 47 L.Ed.2d 366.

home rule powers of the City of Akron. It advances no state interest and evinces no matter of statewide concern. This Court should accept jurisdiction of this case and decide the issues for all Ohio cities, their employees, and their citizens.

LAW AND ARGUMENT

The Unions Propositions of Law Nos. 1 and 2.

The General Assembly's authority to enact legislation pursuant to Article II, Section 34 of the Ohio Constitution is not limited by "societal notions of common welfare."

R.C. 9.481 is constitutional as it was enacted under Article II, Section 34 for the general welfare of public employees.

The State's Proposition of Law No. 1.

R.C. 9.481 is constitutional legislation enacted for the comfort, health, safety, and general welfare of employees under Article II, Section 34 of the Ohio Constitution.

The General Assembly's authority to pass laws for the general welfare of employees pursuant to Art. II, Section 34 of the Ohio Constitution is not without limits, and it does not extend to permit the enactment of R.C. 9.481. The Court of Appeals properly found that although the State's authority may be broad, the State does not have unlimited authority pursuant to the "employee welfare" provision under Art. II, Sect. 34 to pass any law that may impact upon a few employees, to pass laws that hurt the common welfare of the people of Ohio, or to pass laws that create substantive rights for employees that did not previously exist. (App. Op. at ¶¶ 18-28.)

The term "general welfare" as used in Art. II, Section 34 has never been defined by this Court. However, the Court of Appeals noted that this Court has recognized the societal notion of "common welfare" in interpreting the General Assembly's authority under Art. II, Section 34. (App. Op. at ¶¶16, 18-20.) While the General Assembly's authority is broad, it has never been held to be limitless. Rather, this Court has not had the opportunity to articulate a limitation based on the cases before it. (App. Op. at ¶20.)

The Court of Appeals then analyzed this Court's decisions upholding legislation as properly enacted pursuant to Art, II, Section 34. (App. Op. at ¶¶18-24.) See, *Rocky River v. State Emp. Relations Bd.*, 43 Ohio St.3d 1 (1989) ("*Rocky IV*"), *State ex rel. Bd. Of Trustees of Pension Fund v. Bd. Of Trustees of Relief Fund*, 12 Ohio St.2d 105 (1967) ("Pension Fund"), and *American Association of Univ. Professors v. Central State Univ.*, 87 Ohio St.3d 55 (1999) ("AAUP"). In reviewing those cases, the Court of Appeals found that R.C. 9.481 had none of the characteristics of the legislation that this Court has previously upheld. (App. Op. at ¶¶21-28). Indeed, the Court of Appeals found no similarities. (*Id.*)

In *Rocky IV*, the entire Public Employees Collective Bargaining Act was at issue. (*Id.*) The legislation encompassed all of O.R.C. Chapter 4117, contained dozens of provisions that both burdened and benefited public employees and public employers, in the public interest. (App. Op. at ¶21.) The legislation also included provisions that offer primarily a public benefit. (*Id.*) Additionally, Chapter 4117 did not purport to create collective bargaining rights that did not previously exist. (*Id.*)

In the *Pension Fund* case, the legislation provided for the creation, administration, maintenance, and control of a state police and fireman's disability and pension fund. (App. Op. at ¶22.) That legislation also encompassed an entire chapter of the Ohio Revised Code and involved a comprehensive statutory scheme that included over 100 separate provisions that sought to preserve and regulate the pension and disability benefits through a creation and maintenance of a state fund. It also did not create any employee pension rights that did not previously exist. (*Id.*)

In *AAUP*, the statute at issue required public universities to develop standards for professors' instructional workloads and exempted the issue from collective bargaining. (App. Op. at ¶23.)

In doing so, the *AAUP* Court made reference to many other employment-related laws enacted under the authority of Art. II, Sect. 34 and emphasized that state legislation in the employment area under Art. II Sect. 34 is focused on *public interest*, not necessarily the benefit to the employees. (*Id.*)

After reviewing the facts of these cases, the Court of Appeals determined that there was no resemblance between R.C. 9.481 and the employee “general welfare” legislation set forth in those cases. (App. Op. at ¶24.) R.C. 9.481’s sole purpose is to prohibit and invalidate employee residency requirements by political subdivisions. (*Id.*) R.C. 9.481 does not address any significant social issues impacting the public at large; it is not a comprehensive legislative scheme; it applies to only those who are employed by a municipality that has a residency requirement and who would choose to live elsewhere if allowed to do so. (*Id.*) Additionally, unlike any of the legislation that this Court has determined falls within the scope of Art. II, Sect. 34, R.C. 9.481 does not protect or regulate any existing right or obligation of the affected employees. (App. Op. at ¶25.) Rather, through R.C. 9.481, the General Assembly attempts to “circumvent municipal home rule authority and reinstate a ‘right’ that the employees voluntarily surrendered when they accepted government employment.” (*Id.*) As to the alleged “right to live where one chooses” that is the supposed basis for R.C. 9.481, this Court has already determined there is no constitutional right to employment with the City of Akron while living elsewhere. *Buckley v. City of Cincinnati* (1980), 63 Ohio St.2d 42, 44, citing *McCarthy v. Philadelphia Civil Service Commission* (1976), 424 U.S. 645, 96 S.Ct. 1154, 47 L.Ed.2d 366.

The General Assembly’s authority pursuant to Art. II, Sect. 34 to enact employee welfare legislation is broad, but this Court has indeed limited the scope of legislative authority in *State ex rel. Canada v. Phillips* (1958), 168 Ohio St. 191. In *Canada*, this Court was asked to consider

whether a municipality had authority, under the home rule provisions of the Ohio Constitution, to make promotions within its police force contrary to state civil service laws. The Court's response was unequivocal: municipal civil service is a municipal concern. While the Court in *Canada*, supra at ¶¶ 1, 3, and 7 of the syllabus, acknowledged that the State possessed certain limited authority to regulate the municipal civil service, the State's authority in this regard may be wholly preempted by municipal home rule authority.

The appointment of officers in the police force of a city represents the exercise of a power of local self-government within the meaning of those words as used in Sections 3 and 7 of Article XVIII of the Ohio Constitution.

The authority of the General Assembly, to enact laws applicable to cities pursuant to *Section 10 of Article XV of the Constitution*, is an authority to enact such laws to be applicable in cities only where and to the extent that such laws will not restrict the exercise by such cities of their powers of local self-government.

Where a municipality establishes and operates a police department, it may do so as an exercise of the powers of local self-government conferred upon it by Sections 3 and 7 of Article XVIII of the Ohio Constitution and if it does, the mere interest or concern of the state, which may justify the state in providing similar police protection, will not justify the state's interference with such exercise by a municipality of its powers of local self-government. [Emphasis added.]

Not surprisingly, this Court in *Canada*, did not even consider the provisions of Art. II, Sect. 34 as the basis for measuring the authority of the State to regulate the municipal civil service. Article II, Sect. 34 does not authorize the adoption of civil service legislation. The State's constitutional authority with respect to municipal civil service derives solely from Art. X, Sect.15 and is inferior to a municipality's home rule authority. A municipal residency requirement is a qualification of employment within the civil service.

A requirement that a municipal employee reside within the borders of the city that hires and pays him has long been deemed a "qualification" for the employment in question, similar in this regard to minimum standards of age, health, education, experience, or performance in civil service examinations.

Ector v. City of Torrance (1973), 10 Cal.3d 129, 514 P.2d 433. See also, *Denver v. State of Colorado* (Colo. 1990), 788 P.2d 764 (“As with our Constitution, the California Constitution specifically granted home rule cities the power to prescribe in their charters the qualifications of their employees.”)

The establishment of qualifications for employment fall under the civil service laws. *State Personnel Bd. of Review v. City of Bay Village Civil Service Comm.*, 28 Ohio St.3d at 216 (“A municipality is considered to have general home-rule authority to regulate the appointment, removal, *qualifications*, compensation, and duties of its officers and employment.”) (Emphasis added). Thus, residency laws are promulgated under authority to regulate the civil service. “The manner of regulating the civil service of a city is peculiarly a matter of municipal concern.” *Canada*, *supra* at 196 (quoting *State ex rel. Lentz v. Edwards* (1914), 90 Ohio St. 305, 309).

Since its decision in *Canada*, the Supreme Court has considered the scope of state authority to legislate with respect to municipal employment pursuant to Article II, Section 34. See *City of Kettering v. State Employment Relations Bd.* (1986), 26 Ohio St.3d 50, 56-59 (Douglas, J., concurring); *State Personnel Bd. of Review v. City of Bay Village Civil Service Comm.*, 28 Ohio St.3d 241; *Ohio Association of Public School Employees v. City of Twinsburg* (1988), 36 Ohio St.3d 180; *City of Rocky River v. State Employee Relations Bd.* (1988), 39 Ohio St.3d 196; *Rocky IV, supra.* The Court has not wavered from its holding in *Canada*. In matters pertaining to civil service, local law prevails. The power of the General Assembly to enact legislation pursuant to Art. II, Sect. 34 does not preempt a municipality’s home rule charter authority in the arena of municipal civil service.

The Supreme Court’s analysis in *Canada* remains the appropriate analysis to determine the State’s constitutional authority to enact civil service laws governing municipal employees.

Article II, Sect. 34 does not authorize the State to adopt civil service legislation. This Court has the opportunity now to reaffirm its holding in *Canada*, and further define the boundaries of the General Assembly's broad powers to enact legislation for employee welfare pursuant to Art. II, Sect. 34.

The State's Proposition of Law No. 2

R.C. 9.481 does not unconstitutionally conflict with municipal home rule.

R.C. 9.481 is an unauthorized, unwarranted intrusion by the General Assembly into the home rule powers of the City of Akron. It advances no state interest, evinces no matter of statewide concern, and is not a general law. Ohio's Home Rule Authority grants a municipality wide latitude in enacting its laws. Indeed, an ordinance (or charter provision) is considered a valid exercise of municipal power unless each of the following three requirements are met: (1) the ordinance is an exercise of the police power, rather than of local self- government; (2) the state statute is a general law; and (3) the ordinance conflicts with the state statute. *Mendenhall v. Akron*, Slip Opinion No. 2008-Ohio-270, ___ Ohio St.3d ___, ¶17.

Thus, the first step in a home-rule analysis is to determine 'whether the matter in question involves an exercise of local self-government or an exercise of local police power.'" *American Fin. Servs. Assn.*, *supra* at ¶23 (quoting *Twinsburg v. S.E.R.B.* (1988), 39 Ohio St.3d 226, 228; *Mendenhall*, *supra* at ¶18. In this case, the City's residency requirement is an exercise of local self government, and not an exercise of the City's police power. Over eighty years ago, the Supreme Court of Ohio rejected any contention that qualifications and methods of selecting municipal employees falls within the police powers. The Court stated that "the qualification, duties, and manner of selection of officers purely municipal come within the purview of the provision granting a city 'local self government.'" *State ex rel. Frankenstein v. Hillenbrand* (1919), 100 Ohio St. 339, 343 ("Whatever difficulty this court may have encountered in

accurately designating the subjects comprehended in 'local self-government,' as contradistinguished from 'local police, sanitary and other similar regulations,' it has had no difficulty in arriving at the conclusion that the qualification, duties, and manner of selection of officers purely municipal come within the purview of the provision granting a city 'local self-government.'") Ohio courts continue to characterize qualifications and methods of selecting municipal employees as falling within the powers of 'local self government'. See *Canada, supra*, 168 Ohio St. 191 at ¶5 of the syllabus ("The mere fact that the exercise of a power of local self-government may happen to relate to the police department does not make it a police regulation..."); see also *Spencer v. City of Dayton* (1975), 44 Ohio App.2d 236, 240-41 (adopting ¶5 of the syllabus from *Canada*).

Neither the State, the Unions, nor the City contend that Akron's residency requirements, as set forth in its Charter, are an exercise of Akron's police powers. Akron's Charter residency requirements are a matter distinctly within the purview of local self-government. Thus, the analysis stops here. *Am. Fin. Servs. Assn., supra* at ¶23 (quoting *Twinsburg v. S.E.R.B.* (1988), *supra* at 228; *Canton, supra* at ¶9).

What the State does contend, however, is that residency is a matter of statewide concern, which would permit the State to pass legislation that trumps a matter of local self-government. Under the statewide concern doctrine "*exclusive state power* was retained in those areas where a municipality would in no way be affected or where state dominance seemed to be required." *Am. Fin. Servs. Assn., supra* at 174, quoting, (Emphasis sic.) Vaubel, *Municipal Home Rule in Ohio* (1978) 1107-1108. The evidence here clearly illustrates that R.C. 9.481 would devastate Akron while the State's interest is illusory. The Court of Appeals properly found that "prohibiting political subdivisions from requiring residency as a condition of employment is not an overriding

state interest.” (App. Op. ¶3, quoting *Lima*, supra, 2007-Ohio-6419 at ¶80.)

What the statewide concern doctrine perceives is that a comprehensive statutory plan is, in certain circumstances, necessary to promote the safety and welfare of all the citizens of this state, be they public employees or those whom public employees must serve and protect. *Kettering*, supra at 55. In this case, the State did not set forth any evidence of extraterritorial effects, nor did the State pass a comprehensive statutory plan that would address and promote the safety and welfare of all the citizens of this state. The State merely passed a prohibition on a municipality’s right to exercise its constitutional right to local self-government. This the State may not do.

The constitutional authority of municipalities to enact local police regulations derives from the constitution and “cannot be extinguished by a legislative provision.” *Am. Fin. Servs. Assn.*, supra at 175, quoting, *Fondessy Ents., Inc. v. Oregon*, 23 Ohio St.3d at 216. Likewise, the legislature may not limit the city’s exercise of local self-government by a simple prohibition. “*Exclusive municipal power* was created by the Amendments insofar as local self-government power is exercisable by charter municipalities * * *.” (Emphasis sic; footnotes omitted.) *Am. Fin. Servs.*, supra at 174, quoting, Vaubel, *Municipal Home Rule in Ohio*, at 1108.

In addition, both the Ninth District Court of Appeals and the Third District Court of Appeals unequivocally decided that R.C. 9.481 is not a general law. (See, App. Op. at ¶¶32-33; *Lima*, supra, 2007-Ohio-6419 at ¶80.) Utilizing the *Canton* four-part test³ defining what constitutes a general law for home-rule analysis purposes, the Courts in *Akron* and *Lima* determined that R.C. 9.481 is not a general law because “it does not set forth police, sanitary, or similar regulations

³ (“[A] statute must (1) be part of a statewide and comprehensive legislative enactment, (2) apply to all parts of the state alike and operate uniformly throughout the state, (3) set forth police, sanitary, or similar regulations, rather than purport only to grant or limit legislative power of a municipal corporation to set forth police, sanitary, or similar regulations, and (4) prescribe a rule of conduct upon citizens generally.” (*Canton*, supra, at syllabus.)

but merely limits the municipality's power to do the same." Id.

Akron's residency Charter provisions are a matter of local self-government and R.C. 9.481 is not a general law.

CONCLUSION

For all of the above reasons, this Court should accept jurisdiction of this case.

Respectfully submitted,

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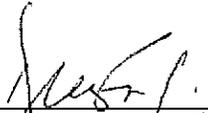
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CERTIFICATE OF SERVICE

I certify that a true copy of the foregoing Memorandum in Response in Support of Jurisdiction was mailed via Federal Express on this 21st day of March, 2008 to:

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