

# **Bond Case Briefs**

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## **REFERENDA - OHIO**

### **State ex rel. Sanduskians for Sandusky v. Sandusky**

**Supreme Court of Ohio - September 23, 2022 - N.E.3d - 2022 WL 4395899 - 2022-Ohio-3362**

Taxpayer and others sought a writ of mandamus ordering city, city law director, and city commission members to certify a charter-amendment petition for a vote by city electors at general election, and requested attorney fees.

The Supreme Court held that:

- Estoppel did not apply to preclude taxpayer and others from arguing that statute, which listed what had to be included in any initiative or referendum petition, did not apply to their charter-amendment petition;
- Statute requiring an initiative petition to contain a full and correct copy of the title and text of the proposed ordinance, and a full and correct copy of the ordinance to be referred, did not apply to taxpayer and others' petition to amend city charter; abrogating *State ex rel. Hackworth v. Hughes*, 97 Ohio St.3d 110, 776 N.E.2d 1050; *Morris v. City Council of the City of Macedonia*, 71 Ohio St.3d 52, 641 N.E.2d 1075; *State ex rel. Becker v. Eastlake*, 93 Ohio St.3d 502, 756 N.E.2d 1228; and
- Taxpayer was not entitled to mandamus relief on claim seeking to have city and board of elections take the necessary steps to place proposed charter amendment on the next general election ballot.

Estoppel did not apply to preclude taxpayer and others from arguing that statute, which listed what had to be included in any initiative or referendum petition, did not apply to their charter-amendment petition; even if taxpayer and others took the position in their communications with city that the general municipal initiative and referendum statutes applied to their petition, they did not raise the argument in a court proceeding, and thus estoppel did not apply.

Statute requiring an initiative petition to contain a full and correct copy of the title and text of the proposed ordinance, and a full and correct copy of the ordinance to be referred, did not apply to taxpayer and others' petition to amend city charter; statute applied only to initiative and referendum petitions, and thus was inapplicable to a municipal charter-amendment petition, unless something in the municipal charter incorporated the statute into the charter-amendment process, as a charter amendment was not an "initiative"; abrogating *State ex rel. Hackworth v. Hughes*, 97 Ohio St.3d 110, 776 N.E.2d 1050; *Morris v. City Council of the City of Macedonia*, 71 Ohio St.3d 52, 641 N.E.2d 1075; *State ex rel. Becker v. Eastlake*, 93 Ohio St.3d 502, 756 N.E.2d 1228.

Taxpayer was not entitled to mandamus relief on claim seeking to have city and board of elections take the necessary steps to place proposed charter amendment on the next general election ballot; city charter called for a proposed amendment to be submitted to the electors "at the next regular municipal election" occurring between 60 and 120 days from the city commission's passage of an ordinance providing for the submission, and "regular municipal election" was defined as an election occurring in November of an odd numbered year.

Taxpayer was not entitled to an award of attorney fees in mandamus action seeking to compel city,

city law director, and city commission members to certify a charter-amendment petition for a vote by city electors at general election, pursuant to statute that allowed a court to award attorney fees to a successful taxpayer instituted a lawsuit after a city law director failed, upon request of a taxpayer, to apply for a writ of mandamus to enforce any duty enjoined by law or ordinance; an award of fees was generally warranted only when a respondent's actions were not reasonably supported by law, and city respondents position that charter-amendment petition was deficient as it failed to contain a full and correct copy of the title and text of the proposed ordinance was supported by caselaw.