

ORIGINAL

IN THE OHIO SUPREME COURT

NORTHEAST OHIO REGIONAL
SEWER DISTRICT

Petitioner

v.

BATH TOWNSHIP, et al.

Respondents.

) CASE NO. 13-1770
)
) Appeal from the
) Eighth District Court of Appeals
) Case No. CA-12-098728
) (Consolidated with Case Nos.
) CA-12-098729 and CA-12-098739)
)
) Cuyahoga County Court of Common Pleas
) Case No. CV-10-714945

**REPLY BRIEF OF *AMICUS CURIAE*
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IN SUPPORT OF APPELLANT
NORTHEAST OHIO REGIONAL SEWER DISTRICT**

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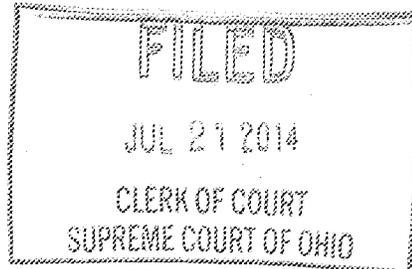
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This Reply of *amicus curiae* Cleveland Metropolitan Park District (“Metroparks”) is for the purpose of dispelling the charge of bias contained in the merit brief of appellees Ohio Council of Retail Merchants, *et al.* (“Property Owners”). Gratuitously, the Property Owners suggest that Metroparks’ support for appellant Northeast Ohio Regional Sewer District (“District”) is attributable to the District’s “gift” to Metroparks of a “\$3 million education center,” paid for by what the Property Owners call “sewer fees.” (Property Owners Brf. at 13.) The Property Owners are referring to the Watershed Stewardship Center at West Creek. (See Property Owners Supplement at 1073.) To set the record straight, Metroparks supports the District and Proposition of Law No. 1 solely because upholding the District’s legislatively-granted authority to address stormwater-related issues on a regional basis is the approach that offers the best possibility for solving the severe problems caused by out-of-control stormwater – problems that have a great impact on Metroparks and its mission, as set out in detail in Metroparks’ merit brief..

In fact, the Stewardship Center itself serves to exemplify the regional approach that this Court should approve. The Watershed Stewardship Center is located in West Creek Reservation, a 324-acre property located in the City of Parma and a portion of Broadview Heights. The reservation preserves a valley of gorges, wooded hillsides, floodplains and brooks. The West Creek watershed drains the cities of Parma, Seven Hills, Brooklyn Heights, Independence and portions of North Royalton and Broadview Heights before emptying into the Cuyahoga River. The reservation site encompasses a 22-acre landfill that was closed in 1988, and which is now one of the largest preserved grasslands in the Greater Cleveland region.¹

The Watershed Stewardship Center was begun in 2011 as the second phase of the site’s development, and officially opened in June 2013; it overlooks the wetlands that characterize the

¹ See *Cleveland Metroparks, Watershed Stewardship Center at West Creek*, <http://www.clevelandmetroparks.com/Main/Facilities/Watershed-Stewardship-Center-at-West-Creek-10.aspx>.

site. The Center's educational and research mission aims to enhance and protect urban watersheds through programs and exhibits, calling on natural resource and education professionals, land protection specialists, volunteers, and visiting scientists. One of the ways that the Center seeks to achieve its mission is by encouraging regional participation in watershed issues. The District indeed partnered with Metroparks in creating and funding construction of the Center – but the Property Owners' suggestion that there was something improper or bias-creating about using “sewer fees” to pay for the construction is not correct. Indeed, “sewer fees” represent nothing more than the District's general revenue – revenue that goes to funding all the District's operations, including sewage treatment plants and stormwater studies.

If there is any “bias” here, it is perhaps reflected in the self-interest of the Property Owners, who seek to avoid paying the piper for the inevitable result when development steadily replaces water-permeable surface area with water-impervious surfaces.

For the reasons set out in Metroparks' *amicus* brief in support of the District, and for the additional reasons above, the Court should reverse the Eighth District Court of Appeals. The District is expressly authorized to manage stormwater, and the court of appeals was wrong in ruling to the contrary based on its strained and incorrect reading of Chapter 6119 of the Ohio Revised Code.

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