

IN THE SUPREME COURT OF OHIO

STATE OF OHIO *ex. rel*
KATHRYN WILEN, et al.

CASE NO. 2015-1456

Relators,

vs.

CITY OF KENT, OHIO

Respondent.

ANSWER OF THE
CITY OF KENT, OHIO
AND COUNTERCLAIM
FOR INJUNCTIVE RELIEF

Now comes the Respondent, City of Kent, Ohio, by and through its attorney, James R. Silver, who, for its answer to the Complaint for Writ of Mandamus, states the following:

- 1) It denies for want of knowledge the allegations contained in paragraphs 1, 5, 7, 8, 9, 10, 11, 12 and 15 of the Complaint.
- 2) It denies the allegations contained in paragraphs 3, 4, 6, 12, 15, 16, 17 and 18 of the Complaint.
- 3) It admits the allegations contained in paragraphs 2, 6, 13 and 14 of the Complaint.

DEFENSES
FIRST DEFENSE

- 4) For its first defense, Respondent, City of Kent, Ohio states that its Charter reads as follows as to Amending the Charter by Initiative Petition:

“Section 7A. Amending the Charter by Initiative Petition

Initiative petitions for Charter changes may be circulated by any elector or electors of the City in accordance with the Constitution of Ohio and under the jurisdiction of the Ohio Revised Code. City Council shall not pass any ordinance or resolution to impair the circulation and submission to the voters of any initiative petitions for Charter changes. At least 10 percent of the qualified electors of the City registered to vote at the next preceding regular Municipal election must sign the initiative petitions for Charter change prior to submission to the Clerk of the City Council. City Council shall immediately follow procedures set forth in the Ohio Revised Code for placement on the ballot at the next regular or special election. (Added 11-7-95)”

Relators did not have signatures from ten percent (10%) of the qualified electors at the next preceding regular Municipal election. There were 17,067 qualified electors at the next preceding Municipal election, which would require 1,707 signatures for a valid petition. Consequently, the petitions do not have to be submitted to the voters at the next election. The City of Kent, Ohio has home rule authority.

5) The purpose of a City Charter in the State of Ohio is to establish the guidelines for establishing the form of government and guidelines for running the municipal government in question. The proposed Charter change submitted to the City of Kent, Ohio City Council by the Relators has nothing to do with running the City government of Kent, Ohio and should, therefore, not be submitted to the voters of Kent, Ohio as a Charter amendment. The proposed language does not belong in the City of Kent Charter.

COUNTERCLAIM FOR INJUNCTIVE RELIEF

Now comes the City of Kent, Ohio, who, for its Counterclaim against the Relators, states the following:

6) The City of Kent, Ohio is a municipal corporation operating under the laws of the State of Ohio and its Charter.

7) Relators submitted a "Petition for Submission of Proposed Amendment to Charter" of the City of Kent, Ohio, as identified as Exhibit "A" in Relator's Complaint herein.

8) The Petition was not placed upon the ballot for November because the petition did not have the required number of signatures for a petition to amend the City of Kent, Ohio Charter.

9) A Municipal Charter, under the laws of Ohio, is established to determine the form of municipal government and to establish the basic guidelines for implementing and running the municipal government.

10) Municipal Charters in Ohio may be amended.

11) Amendments to City Charters are restricted to amendments that address the operations of the local municipal government at issue.

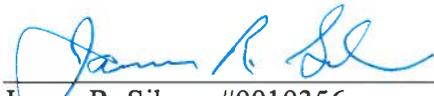
12) The proposed amendment submitted by Relators calls for changes to the United States Constitution.

13) The content of the proposed amendment is not appropriate content for a Municipal Charter in the State of Ohio.

14) A Court of law in Ohio has the authority to reject a petition for a change in a Municipal Charter if the proposed amendment deals with issues and content that extend outside of the governance of the local municipality.

WHEREFORE, having fully answered Relators Complaint and having pled its Counterclaim, Respondent, City of Kent, Ohio, respectfully prays that the Complaint be dismissed for failing to have sufficient signatures, and further, Respondent prays that this Court enters an Order that finds the proposed petitions content is not appropriate for an amendment to the City of Kent, Ohio's Charter and should be kept off of the November, 2015 election ballot; that Relators pay the costs herein, and for such other relief as the Court deems just.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Answer and Counterclaim has been forwarded by regular U.S. Mail and faxed this 10th day of September, 2015, to:

Warner Mendenhall, Esq.
190 North Union Street, Ste. 201
Akron, Ohio 44304
Attorney for Relators



James R. Silver, #0010356
Law Director
CITY OF KENT, OHIO