
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

REPLY TO OBJECTOR’S ARGUMENT IN SUPPORT OF PARAGRAPH 1

Prior to the 1870 Constitution, a great deal of time of the Illinois legislature was spent passing “special laws” that specifically benefitted individuals and corporations. As a result the legislators were heavily involved in search of contributions and direct payments to grant privileges and often monopoly powers.

In line with the practice of passing “special laws” for many purposes, Illinois municipalities were chartered by special act of the legislature. The 1870 Constitution, in an effort to curb the corruption inherent with such practices, prohibited the legislature from enacting “special legislation” on a wide variety of subjects. This included a ban on “special legislation” in the creation of municipalities.

The relevant passage of the 1870 Constitution is: “The general assembly shall not pass local or special laws ... Incorporating cities, towns, or villages ...” Illinois Constitution 1870, Article IV, Section 22.

As a result of this limitation, in order to provide a method for new municipalities to come into existence it became necessary for the General Assembly to create a code of general applicability that would not be “special” under the new constitution. Thus was born the Illinois Municipal Code of 1872.

The Municipal Code of 1872 provided for a uniform system for cities and villages to come into existence. Before the 1870 Constitution was adopted “towns” were created by “special legislation” and after, the General Assembly no longer had such authority. When the 1872 municipal code was enacted, the possibility of a new “town” was not included.

“Towns” created by “special legislation” prior to 1870 became known as “incorporated towns”.

The issue of if there were a true difference in the corporate existence and legal status of an “incorporated town” created by special charter and “village” birthed under the 1872 Municipal Code would become an issue in Illinois courts.

Since at least 1877, the Illinois Supreme Court has defined and affirmed numerous times that the terms “incorporated towns” are “villages” for the purposes of Illinois law have the same meaning. When the issue presented itself shortly after enactment of the 1872 Municipal Code the response was: “Such an organization was formerly always called “an incorporated town,” while in our later statutes they are frequently called “villages,” but mean the same thing... *Martin v. People ex rel. Huck*, 87 Ill. 524 (1877)

In 1887 the question of Illinois’ definition of “town” versus village would reach the United States Supreme Court. The Supreme Court of the United States has sanctioned the construction “incorporated

town and an incorporated village were one and the same thing” under the laws of Illinois. *Enfield v. Jordan*, 119 U. S. 680, 7 Sup. Ct. 358, 30 L. Ed. 523 (1887)

In 1892 the Illinois Supreme would again affirm that under Illinois law: “An incorporated town, is a village ...” *People ex rel. Longenecker v. Village of Harvey*, 142 Ill. 573 (1892).

The issue continued to arise and the answer continued to be the same. The Illinois Supreme Court has held numerous times that, within the meaning of Illinois law, the terms ‘town’ and ‘village’ are synonymous. *People ex rel. Mohlenbrock v. Pike*, 197 Ill. 449 (1902); *Phillips v. Town of Scales Mound*, 195 Ill. 353, 63 N. E. 180 (1902).

“We have also held that an incorporated town and incorporated village may mean one and the same thing.” *People ex rel. Hatfield v. Grover*, 258 Ill. 124 (1913) citing *Town of Cicero v. Haas*, 244 Ill. 551, 91 N. E. 574 (1910)

It became settled that in Illinois law “town” and “village” have the same meaning.

“Incorporated towns, on the other hand, are units of local government which were organized under special charters granted by the legislature prior to the adoption of the constitution of 1870. That constitution prohibited local or special laws “incorporating cities, towns or villages, or changing or amending the charter of any town, city or village,” (Const. of 1870, art. IV, sec. 22.) Since 1870 no special charter towns, cities or villages have been created, and since that date there has been no statute under which a newly incorporated town could be created. (See Platt, Illinois Municipal Code, S.H.A., chap. 24, pp. 65, 66.) While the number of incorporated towns has diminished, they were very numerous when the constitution of 1870 was adopted. In 1867, for example, many such special charters were granted, or amended. 3 Private Laws, 1867, Index, pp. iv-v.” *Committee of Local Improvements v. Objectors to the Assessment*, 39 Ill. 2d 255 (1968)

Over time, the term “incorporated town” while a vestigial quirk of Illinois history, the definition as synonymous with “village” was entrenched in Illinois law. That status has never been altered by the Illinois Supreme Court.

In citing *Lucas v. Lakin*, 175 Ill.2d 166, 676 N.E.2d 637, 221 Ill. Dec. 834 (Ill. 1997) OBJECTOR presents a general concept regarding statutory interpretation. The case does not address the issue of the judicially defined relationship of “village” versus “town”. The above cases develop as settled law that the terms are synonymous.

As to Normal, IL in particular the terms have been employed interchangeably. There are multiple court cases involving Normal in which it is referred to by courts as a “village”.

Consistent with the pronouncements of the Illinois Supreme Court, in litigation over the decades, Normal is often referred to as the Village of Normal.

See: *People ex rel. Garrison v. Keys*, 310 Ill. 198 (1923)

Bloomington & Normal Ry., Elec. & Heating Co. v. City of Bloomington, 123 Ill.App. 639 (1906)

Kennedy v. Town of Normal, 359 Ill. 306 (1934) (even when the case was captioned “Town of Normal” within the body of the case, the municipality is referred to as the “village of Normal”).

This treatment of Normal in court over the years as either a “town” or “village” is consistent with treatment of the terms by the Illinois Supreme Court.

Normal’s own Municipal Code acknowledges the terms to be interchangeable.

The Municipal Code of Normal acknowledges that “village” and “town” are interchangeable:

SEC. 25.1-7 DEFINITIONS AND INTERPRETATION. A. City or Village. Any reference made to “city” or “village” shall mean the Town of Normal, McLean County, Illinois, unless the context clearly requires otherwise. Any reference to “city” officer or employee, “Village” officer or employee or town officer or employee shall mean one and the same and shall be deemed to be the officer or employee of the Town of Normal.

Normal is a “village” within the meaning of 65 ILCS 5/1- 1- 4.

The Referendum Petition “substantially” complies with the form set forth in 65 ILCS 5/3.1-25-80.

The entire point of creating the Municipal Code of 1872 and subsequent amendments in compliance with Illinois’ 1870 Constitution was to protect Illinois citizens from the corruption of “special legislation” by establishing a uniform system of municipal incorporation and providing citizens with mechanisms of local control in laws of general application as protection from Springfield corruption.

The current Illinois Constitution of 1970 carries forward the prohibition on special legislation in Article IV Section 13: “The General Assembly shall pass no special or local law when a general law is or can be made applicable. Whether a general law is or can be made applicable shall be a matter for judicial determination.”

While OBJECTOR argues from a generalized principle of statutory interpretation, the history of “village” and “town” is the Illinois Supreme Court denoting the terms as synonyms. The goal of the 1870 Illinois Constitution in giving birth to the 1872 Illinois Municipal Code was to provide enhanced local citizen control with laws of general application as protection from corrupt “special legislation” originating in Springfield.

Illinois Courts denote “village” and “town” to be synonymous. The terms have been used interchangeably by both courts and municipal ordinances in relation to Normal, IL. Having distinct districts rather than a group of at large trustees is consistent with the goals of the 1870 Constitution, the origination of the 1872 Municipal Code, and the 1970 Constitution to have stronger representation limiting the corrupt effects of “special legislation”.

Given the entire history it is inconceivable that the legislature would intend to deny citizens the opportunity to choose to have representative district trustees that are closer to the people by virtue of a distinction that the Illinois Supreme Court has determined to be non-existent in Illinois law.

Normal is a “village” within the meaning of 65 ILCS 5/1- 1- 4.

As per the Illinois Compiled Statutes, the referendum provision RESPONDENT is proceeding under is found in **65 ILCS 5/Art. 3.1 Div. 25 ELECTED VILLAGE AND INCORPORATED TOWN OFFICERS.**

The Revised Cities and Villages Act changed the title of Chapter 24 from “Cities, Villages and Towns” to “Villages and Cities.” Towns were incorporated into “villages” under the eyes to state law. The intent was to be inclusive. Further, the Division 25 heading which the Objector has issue with the absence of

the word Town contained within one of its sections is titled "Village and Incorporated Town Officers". The obvious intent is for its sections to be interpreted inclusively and generally as defined in 65 ILCS 5/1-1-4 states that the code "SHALL APPLY GENERALLY TO ALL MUNICIPALITY TYPES". Further, the IL Supreme Court has stated the absence of a word should not be interpreted as intent of the legislature to exclude.

"We cannot agree with this position. The function of section 1-2 is simply to prescribe the scope of particular terms when they appear in the act. It can have no bearing upon provisions in which the defined terms do not appear. Section 2-4 does not contain either 'municipal' or 'municipality.' Its normal purport cannot, therefore, be varied by the statutory definitions of such words. If the legislature had intended that the term 'incorporated town' should not include 'incorporated town which has superseded a civil township' it would have so provided in section 1-2" *People ex rel. Stoffel v. Town of Cicero*, 404 Ill. 432 (1949)

The "plain language" interpretation of "ELECTED VILLAGE AND INCORPORATED TOWN OFFICERS " is that the sections were intended to apply to "ELECTED VILLAGE AND INCORPORATED TOWN OFFICERS " There is no indication that the intent was to limit the section to only villages and thus the claim has no merit.

The table of contents for the ACT, specifically around Division 25 shows clearly that Village and Towns were intended to be applied generally to this division. There is no section specific for Towns. The objectors claim excludes the context of the ACT with which the paragraph he questions is contained.

The Referendum Petition "substantially" complies with the form set forth in 65 ILCS 5/3.1-25-80

THE VILLAGE OF NORMAL DOES NOT ELECT THE OFFICERS REQUIRED OF A TOWN

The Illinois Municipal Code recognizes only three types of municipalities:

"Municipal" or "municipality" means a city, village, or incorporated town in the State of Illinois... 65 ILCS 5/1-1-2.

The Municipal Code has a specifically requires the election of a president, clerk, assessor, collector and supervisor for EVERY incorporated town. The statute says SHALL BE ELECTED, making the election of those officers mandatory for an incorporated town. The statutory provision is as follows:

65 ILCS 5/3.1-25-95) (from Ch. 24, par. 3.1-25-95)

Sec. 3.1-25-95. Incorporated town officers. For the general municipal election to be held in the year 1985 in every incorporated town with a population of 25,000 or more by the last official census, and every 4 years thereafter, the municipal clerk shall certify the names of the candidates to the proper election authority as provided by the general election law. A president, a clerk, an assessor, a collector, and a supervisor shall be elected for a term of 4 years and until their successors are elected and have qualified.

The Village of Normal elects only a Mayor and a Board of Trustees. The Village of Normal does not elect the officials REQUIRED of an incorporated town.

Normal is not a "city" and does not elect the officers required to be an "incorporated town". Regardless of any name the municipality wishes to put on its website, there is only a single municipal entity recognized by Illinois law which Normal can be: **A VILLAGE.**

The choice of petitioners to use the commonly employed "Town of Normal" is without legal consequence and consistent with the term the Village of Normal uses to present itself to the world. (See the Village's web site entitled "Town of Normal")

Consequently, 65 ILCS 5/3.1-25-80, under which the petitioners filed, applies to the Village of Normal and paragraph 1 of the objection must be stricken and dismissed.

REPLY TO OBJECTOR'S ARGUMENTS AT TO PARAGRAPH 2

Initially RESPONDENT notes that in OBJECTOR'S original petition, there is no reference to any issue regarding petition circulators. OBJECTOR'S brief regarding paragraph 2 is focused upon alleged issues regarding circulators. As noted in RESPONDENT'S Motion to Strike and Dismiss,

"... pursuant to Municipal Officers Electoral Board 2022 Rules of Procedure Rule 9: "Within the parameters of the law, the Board will only consider written objections and the written specifications of those objections to the original petitions, as set forth in the objector's petition. The objector's petition cannot be amended."

OBJECTOR'S argument on the issue of circulators is an attempt to add a prohibited amendment to his original objection, and by answering OBJECTOR'S argument, RESPONDENT does not waive the standing objection regarding the failure of Paragraph 2 to "state fully" his objection in the Motion to Strike and Dismiss. On that basis, the Board should not entertain OBJECTOR'S argument involving circulators/

Beyond being an attempt at an improper amendment, OBJECTOR'S contention regarding the residence of circulators is without merit. The requirements of circulators is set forth clearly in 10 ILCS 5/28-3:

"At the bottom of each sheet of such petition shall be added a circulator's statement, signed by a person 18 years of age or older who is a citizen of the United States..."

There is no requirement that a circulator be a resident of the district as OBJECTOR asserts.

For the reasons originally stated in RESPONDENT'S Motion to Strike and Dismiss, paragraph 2 must be stricken and dismissed.

Respectfully Submitted,

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