
Town of Normal Electoral Board

In re Objection to Petition for Referendum
to Divide the Town into Six Districts with One
Trustee Elected from Each District

No. 2022-01

Findings, Decision, and Order

The duly constituted Municipal Officers Electoral Board of the Town of Normal, consisting of: Christopher Koos, chairman; Kevin McCarthy, member; and Angelia Huonker, member, was organized by law in response to a call issued by Chairman Koos of the electoral board for the purpose of hearing and passing upon objections to the petition for a referendum to divide the Town into six districts with one trustee elected from each district.

Findings

1. The Town of Normal is an incorporated town under its 1867 charter, and it is a home-rule unit of government under article VII, section 6 of the Illinois Constitution.
2. On 08 August 2022, a petition was filed under section 3.1-25-80 of the Illinois Municipal Code (65 ILCS 5/3.1-25-80) to divide the Town into six districts with one trustee elected from each district.
3. The question on the petition states, "Shall the town be divided into 6 districts with one trustee elected from each district?".
4. The petition seeks to be placed on the ballot for the general election to be held on 08 November 2022.
5. The petition identified Kathy Siracuse as the primary proponent ("respondent") for the purposes of objections.
6. The petition was timely filed with the local election official as required by section 28-2 of the Election Code (10 ILCS 5/28-2).
7. On 15 August 2022, Patrick Dullard filed an objection to the petition.
8. The objection was timely filed.
9. The Electoral Board has been legally constituted according to the laws of the State of Illinois.

10. The local election official, by and through her designee, issued and caused to be served upon the chairman, a copy of the petition and a copy of the objection.
11. The local election official, by and through her designee, issued and caused to be served upon Siracuse a copy of the objection.
12. Calls to the hearing on the objections were duly issued and caused to be served by the Chairman of the Electoral Board, by and through his designee, upon the members of the Electoral Board, Siracuse, and Dullard.
13. Notice and agendas for the public hearing scheduled for 22 August 2022 were duly posted in accordance with the law.
14. A public hearing held on the objections commenced on 22 August 2022, was recessed until 29 August 2022, and was again recessed until 30 August 2022.
15. The respondent filed a motion to strike and dismiss the objection. After argument on 29 August 2022, that motion was taken under advisement.
16. The respondent filed a motion objecting to the conduct of a records check. After argument on 29 August 2022, that motion was taken under advisement.
17. The board heard oral argument on the objection on 29 August 2022 and the matter was taken under advisement.
18. The respondent filed an objection to the participation of the Town Clerk in the records check and motion for recusal of the clerk or alternately a restart of the records check with an appointed hearing officer. The records check was ordered and partially conducted under section 16 of the board's rules of procedure. Hearing on that motion was postponed pending decision on the prior issues taken under advisement.
19. A copy of this Findings, Decision, and Order was executed and issued at an open meeting on 30 August 2022.

Decision

- A. Compliance with section 3.1-25-80 of the Illinois Municipal Code (Objection 1).
20. The first objection is that the petition is not authorized by statute. The objector argues that state statute, 65 ILCS 5/3.1-25-80, authorizes referenda to divide a village into districts, but the Town of Normal is not a village. Therefore, the statute does not authorize the referendum for the Town of Normal.
21. The respondent contends that the statute applies to towns as well as villages because case law has said that villages and incorporated towns are synonymous and that the Town of Normal is really a village because it doesn't elect officers under section 3.1-25-95.

22. We agree with the objector that section 3.1-25-80 does not authorize a referendum in the Town of Normal.
23. Under Illinois law, a binding referendum is not allowed unless it is authorized by a statute¹. See 10 ILCS 5/28-1. The method of submitting that referendum question must comply with the requirements of the authorizing statute. *Ibid*. Electoral boards generally have the authority to—and indeed must—determine whether proposed referenda are authorized by statute. *Harned v. Evanston Municipal Officers Electoral Board*, 2020 IL App (1st) 200314, ¶29 (affirming objection to referendum petition).
24. The petition states that it is made “pursuant to Section 3.1-25-80 of the Illinois Municipal Code.” That statute provides for a binding districting referenda if a petition is signed by “not less than 5% of the electors of a *village* with a population of 5,000 or more.” 65 ILCS 5/3.1-25-80 (emphasis added). It does not address or mention incorporated towns. Therefore, the statute cannot apply to the Town of Normal unless the term “village” in the statute also means “incorporated town.” It does not. The plain and unambiguous language of the Illinois Municipal Code specifically precludes the interchangeable reference to the types of municipalities, and doing so would deviate from the way that division of the code treats villages and towns in every other respect.
25. Under Illinois law, if a statute’s plain language is clear and unambiguous, then that plain language prevails, and any court must conclude that the statute means what it says. See *Kloeppe v. Champaign County Bd.* 2021 IL App (4th) 210091, ¶31 (citing *Michigan Avenue National Bank v. County of Cook*, 191 Ill.2d 493, 504 (2000)). This is true even if one believes that the statutory language is a legislative oversight or that the consequence would be unwise. See *id.* at ¶34 (internal citations omitted). One may not depart from the unambiguous language of a statute by reading into it exceptions, limitations, or conditions that conflict with that language. See, *People v. Clark*, 2018 IL 122495, ¶8 (citing *People v. Martinez*, 184 Ill.2d 547, 550 (1998)).
26. A statute is ambiguous only if it is capable of being understood, by reasonably well-informed persons, in two or more different ways. *Solon v. Midwest Medical Records Ass’n, Inc.*, 236 Ill.2d 433, 440 (2010). One must look at the statute in its entirety, and should not construe language to be meaningless or superfluous. See, *UDI No. 2, LLC, v. Dep’t of Public Health*, 2012 IL App (4th) 110691, ¶19. Words and phrases should not be viewed in isolation, but should be considered in light of other relevant provisions of the statute. *Mannheim School Dist. No. 83 v. Teachers’ Retirement System of Illinois*, 2015 IL App (4th) 140531, ¶11 (citing *Bettis v. Marsaglia*, 2014 IL 117050, ¶13).
27. Here, there can be no ambiguity that the term “village” excludes an “incorporated town” because the plain and unambiguous language of the Illinois Municipal Code expressly states

¹ A binding referendum may also be authorized by a constitutional provision, but that is not relevant here.

that the term "village" and "incorporated town" are not synonymous. Section 1-1-4 of the Illinois Municipal Code states that the code applies to each type of municipality generally, but "if a particular section of the code is limited to cities or villages or incorporated towns or any combination thereof or to cities, villages or incorporated towns of a specific type or any combination thereof, that intention shall prevail." 65 ILCS 5/1-1-4. Under this statute, "city" means a city, "village" means a village, and an "incorporated town" means an incorporated town. Section 3.1-25-80 of the Illinois Municipal Code is limited to villages with a population of 5,000 or more. The plain and unambiguous language of the Illinois Municipal Code prevails, and we must conclude that the statute means what it says: section 3.1-25-80 of the Illinois Municipal Code applies only to villages and not to incorporated towns—it does not apply to the Town of Normal.

28. But even if section 1-1-4 did not exist, case law would prohibit interpreting section 3.1-25-80 to include the Town of Normal. See, *DePue v. Banschbach*, 273 Ill. 574, 580-81 (1916)(holding that the terms "city," "village," and "town" were not interchangeable under the Cities and Villages Act), *People v. Fox*, 247 Ill. 402, 408-09 (1910)(holding that held that the terms "city," "village," and "town" were not interchangeable under the Road and Bridge Act), *Schmolke v. Highland Butterfield, Inc.*, 128 Ill. App.3d 710, 713-14 (2nd Dist. 1984)(holding that, the terms "city," "village," and "town" were not interchangeable under the Illinois Municipal Code).
29. In the late 1800s and early 1900s, the court was willing to treat different categories of municipalities more interchangeably. For example, the court held that, under some statutes, a "city" and an "incorporated town" were synonymous. See e.g., *Bruer v. Madison County*, 111 Ill. 11, 15 (1884)(citing *Burke v. Monroe County*, 77 Ill 610, 614 (1875)), Similarly, the court held that, under some statutes, an incorporated town and village were synonymous. See e.g., *Town of Cicero v. Haas*, 214 Ill. 551, 576 (1913)(collecting cases). And finally, the court held that, under some statutes, the word "city" should be construed to include all incorporated towns and villages. *People v. Grover*, 258 Ill. 124, 132 (1913).
30. But this interchangeability had limits. In *People v. Fox*, the supreme court held that the terms "city," "village," and "town" were not interchangeable under the Road and Bridge Act. *Fox*, 247 Ill. at 408-09. There, the statutory enactment consisted of three sections, two of which referred to "cities, villages, and towns" and the third, which referred only to "cities." The court held that, because the statute treated the municipal types differently, the section that applied only to cities could not apply to a village or town. *Ibid*. The supreme court came to the same conclusion in *DePue v. Banschbach*, where it held that, under the Cities and Villages Act (now the Illinois Municipal Code), the terms "city," "village," and "town" could not be used interchangeably. *DePue*, 273 Ill. at 580-81. Because that act sometimes referred to "cities, towns, and villages" and sometimes referred to each individually, the court held that a section that expressly includes one type of municipality precludes the others. *Ibid*. To hold otherwise would be an unauthorized change or addition to the statute. *Ibid*. Seventy years later, the appellate court applied this same analysis to the Illinois Municipal Code. *Schmolke*, 128 Ill. App.3d at 713-

14. There the Illinois Municipal Code authorized certain powers to cities concerning cemetery removal that are given to townships. Because the statute applied only to cities and not to villages, the village was not given authority under that statute. *Ibid.* The court cited to section 1-1-4 of the Illinois Municipal Code in its analysis. *Ibid.*
31. Division 25 of article 3.1 of the Illinois Municipal Code governs elected officers in villages and incorporated towns. Some sections in that division apply only to villages (see, e.g., 65 ILCS 5/3.1-25-5), some only to incorporated towns (see, e.g., 65 ILCS 5/3.1-25-95), and some to both (see, e.g., 65 ILCS 5/3.1-25-70).² Section 3.1-25-80 references only villages. Under section 1-1-4 of the Illinois Municipal Code and the *DePue* and *Schmolke* decisions, the statute's reference to only villages means that it applies to villages only. No case has held that an Illinois Municipal Code reference to one type of municipality means a different type of municipality. To do so would be an unauthorized change or addition to the statute. *DePue*, 273 Ill. at 580-81.
32. Even without section 1-1-4 of the Illinois Municipal Code and without the case law, the standard principles of statutory interpretation would preclude holding that a town is a village under the Illinois Municipal Code. We should not construe a statute in a way to render any of its language to be meaningless or superfluous. See, *UDI No. 2, LLC*, 2012 IL App (4th) 110691 at ¶19. Additionally, language should not be construed so as to lead to inconvenient, absurd, or unjust consequences. *Ibid.* As noted, the Illinois Municipal Code makes references to "cities, villages, and incorporated towns" or to "villages and incorporated towns." If the term "village" were always synonymous with "incorporated towns," then any reference to incorporated towns under the Act would be superfluous and meaningless because they would be included as villages. Conversely, if the term "village" were only occasionally synonymous with "incorporated towns," then the Act would be inconvenient and absurd because there would be no way of determining when a village was also a town and when a village was only a village.
33. In support of her position that the Town of Normal is a village under the Illinois Municipal Code, the respondent cites to section 25.1-7 of the Normal Town Code to argue that a village and town are interchangeable. Under that section, "Any reference made to "city" or "village" means the Town, and any reference to a "city" officer or employee or "village" officer or employee means a Town officer or employee. The respondent's argument flounders for two reasons. First, this code section governs the interpretation of the Normal Town Code. For example, the Code refers to "city hall" or "city manager." See e.g., sections 25.2-16 and 25.2-12 of the Town Code.³ None of the state statutes at issue here depend on the interpretation of the

² Most sections in this division apply only to villages because villages can currently be incorporated and organized. All towns, by contrast, had to be incorporated prior to the 1870 Constitution, which prohibited the creation of any new special-charter municipalities. All municipalities after that date had to be incorporated under statutory procedure. Since then, no statute has authorized the incorporation of a new town—only cities and villages may be incorporated under the Illinois Municipal Code.

³ While there are frequent references to "city" throughout the code, there are few if any references to "village".

Town's Code. Second, the respondent ignores that section 25.1-7 is not limited to references to "village;" it also governs references to "city." If this provision were to be read to render the towns and villages synonymous, then it would also render towns and cities synonymous. Obviously, such an interpretation would be absurd and must be rejected. Notably, section 25.1-7 of the Town Code serves as an example of how a legislative body can determine that references to municipal categories may be used interchangeably in an enactment. The fact that the Illinois General Assembly took the opposite approach with 65 ILCS 5/1-1-4 is further indication that the terms are not interchangeable in the Illinois Municipal Code.

34. Next, the respondent argues that the Town must be a village because it does not elect certain officers as set forth in section 3.1-25-95 of the Illinois Municipal Code. That section refers only to incorporated towns and requires the election a president, clerk, assessor, collector, and supervisor. The respondent argues that the Town must be a village because it does not elect most of these officers. First, it should be noted that, in making this argument, the respondent necessarily concedes that incorporated towns and villages are not synonymous under division 25 of the Illinois Municipal Code. Second, setting aside any issues of section 3.1-25-95's inapplicability to the Town through home-rule authority or otherwise, a municipality's compliance with a statute does not change it into a different category of municipality. Such an interpretation is not supported by any authority.
35. Finally, the respondent makes repeated claims that the petition "substantially" complies with section 3.1-25-80. Substantial compliance with that statute is insufficient. Courts have held that a deviation from the Election Code's petition-submission requirements that is minor or technical in nature will not invalidate an entire petition. See e.g., *Let Forest Park Vote v. Forest Park Municipal Officers Electoral Board*, 2018 IL App (1st) 180391, ¶120 (collecting cases) Substantial compliance is sufficient when there is only a technical violation. *Ibid*. Misidentifying the Town of Normal as a village is not a violation of the Election Code's petition-submission requirements, nor is it a technical deviation. It is a substantive legal issue that affects the very ability to conduct the referendum.
36. The petition fails to conform to the requirements of 10 ILCS 5/28-1 and 65 ILCS 5/3.1-25-80 because the Town of Normal is not a village.

B. Sufficiency of objection to the number of valid petition signatures (Objection 2).

37. Paragraph 2 of the objection states that "I also object to the validity of the petition on the grounds that it does not contain enough valid signatures of electors in the Town of Normal to meet the 5% threshold as cited in Section 3.1-25-80 cited by the Petitioners."
38. The respondent argues that this objection is invalid because it fails to identify any signature as invalid and, thus, failed to identify any of the reasons that the Board would consider to invalidate a signature under its rules of procedure.

39. The objector argues that his statement that there are not enough valid signatures on the petition is sufficient and that he is not required to identify any specific signatures in his objection.
 40. We agree with the respondent that paragraph 2 of the objection does not give proper notice of the objection.
 41. The requirements for the form of an objection are found in section 10-8 of the Election Code. Under that statute, the objector's petition must fully state the nature of the objections to the petitions in question. 10 ILCS 5/10-8. Courts have noted that the Election Code does not specifically address the degree of precision required to satisfy this requirement. *Siegel v. Lake County Officers Electoral Board*, 385 Ill. App.3d 452, 457 (2nd Dist. 2008)(citing *Morton v. State Officers Electoral Board*, 311 Ill. App.3d 982, 985 (4th Dist. 2000)).
 42. Neither party has submitted any controlling legal authority holding that an objection petition must specifically enumerate the signatures objected to. In *Polanco v. Cook County Officers Electoral Board*, an unpublished and nonprecedential opinion, the appellate court held that an objection stating that the candidate submitted a number of signatures less than the statutorily required number of signatures. *Polanco v. Cook County Officers Electoral Board*, 2022 IL App (1st), 220712-U, ¶16. The court held that this objection was insufficient to support an argument that a higher signature number was required because the signature should have been based on a general election rather than a township committee or consolidated election. *Id.* at ¶131. An objection must give fair notice of the nature of the objection. *Ibid.*
 43. Here, the objector was challenging the validity of signatures, and the objection did not say what signatures were invalid or why they were invalid. Without holding that every objection petition must enumerate the specific signatures objected to, the board holds that the objection here did not give fair notice of what was being objected to and why it was being objected to.
 44. As an additional matter, the objector argued that petition pages that were circulated by people who were not residents of the Town of Normal should be invalidated because nonresidents should not be allowed to work to influence the governmental process of a community that they do not reside in. This argument must fail for the same reason that the first objection was sustained. Section 28-3 of the Election Code sets forth the requirements for circulators. 10 ILCS 5/28-3. The plain and unambiguous language of that statute does not require circulators to be residents, and to hold otherwise would be an unauthorized change or addition to the statute.
- C. Objection to clerk's participation in record check.
45. Finally, the respondent moved to object to the participation of the Town Clerk in the records check ordered and conducted under section 16 of the Board's adopted rules of procedure. Because the objection concerning the number of valid signatures cannot be sustained, that motion is moot.

Order

It is the order of the Municipal Officers Electoral Board of the Town of Normal that:

- A. Objection 1 of the objection is sustained. The board finds that the petition fails to conform to the requirements of 10 ILCS 5/28-1 and 65 ILCS 5/3.1-25-80 because the Town of Normal is not a village. The question of public policy may not be placed on the 08 November 2022 ballot.
- B. Objection 2 of the objection is overruled. The board finds that the objection fails to fully state the nature of the objection as required under 10 ILCS 5/10-8.
- C. The respondents motion to dismiss and strike the objection is denied with respect to Objection 1 and is granted with respect to Objection 2.
- D. The respondents objection to the participation of the Town Clerk in the records check is overruled as moot, and the corresponding motions are denied as moot.
- E. There are no other pending matters before this board. This Findings, Decision, and Order constitutes a final order for the purposes of judicial review under section 10-10.1 of the Election Code.

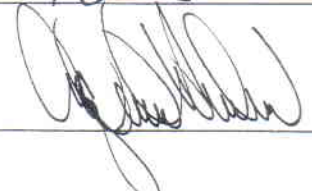
Dated : 30 August 2022



Christopher Koos, Chairman



Kevin McCarthy, Member



Angelia Huonker, Member