Supreme Court of Ohio Clerk of Court - Filed May 06, 2016 - Case No. 2016-0614

IN THE SUPREME COURT OF OHIO

STATE EX REL. PAUL L. JACQUEMIN,	)	
	)	
AND	)	CASE NO. 2016-0614
	)	
STATE EX REL. MARY M. JACQUEMIN,	)	
	)	ORIGINAL ACTION IN
RELATORS,	)	PROHIBITION AND MANDAMUS
	)	
V.	)	
	)	
UNION COUNTY BOARD OF ELECTIONS,	)	
	)	
RESPONDENT.	)	

ANSWER OF RESPONDENT UNION COUNTY BOARD OF ELECTIONS

DONALD J. MCTIGUE (0022849)
J. COREY COLOMBO (0072398)
DEREK CLINGER (0092075)

MCTIGUE & COLOMBO LLC

545 EAST TOWN STREET
COLUMBUS, OHIO 43215
TELEPHONE: (614) 263-7000
FACSIMILE: (614) 263-7078
dmctigue@electionlawgroup.com
ccolombo@electionlawgroup.com
dclinger@electionlawgroup.com

LAURA M. COMEK (0070959)
LAURA M. COMEK LAW LLC
300 EAST BROAD STREET, SUITE 450
COLUMBUS, OHIO 43215
TELEPHONE: (614) 221-0717
FACSIMILE: (614) 221-1278
laura@comeklaw.com

COUNSEL FOR RELATORS

THAYNE D. GRAY (0059041)
ASSISTANT PROSECUTING ATTORNEY

OFFICE OF THE PROSECUTING ATTORNEY
UNION COUNTY, OHIO
221 WEST FIFTH STREET, THIRD FLOOR
MARYSVILLE, OHIO 43040
TELEPHONE: (937) 645-4190
FACSIMILE: (937) 645-4191
tgray@co.union.oh.us

COUNSEL FOR RESPONDENT

ANSWER OF RESPONDENT UNION COUNTY BOARD OF ELECTIONS

NOW COMES Respondent Union County Board of Elections by and through Thayne D. Gray, Assistant Prosecuting Attorney, Union County, Ohio, and for its Answer to Relators' Complaint in Original Action for Writ of Prohibition and/or Writ of Mandamus, states as follows:

1. Respondent admits the allegations in Paragraph 1 of the Complaint.
2. Respondent admits that Relators Paul L. Jacquemin and Mary M. Jacquemin are protestors against the Petition for Zoning Referendum on Jerome Township Resolution 15-167. Respondent has insufficient knowledge or information to form a belief as to the truth of the remaining allegations in Paragraph 2 of the Complaint and, therefore, denies the same.
3. Respondent admits the allegations in Paragraph 3 of the complaint.
4. Respondent admits that Relators have not allowed an unreasonable delay or lapse of time before filing their Complaint and that there has not been any prejudice to Respondent. Respondent has insufficient knowledge or information to form a belief as to the truth of the remaining allegations in Paragraph 4 of the Complaint and, therefore, denies the same.
5. Respondent admits the allegations in Paragraph 5 of the complaint.
6. Respondent admits that Schottenstein Real Estate Group signed the Zoning Application form. Respondent denies that the Zoning Application form contains any signature by the Relators Paul L. Jacquemin or Mary M. Jacquemin or any signature identified as made on behalf of Relators. Respondent has insufficient knowledge or information to form a

belief as to the truth of the remaining allegations in Paragraph 6 of the Complaint and, therefore, denies the same.

7. Respondent admits the allegations in Paragraph 7 of the Complaint.
8. Respondent admits the allegations in Paragraph 8 of the Complaint.
9. Respondent admits that Resolution 15-167 refers to a memorandum dated December 22, 2015 that was attributed to the Applicant/Developer. Respondent admits that no such memorandum was attached to the Referendum Petition. Further, Respondent is informed and reasonably believes that no copy of the December 22, 2105 Memorandum was attached to or otherwise included with the draft of Resolution 15-167 provided to the Petitioners on or about January 14, 2016. Respondent affirmatively states that no copy of the December 22, 2015 Memorandum was included with Resolution 15-167 as approved in the Jerome Township Board of Trustees Record of Proceedings, p. 3924 -3926.
10. Respondent denies the allegations in Paragraph 10 of the Complaint; however, Respondent is informed and reasonably believes that Petitioners delivered the Referendum Petition to the Jerome Township Fiscal Officer on January 20, 2016.
11. Respondent admits the allegations in Paragraph 11 of the Complaint.
12. Respondent admits the allegations in Paragraph 12 of the Complaint.
13. Respondent admits the allegations in Paragraph 13 of the Complaint.
14. Respondent admits the allegations in Paragraph 14 of the Complaint.
15. Respondent admits the allegations in Paragraph 15 of the Complaint.
16. Respondent admits the allegations in Paragraph 16 of the Complaint.
17. Respondent admits the allegations in Paragraph 17 of the Complaint.
18. Respondent admits the allegations in Paragraph 18 of the Complaint.

19. Respondent incorporates by reference the responses to the allegations in Paragraphs 1 through 18, as if set forth fully in writing.

20. Respondent admits the allegations in Paragraph 20 of the Complaint.

21. The allegations in Paragraph 21 of Relators' Complaint appear to state an alleged proposition of law only, to which no response is required. If, however, a response is deemed necessary, Respondent denies the allegations in Paragraph 21 of the Complaint.

22. The allegations in Paragraph 22 of Relators' Complaint appears to state an alleged proposition of law only, to which no response is required. If, however, a response is deemed necessary, Respondent denies the allegations in Paragraph 22 of the Complaint.

23. Respondent denies the allegations in Paragraph 23 of the Complaint.

24. Respondent admits that the summary in the Referendum Petition contains information not a part of Resolution 15-167. Respondent denies the remaining allegations contained in Paragraph 24 of the Complaint.

25. Respondent denies the allegations in Paragraph 25 of the Complaint.

26. Respondent denies the allegations in Paragraph 26 of the Complaint.

27. Respondent denies the allegations in Paragraph 27 of the Complaint.

28. Respondent denies the allegations in Paragraph 28 of the Complaint.

29. Respondent denies the allegations in Paragraph 29 of the Complaint.

30. Respondent denies the allegations in Paragraph 30 of the Complaint.

31. Respondent denies the allegations in Paragraph 31 of the Complaint.

32. Respondent denies the allegations in Paragraph 32 of the Complaint.

33. Respondent denies the allegations in Paragraph 33 of the Complaint.

34. Respondent denies the allegations in Paragraph 34 of the Complaint.

35. Respondent denies the allegations in Paragraph 35 of the Complaint.

36. Respondent admits that Relators have no adequate remedy at law but deny that Relators are entitled to a Writ of Prohibition.

37. Respondent incorporates by reference the responses to the allegations in Paragraphs 1 through 36, as if set forth fully in writing.

38. Respondent denies the allegations in Paragraph 38 of the Complaint.

39. Respondent admits the allegations in Paragraph 39 of the Complaint.

40. Respondent admits that Relators have no adequate remedy at law but deny that Relators are entitled to a Writ of Mandamus.

41. Respondent denies each and every other allegation in Relators' Complaint not specifically admitted.

WHEREFORE, Respondent prays this Court to dismiss Relators' Complaint, to grant judgment in its favor, and to grant such other relief as may be appropriate.

Respectfully submitted,

Thayne D. Gray (0059041)
Assistant Prosecuting Attorney
OFFICE OF THE PROSECUTING ATTORNEY
UNION COUNTY, OHIO
221 West Fifth Street, Third Floor
Marysville, OH 43040
Telephone: (937) 645-4190
Facsimile: (937) 645-4191
tgray@co.union.oh.us

Counsel for Respondent Union County Board of Elections

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Answer of Respondent Union County Board of Elections was served upon Donald J. McTigue, McTigue & Colombo LLC, 545 East Town Street, Columbus, Ohio 43215, and upon Laura M. Comek, Laura M. Comek law LLC, 300 East Broad Street, Suite 450, Columbus, Ohio 43215, counsel for Relators, by ordinary U.S. mail on May 6, 2016.

Thayne D. Gray (0059041)
Assistant Prosecuting Attorney