

**INCORPORATED TOWN OF NORMAL  
BOARD OF ELECTIONS**

Patrick Dullard, Jeffrey Fritzen,	)	
	)	
Objectors	)	
	)	
vs.	)	2022-_____
	)	
Amy Conklin, Charles Sila, Robert Shoraga	)	
	)	
Candidates.	)	

**CONSOLIDATED RESPONSE OF AMY CONKLIN, CHARLES SILA,  
AND ROBERT SHORAGA TO THE OBJECTIONS FILED BY  
PATRICK DULLARD AND JEFFREY FRITZEN**

COMES NOW, Candidates Amy Conklin, Charles Sila, and Robert Shoraga (hereinafter referred to as “Candidates”), by and through their attorneys Thomas G. DeVore and the Silver Lake Group Ltd., and hereby files this consolidated response the objections filed by the objectors Patrick Dullard, and Jeffrey Fritzen, (hereinafter referred to as “Objectors”), and hereby pleads:

RELEVANT FACTUAL HISTORY

- 1) The Town of Normal is a home rule municipality.
- 2) The Town of Normal is an unincorporated town.
- 3) The Town of Normal has a population in excess of 25,000 citizens.
- 4) The Town of Normal has never by referendum eliminated the offices of Town Collector or Supervisor.
- 5) The Town of Normal has never by referendum altered the manner of choosing a Town Clerk to be by appointment instead of by election.
- 6) On or about November 28, 2022, Amy Conklin submitted to the Town of Normal her nominating papers for the elected office of Town Clerk.
- 7) On or about November 28, 2022, Charles Sila submitted to the Town of Normal his nominating papers for the elected office of Town Collector.

- 8) On or about November 28, 2022, Robert Shoraga submitted to the Town of Normal his nominating papers for the elected office of Supervisor.
- 9) On or about December 02, 2022, counsel for the Town of Normal sent written notices to each Candidate stating the Town of Normal would not recognize the nominating papers of the Candidates.
- 10) On or about December 05, 2022, the Objectors filed a written objection to Amy Conklin's nominating papers.
- 11) The Objectors written objections to Amy Conklin's nominating papers are identical in form and content but only differ by the name and address of the Objectors.
- 12) As to Amy Conklin's written objections, the Objectors raise no substantive defects in the nominating papers but raise merely legal arguments that the Town of Normal does not provide in their local municipal code for an elected Town Clerk as is prescribes the Town Clerk to be an appointed position.
- 13) The Objectors to Amy Conklin's nominating papers also make reference to their perceived statutory interpretation of an Illinois statute.
- 14) The Objectors written objections to Charles Sila's nominating papers are identical in form and content but only differ by the name and address of the Objectors.
- 15) As to Charles Sila's written objections, the Objectors raise no substantive defects in the nominating papers but raise merely legal arguments that the Town of Normal does not provide in their local municipal code for a Town Collector.
- 16) The Objectors to Charles Sila's nominating papers also make reference to their perceived statutory interpretation of an Illinois statute.
- 17) The Objectors written objections to Robert Shoraga's nominating papers are identical in form and content but only differ by the name and address of the Objectors.

18) As to Robert Shoraga's written objections, the Objectors raise no substantive defects in the nominating papers but raise merely legal arguments that the Town of Normal does not provide in their local municipal code for a Supervisor.

19) The Objectors to Robert Shoraga's nominating papers also make reference to their perceived statutory interpretation of an Illinois statute.

#### LEGAL STANDARD

20) Any village of fewer than 5,000 inhabitants may, by resolution adopted by not less than two-thirds of the village board, choose to have a clerk appointed by the village president with the concurrence of the village board. (See 65 ILCS 5/3.1-25-90)

21) Otherwise, at the election for trustees in each village and incorporated town, whether incorporated under a general or special Act (other than a village that was incorporated under a special Act and that adopts Section 3.1-30-25), a clerk of the village or incorporated town ***shall be elected*** who shall hold office for a term of the same length of time as provided in this Article 3.1 for the mayor in a city, except that any such village or incorporated town that, before January 1, 1942, has adopted a 2 year term for village clerk shall continue to elect a village clerk for a term of 2 years. *Id.*

22) 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. (See 65 ILCS 5/3.1-25-95)

23) 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. *Id.*

- 24) A home rule municipality shall have the power to provide for its officers, their manner of selection and terms of office **only as** approved by referendum **or** as otherwise authorized by law. ( See Ill. Const. 1970, art. VII, § 6(f))
- 25) Although they have been granted extensive powers with respect to their local government and affairs (Ill. Const. 1970, art. VII, 6(a)), home rule municipalities may change their manner of selecting officers only: (1) as provided by statute; or (2) as approved by a referendum. (Emphasis Added) (2005 Ill. Atty. Gen. Op. 007 (Ill.A.G.))
- 26) The constitutional mandate requires that changes in the manner of selecting officers of a home rule municipality or their terms are reserved to the voters by article VII, section 6(f), and can be effected only by referendum unless otherwise authorized by legislative enactment. *Leck v. Michaelson*, 111 Ill.2d 523, 491 N.E.2d 414, 96 Ill.Dec. 368.
- 27) The primary objective of statutory construction is to ascertain and give effect to the legislature's intent. *Evans v. Cook County State's Attorney*, 2021 IL 125513, ¶ 27, 451 Ill.Dec. 353, 183 N.E.3d 810.
- 28) The most reliable indicator of legislative intent is the language of the statute, given its plain and ordinary meaning. *People v. Casler*, 2020 IL 125117, ¶ 24, 450 Ill.Dec. 415, 181 N.E.3d 767.
- 29) When statutory language is plain and unambiguous, the statute must be applied as written without resort to aids of statutory construction. *People v. Howard*, 228 Ill. 2d 428, 438, 320 Ill.Dec. 868, 888 N.E.2d 85 (2008).
- 30) We may not depart from a statute's plain language by reading in exceptions, limitations, or conditions the legislature did not express. *People v. Lewis*, 223 Ill. 2d 393, 402, 307 Ill.Dec. 645, 860 N.E.2d 299 (2006).

31) Courts should not attempt to read a statute other than in the manner it was written. *Rosewood Care Center, Inc. v. Caterpillar, Inc.*, 226 Ill. 2d 559, 567, 315 Ill.Dec. 762, 877 N.E.2d 1091 (2007).

#### ARGUMENT

32) There are only two incorporated towns in the State of Illinois with a population over 25,000.

33) These two towns are Normal and Cicero.

34) Upon information and belief, when the controlling statutory provisions referenced above were adopted around 1985, Normal and Cicero were then also the only two incorporated towns in Illinois with a population in excess of 25,000.

35) The statute is plain and unambiguous when it states *every* incorporated town with a population over 25,000 shall elect for a four year term, *inter alia*, a clerk, collector, and supervisor.

36) As for Town Clerk, Illinois law does allow for the appointment of a town clerk by an incorporated town only if its population is under 5,000.

37) The statute is plain and unambiguous in that the city clerk shall certify the names for candidates of these offices.

38) The Objectors argue the Town of Normal election code does not provide for the offices of collector or supervisor.

39) The Objectors argue the Town of Normal election code fills the office of town clerk by appointment.

40) This question of law which controls the outcome of this matter is quite simply whether the Town of Normal can by local municipal action, and not by referendum, decide which offices are held in the town, and the manner for which these offices are filled.

- 41) The Objectors argue Illinois law which compels the election of these town offices only applies to the Town of Cicero.
- 42) The statute which compels the city clerk of the certify the names of the Candidates for these office is plain and unambiguous.
- 43) The statute which demands the Town of Normal to provide for the elected offices of, *inter alia*, clerk, collector, and supervisor is plain and unambiguous.
- 44) Illinois law commands that when statutory language is plain and unambiguous, the statute must be applied as written without resort to aids of statutory construction.
- 45) As a home rule municipality, the Town of Normal cannot alter the manner of selecting a town clerk except by referendum.
- 46) As a home rule municipality, the Town of Normal cannot choose willfully disregard providing for the offices of Supervisor or Town Collector except by referendum.
- 47) These referendums have never occurred which means state statute controls the requirement for these offices and their manner of selection.
- 48) To the extent the Town of Normal has chosen to appoint their town clerk, this local government action is void as it is in violation of state law.
- 49) To the extent the Town of Normal has chosen to not provide for a Supervisor or Town Collector, this local government action is void as it is in violation of state law.
- 50) The current town clerk is mandated by state law to certify the nominating papers of the Town Clerk, Town Collector and Supervisor as state law commands it.
- 51) It would be reversible error for this Board to conclude any local government action, which was not authorized by referendum, can supersede Illinois law.
- 52) The Illinois Constitution, as interpreted by Illinois case law, and former Illinois Attorney General compels this Board to deny the objections of the Objectors.

- 53) Any attempt to construe the plain and unambiguous state law on this topic in a self-serving manner to coincide with the Town of Normal's ultra vires conduct would be reversible error.
- 54) Suggesting statutory construction results in a conclusion that somehow the relevant state law only applies to the Town of Cicero would also be reversible error as the statute is crystal clear that it applies to *every* incorporated towns over 25,000.
- 55) There are only two of such towns and the legislature assuredly understood that.
- 56) If the legislature had intended the relevant statute to apply only to the Town of Cicero, they would have clearly said so.

#### SUMMARY

This is not the first time a local municipality due to inadvertence, or ignorance, was failing to comply with a clear statutory obligation placed upon them by the Illinois legislature. The Objectors admit the Town of Normal is an Incorporated Town. It is also a home rule municipality. These facts are not in dispute. As a home rule municipality, it may by referendum alter the manner of selection of its officers. It has never conducted such a referendum on the offices of Town Clerk, Town Collector and Supervisor. As such, it must select those offices as prescribed by state law. The state law is plain and unambiguous. The state law commands the current town clerk to certify for the ballot the Candidates names for these offices. The Town of Normal had no authority to disregard or alter the state law in this regard absent referendum of the people of the Town of Normal. While one Objector proclaims this will lead to an absurd result is of no legal consequence. While an alleged absurdity is of no legal consequence given the plain and unambiguous reading of the statute, the practical complexity of what the Town of Normal is now facing is a result of their having violated state law for decades.

This Board is not the council of the Town of Normal. This Board is charged with

upholding the election code of the State of Illinois and the Town of Normal. To the extent state law and local law conflict, this Board must decide which law controls. Before addressing this issue, the Candidates question the ability of this Board to be fair and impartial given their attorney, Mr. Michael Kasper, has already stated the Town of Normal has concluded their nominating papers to be invalid due to their opinion that local law controls. As stated above, even though its members overlap, this Board is independent of the town council, and has a legal obligation to challenge the lawfulness of the towns code. In front of this Board is a state statute which commands the nominating papers of the Candidates be certified. Any local election provisions adopted only by an act of its council, which might contradict or are inconsistent with, the state statute are void. Only a referendum adopted by the people of the Town of Normal could supersede the state law on this topic. The nominating papers of the three Candidates are in conformity with the controlling law, of which this Board is bound, and as such their names must be certified by the current town clerk and their names placed on the ballot. Any other decision would be reversible error.

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