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Nichols v. City of Rehoboth Beach

United States Court of Appeals, Third Circuit - September 7, 2016 - F.3d - 2016 WL 4651383

City called a special election to vote on the issuance of up to $52.5 million in general obligation bonds to finance an ocean outfall project. At the special election, city accepted only voters who were either property owners or who had been residents for a minimum of six months. Corporations and other artificial entities that owned property in the city were also permitted to vote.

Taxpayer alleged that persons who owned several parcels of property in the city through the ownership of artificial entities were granted one vote for each parcel owned. Taxpayer further alleged that those who qualified as residents and who owned property were granted two votes.

Taxpayer brought action against city challenging the special election on the grounds that the city violated the Fourteenth Amendment by a) requiring voters to live in, or hold property in, the city for six months before being entitled to vote as residents, and b) allowing property owners to vote more than once.

The United States District Court for the District of Delaware dismissed action. Taxpayer appealed.

The Court of Appeals held that:

- Debt incurred from bond issue was insufficient basis for municipal taxpayer standing;
- City's expenditure of municipal funds to hold a special election for approval of bond issue was insufficient basis for municipal taxpayer standing; and
- City's purchase of advertisement in local newspaper to inform voters of special election was insufficient basis for municipal taxpayer standing.

Debt incurred by city from $52.5 million bond issue approved by special election was insufficient basis for taxpayer to have municipal taxpayer standing in her action against city alleging that election violated the Fourteenth Amendment with regard to requirements to vote in election, where city did not expend funds from bond on the allegedly illegal elements of the special election.

City's expenditure of municipal funds to hold a special election for approval of bond issue was not sufficient basis for taxpayer to have municipal taxpayer standing in her action challenging certain voting procedures used in special election under Fourteenth Amendment in her action against city, where taxpayer did not assert that city expended funds on the allegedly unconstitutional aspects of the special election, special election itself would have been held regardless of procedures city employed in holding election, causing city to expend the funds regardless of voting requirements used, and funds expended on special election were de minimis.

City's purchase of advertisement in local newspaper to inform voters of special election for approval of bond issue was not sufficient basis for taxpayer to have municipal taxpayer standing in her action challenging certain voting procedures use in special election under Fourteenth Amendment in her

action against city, where purported illegality of election procedures had nothing to do with expenditure of funds for advertisement, and cost of advertisement was de minimis.

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