

IN THE SUPREME COURT OF OHIO

CITY OF COLUMBUS,	:	Case No. 2007-0391
	:	
Appellee,	:	On Appeal from the
	:	Franklin County Court
vs.	:	of Appeals, Tenth
	:	Appellate District
	:	
REBECCA KIM,	:	Court of Appeals
	:	Case No. 05AP-1334
	:	
Appellant.	:	

**APPELLEE'S MEMORANDUM IN OPPOSITION TO APPELLANT'S
MOTION FOR RECONSIDERATION**

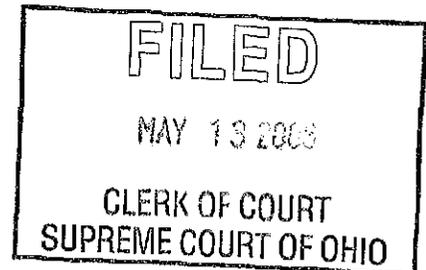
CITY OF COLUMBUS, DEPARTMENT OF LAW
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Appellee respectfully requests this Court to deny Appellant's motion to reconsider its decision of April 23, 2008, which upheld the constitutionality of the Columbus, Ohio noisy animal ordinance.

Appellant's motion for reconsideration makes an argument that was never presented to this Court in the underlying appeal. Appellant's sole proposition of law in the original appeal was that Columbus City Code Section 2327.14 was unconstitutionally vague because a person of ordinary intelligence could not possibly know what behaviors were prohibited by C.C.C. 2327.14. This Court accepted the case for review upon certification of conflict on the specific issue of "whether an ordinance that prohibits a person from keeping or harboring an animal which 'howls, barks, or emits audible sounds that are unreasonably loud or disturbing which are of such character, intensity, and duration as to disturb the peace and quiet of the neighborhood or to be detrimental to the life and health of any individual' is unconstitutionally vague on its face and as applied." *Columbus v. Kim*, 113 Ohio St.3d 1464, 2007-Ohio-1722, 864 N.E.2d 651. In its decision, this Court explicitly rejected the Eleventh District Court of Appeal's holding in *State v. Ferriolo*, 140 Ohio App.3d 585, 748 N.E.2d 584 (2000) which struck down an ordinance identical to that of C.C.C. 2327.14 on the basis that a person of ordinary intelligence would not understand his responsibilities under the law. *Id.*, at 586.

This *Kim* decision specifically addressed the issue certified for conflict and argued by Appellant; that neither she nor a person of ordinary intelligence would be able to understand what exactly is prohibited under Columbus City Ordinance 2327.14. As Appellant has not pointed out to the Court any fundamental misunderstanding or errors in the Court's reasoning with respect to the issue presented for review, her motion for reconsideration should be denied.

Respectfully submitted,

CITY OF COLUMBUS
DEPARTMENT OF LAW

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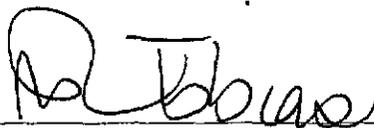


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CERTIFICATE OF SERVICE

This is to certify that a true copy of the foregoing Appellee's Memorandum in Opposition to Appellant's Motion for Reconsideration was mailed by regular U.S. Mail to Mark J. Miller, Attorney for Defendant-Appellant, 555 City Park Avenue, Columbus, Ohio 43215, this 13th day of May, 2008.



Melanie R. Tobias (0070499)
Director – Appeals Unit