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MUNICIPAL CORPORATIONS - ALABAMA

State v. Edwards

Supreme Court of Alabama - April 26, 2019 - So.3d - 2019 WL 1873562

After city council voted to appoint council member as member of city waterworks and gas board, board's chairman filed petition for writ of quo warranto, alleging that board's original certificate of incorporation prohibited any member of the city council from serving as a member of board and seeking declaration that council member was ineligible to hold office as member of board.

Parties filed cross motions for summary judgment. The Circuit Court denied chairman's petition and entered summary judgment in favor of council member. Chairman appealed.

The Supreme Court held that prohibition against municipal officer serving on board included in board's original certificate of incorporation was invalidated and superseded by restated and amended certificate of incorporation that omitted any such prohibition.

Restated and amended certificate was properly adopted and recorded, as required by statute, and embodied all the terms and provisions required in a new certificate of incorporation, and thus complete reading of restated and amended certificate indicated clear intent for it to be treated prospectively as controlling certificate, superseding all prior amendments and expressing in totality powers of board.

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