

IN THE SUPREME COURT OF OHIO

STATE OF OHIO, <i>ex rel.</i>)	CASE NO. 2015-1456
KATHRYN WILEN, <i>et al.</i>,)	
)	
Relators,)	Original Action in Mandamus-
)	Expedited Election Case
-vs.-)	
)	
CITY OF KENT)	
)	
Respondent.)	

RELATORS' REPLY BRIEF TO RESPONDENT AND AMICUS

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LAW AND ARGUMENT

Relators Reply to the City of Kent and Ohio Municipal League Briefs is as follows:

Proposition of Law No. 1: Relators presented enough valid signatures to create a legal duty by the Respondent to submit the proposed Charter change to the Board of Elections for inclusion on the November ballot.

The City of Kent and the Ohio Municipal League urge this Court to make it more difficult for citizens to place issues on the ballot. The Ohio Municipal League concedes Relators correctly interpret *State ex rel. Huebner v. W Jefferson Village Council*, 75 Ohio St.3d 381, but urge reversal. Merit Brief of Amicus, p. 6. The City of Kent, contends that a City Charter should trump Ohio's Constitution. Respondent's Merit Brief. P. 8.

The Ohio Municipal League ("OML") calls Relator's position--the same as this Court's position in *Huebner*--a "dangerous precedent." Brief of Amicus, p. 6. In 1995, *Huebner* reaffirmed this Court's prior guidance on the charter amendment process and has been relied on by citizens and municipalities since. To overturn *Huebner* would cause mandamus cases to be filed to invalidate pending ballot issues in other cities--this happened in 1995. *Id.* at 382.

The OML seeks to confuse the definitions of voters and electors. *Huebner* clarified just that issue: “While Sections 5, 8, and 9 of Article XVIII refer to petitions of “ten per centum of the electors,” they do not specify the basis or date upon which the “ten per centum of electors” is to be calculated.” *Id* at 384. The date is set by Article XVIII, Section 14 which could is clear: “All elections and submissions of questions provided for in this article shall be conducted by the election authorities prescribed by general law. The percentage of electors required to sign any petition provided for herein shall be based upon the total vote cast at the last preceding general municipal election.” OML argues this Court’s definition of electors would bar people from voting based on Revised Code definitions. Statutory construction rules do not allow for a legislative definitions in the Revised Code to trump this Court’s defining of the Ohio Constitution’s words.

Proposition of Law No. 2: Respondent may not review the substance of a proposed ballot measure.

Kent seeks a declaratory judgment by this Court on the content of the proposed Charter change because of an “affect” on citizens outside of the city limits. However, nothing in the proposed amendment does this. The proposed Charter amendment would establish “Democracy Day” during election years when the City would hold public hearings to examine the impact of corporate campaign

contributions on the City, the State, and the Nation. See Complaint, Ex. A.

Following the hearing, the City would communicate the testimony to elected state and federal officials summarizing the testimony and indicate to them Kent's support for an amendment to the U.S. Constitution.

Under Ohio Constitution, Article XVIII, Section 3, Ohio's Home Rule provision, Kent's citizens may determine whether or not their city officials should take testimony on the impact of political contributions and communicate a policy supporting an amendment to the U.S. Constitution. These activities are not in conflict with general laws and may serve as a check on the corrupting influence of money on local elections. *Id.*

III. Conclusion

Relators urge this Court to reaffirm *Huebner*, dismiss the Counterclaim, and issue a writ of mandamus to compel Respondent to fulfill its duty so the ballot issue may be certified in time to be voted on this November and award of attorney fees.

Respectfully submitted,

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Certificate of Service

I certify a copy of the foregoing was served by email on 9-13-15 upon:

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