

Bond Case Briefs

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ZONING & PLANNING - OHIO

State ex rel. Pinkston v. Delaware County Board of Elections

Supreme Court of Ohio - March 30, 2023 - N.E.3d - 2023 WL 2706811 - 2023-Ohio-1060

Township-zoning referendum proponent filed petition for writ of mandamus compelling county board of elections to place referendum on the ballot for the general primary election or ballot for the general election after board had sustained a protest to the referendum petition.

The Supreme Court held that:

- Laches did not apply;
- Proponent lacked adequate remedy at law as required for mandamus relief;
- Petition summary did not borrow text from a zoning resolution;
- Petition summary met basic statutory requirements;
- Petition summary was not deficient for failing to indicate number of homes being proposed in residential development; and
- County elections board abused its discretion by finding that the summary improperly omitted description of developer's earlier rezoning applications.

Township-zoning referendum proponent did not have actual or constructive knowledge that his delay in filing complaint for mandamus compelling county elections board to place referendum on primary election ballot after board sustained a protest to referendum petition would cause harm to the board, as required for laches to apply, where there was no evidence that proponent actually knew that a two-week delay in filing his lawsuit would cause board not to prepare to hold a primary election, nor was there any evidence justifying the imputation of such knowledge to proponent.

Township-zoning referendum proponent lacked an adequate remedy at law, as required to obtain writ of mandamus compelling county elections board to place referendum on primary election ballot after board sustained a protest to referendum petition, given the proximity of the board's decision in late February and the primary election in May.

Township-zoning referendum petition's summary did not borrow text from a zoning resolution but rather, borrowed language from minutes of township board of trustees' meeting approving developer's final application for rezoning property to a planned residential district, and thus, proponent did not show that using the borrowed language satisfied statutory requirements for the summary; zoning amendment at issue was proposed by developer's application, not be resolution of the board of trustees.

Township-zoning referendum petition's summary met basic statutory requirements that it identify location of the property at issue, its current zoning status, and nature of the requested change, where summary provided parcel numbers and an address for the property, along with its current zoning, planned institutional district, and proposed zoning, planned residential district, and nature of proposed development, single-family homes.

Township-zoning referendum petition's summary was not deficient for failing to indicate number of

homes being proposed in residential development, because the summary unambiguously apprised readers of the specific use the proposal would permit, namely, the development of single-family homes, and as such, it was not ambiguous or misleading.

Proponent of township-zoning referendum was not required to describe developer's earlier rezoning applications in petition's summary of zoning amendment, and thus, county elections board abused its discretion and acted contrary to law in finding that the summary improperly omitted that information; developer, which filed protest to the petition, argued that because petition summary did not include information about modifications, it conveyed the false impression that rezoning as approved was same as rezoning as initially proposed, but it was the zoning amendment as adopted by the township that had to be summarized in the petition.