

# **Bond Case Briefs**

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## **ZONING & PLANNING - OHIO**

### **State ex rel. Donaldson v. Delaware County Board of Elections**

**Supreme Court of Ohio - August 26, 2021 - N.E.3d - 2021 WL 3821901 - 2021-Ohio-2943**

Relator filed petition for writ of mandamus, seeking to require county board of elections to include referendum on zoning amendment on ballot.

The Supreme Court held that:

- Referendum petition's summary of zoning amendment failed to present issue fairly and accurately, rendering petition invalid, and
- Petition's reliance on public-hearing notices and zoning-commission language did not render summary sufficient.

Relator lacked adequate remedy in ordinary course of the law, as required for relator to obtain writ of mandamus ordering county board of elections to place referendum relating to zoning amendment on ballot, due to proximity of election, which was approximately two months away.

Referendum petition's summary of township zoning amendment relating to planned overlay district, which described amendment in general terms and stated that zoning amendment would include sections detailing permitted uses, open spaces, and prohibited uses, and that zoning resolution and map would be amended to designate the planned overlay district area, failed to present issue fairly and accurately to those being asked to sign petition, and thus petition was rendered invalid; summary did not identify location of land being rezoned, and it did not describe proposed zoning changes by indicating current use of property or uses that zoning amendment would permit.

Referendum petition's reliance on language from township zoning commission's public-hearing notices and zoning commission's resolution recommending denial of proposed zoning amendment regarding planned overlay district did not satisfy requirement that zoning amendment, as adopted by township, be fairly and accurately described in petition; notices did not summarize zoning amendment passed by township, but instead informed public of hearings that were scheduled to take place on proposed amendment prior to its enactment, notices were not required to contain summary of proposed zoning amendment, zoning commission's resolution was recommendation to township, not summary of amendment, and resolution related to previous version of planned overlay district.