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REFERENDA - OHIO

State ex rel. LaChapelle v. Harkey

Supreme Court of Ohio - August 7, 2023 - N.E.3d - 2023 WL 5012040 - 2023-Ohio-2723

Member of committee that was attempting to place referendum on city ordinance related to nonowner-occupied residential property filed action seeking writ of mandamus to order city official to transmit referendum petition to county board of elections.

The Supreme Court held that:

- Committee member lacked adequate remedy in ordinary course of law as required for writ of mandamus;
- City official had mandatory, ministerial duty to transmit referendum petition to county board of elections;
- Fact that there was dispute about whether copy of ordinance was properly certified copy did not remove city official's duty to transmit petition to county board of elections; and
- Fact that city ordinance may have been administrative in nature did not remove city official's duty to transmit referendum petition to county board of elections.

Member of committee that was attempting to place referendum on city ordinance related to nonowner-occupied residential property lacked adequate remedy in ordinary course of law, for purposes of obtaining writ of mandamus to compel city official to transmit referendum petition to county board of elections, due to proximity of election.

City official had mandatory, ministerial duty to transmit referendum petition for city ordinance related to nonowner-occupied residential property to county board of elections, thus warranting mandamus relief, where petition was filed with city official within 30 days of passing of ordinance

Fact that there was dispute about whether copy of ordinance governing nonowner-occupied residential property filed prior to circulating referendum petition related to ordinance was properly certified copy did not remove city official's duty to transmit petition to county board of elections; copy of ordinance contained certification attesting that it was true and exact replica of original ordinance, and city official's duty to certify sufficiency and validity of petition did not arise until after board of elections examined petition.

Fact that city ordinance related to nonowner-occupied residential property may have been administrative in nature and thus not subject to referendum did not remove city official's duty to transmit referendum petition to county board of elections; city official did not have discretion to withhold referendum petition on ground that required her to make judicial or quasi-judicial determination.

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