

Bond Case Briefs

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REFERENDA - OHIO

State ex rel. Barney v. Union County Board of Elections

Supreme Court of Ohio - October 17, 2019 .- N.E.3d - 2019 WL 5258021 - 2019 -Ohio- 4277

Protesters sought writ of prohibition to prevent county board of elections from placing a township zoning referendum on the general-election ballot.

The Supreme Court held that:

- Protesters had no adequate remedy at law;
- Part-petitions were not invalidated based on placement of number of zoning-amendment application;
- Protesters failed to establish that petition was invalid for failing to contain “correct title” of application; and
- Omissions of modifications to application from brief summary did not render application invalid.

Protesters, who objected to placement of township zoning referendum on general election ballot, had no adequate remedy at law, as required for grant of writ of prohibition to preclude county board of elections from including referendum on ballot, due to proximity of general election, which was approximately seven weeks after protesters filed petition for writ of prohibition.

Zoning-referendum part-petitions, which provided zoning-amendment application number in summary section, rather than on top of the form, strictly complied with election statute requiring that petition must “contain” the number of the zoning-amendment application, and substantially complied with form of petition contained in statute, and thus petition was not invalidated based on placement of application number, though form petition instructed petitioners to write name and number of proposal “on the top of the petition”; number of the application appeared on the face of the part-petitions, statute did not specify where on face of the part-petitions the information must have appeared, and protesters asserted no public-interest reason for invalidating part-petition upon such technical ground.

Protesters, who objected to placement of township zoning referendum on general election ballot, failed to establish that zoning-amendment application did in fact have title that petitioners should have used but did not, and thus protesters failed to demonstrate that part-petitions failed to comply with statutory requirement that they contain “full and correct title, if any” of the application, though protesters asserted that title identified at top of part-petitions was “made up”; protesters never identified what correct title was and neglected to place application into evidence, evidence that township never referred to application by title used in part-petitions did not establish actual “correct title” of applications, and statute contemplated possibility that application would not have title.

Zoning-referendum part-petitions, which provided name by which zoning-amendment application was known in summary section, rather than on top of the form, strictly complied with election statute requiring that petition must “contain” the name by which the application was known, and substantially complied with form of petition contained in statute, and thus was not invalidated based on placement of application name, though form petition instructed petitioners to write name and

number of proposal “on the top of the petition”; name and number of application appeared on the face of the part-petitions, and while statute required information to appear on part-petition, it did not mandate where it was required to appear.

Omission of five modifications to proposed zoning amendment imposed by township board of trustees from brief summary of zoning-amendment application contained in zoning-referendum part-petitions did not render summary inaccurate or ambiguous, and thus part-petitions were not invalidated on that ground; part-petitions contained entire zoning amendment, including full text of modifications, and petition was brief, as the complete zoning amendment including the full list of amendments was only two pages long.