

IN THE SUPREME COURT OF OHIO

State of Ohio, *ex rel.* Sandra M.
Bolzenius, *et al.*,

Relators,

v.

Douglas J. Preisse, *et al.*,

Respondents.

Case No. 2018-1221

Original Action in Mandamus
Expedited Election Case pursuant
to S.Ct.Prac.R. 12.08

**ANSWER OF RESPONDENTS DOUGLAS J. PREISSE,
KIMBERLY E. MARINELLO, MICHAEL E. SEXTON AND
BRAD K. SINNOTT**

Respectfully submitted,

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ANSWER

Now come Respondents, Douglas J. Preisse, Kimberly E. Marinello, Michael E. Sexton, and Brad K. Sinnott (hereinafter “Respondents”), by and through counsel, and for their Answer to Relator’s Complaint for a Writ of Mandamus (the “Complaint”) with a request that the Court treat this as an Expedited Election Matter, state as follows:

1. Respondents are without information sufficient to form a belief as to the truth of the allegations contained in the unnumbered introductory paragraph of the Complaint, and therefore deny the same.
2. Respondents admit the allegations contained in paragraph 1 of the Complaint, except that Respondents deny that they have not complied with the law or that Relators are entitled to a writ of mandamus.
3. Respondents state that the allegations contained in Paragraph 2 of the Complaint state legal conclusions to which no response is required. To the extent a response may be required, Respondents admit that the Court possesses original jurisdiction to hear Relators’ petition for mandamus relief.
4. Respondents deny the allegations contained in Paragraph 3 of the Complaint.
5. With respect to Paragraph 4 of the Complaint, Respondents state that the proposed ordinance speaks for itself. Respondents are without information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 4 of the Complaint, and therefore deny the same.
6. With respect to Paragraph 5 of the Complaint, Respondents state that they are without information sufficient to form a belief as to the truth of the allegations contained therein, and therefore deny the same.

7. Respondents admit the allegations contained in Paragraph 6 of the Complaint.
8. With respect to Paragraph 7 of the Complaint, Respondents admit that the Columbus City Clerk transmitted 617 part-petitions to the Franklin County Board of Elections containing a total of 18,404 signatures. Further answering, the Respondents state that the Board certified to the Columbus City Clerk that 12,134 of the signatures were valid, which exceeded the required threshold of 8,890 valid signatures.
9. The Respondents admit the allegations contained in Paragraph 8 of the Complaint.
10. With respect to Paragraph 9 of the Complaint, Respondents admit that on August 24, 2018 they voted 4-0 to not place the Columbus BOR on the November 6, 2018 ballot. Further answering, Respondents state that the record of the August 24, 2018 Board of Elections meeting speaks for itself.
11. Respondents deny the allegations contained in Paragraph 10 of the Complaint.
12. With respect to Paragraph 11 of the Complaint, Respondents state that the provisions of the Columbus City Charter cited therein speak for themselves. The remaining allegations contained in Paragraph 11 of the Complaint state legal conclusions to which no response is required.
13. Respondents state that Paragraph 12 of the Complaint states legal conclusions to which no response is required.
14. Respondents deny the allegations contained in Paragraph 13 of the Complaint.
15. With respect to Paragraph 14 of the Complaint, Respondents state that the Ohio Revised Code statutes referenced therein speak for themselves. The remaining allegations contained in Paragraph 14 state legal conclusions to which no response is required.

16. With respect to Paragraph 15 of the Complaint, Respondents admit that the Franklin County Board of Elections properly discharged its Ohio Revised Code §731.28 ministerial responsibilities. Further answering, Respondents state that the record of the August 24, 2018 Board of Elections meeting speaks for itself. The remaining allegations contained in Paragraph 15 state legal conclusions to which no response is required. To the extent that the allegations contained in Paragraph 15 are not admitted, Respondents deny those allegations.
17. Respondents state that Paragraph 16 of the Complaint states legal conclusions to which no response is required.
18. Respondents state that the allegations contained in Paragraph 17 state legal conclusions to which no response is required. To the extent a response may be required, Respondents deny the allegations.
19. With respect to Paragraph 18 of the Complaint, Respondents incorporate all of their previous admissions, denials, and averments.
20. Respondents deny the allegations contained in Paragraphs 19-24 of the Complaint.
21. With respect to Paragraph 25 of the Complaint, Respondents incorporate all of their previous admissions, denials, and averments.
22. With respect to Paragraph 26 of the Complaint, Respondents state that the Ohio Revised Code statute referenced therein speaks for itself.
23. With respect to Paragraph 27 of the Complaint, Respondents state that the Columbus City Charter speaks for itself.
24. Respondents state that the allegations contained in Paragraphs 28-31 state legal conclusions to which no response is required.

25. Respondents deny the allegations contained in Paragraph 32 of the Complaint.
26. With respect to Paragraph 33 of the Complaint, Respondents incorporate all of their previous admissions, denials, and averments.
27. With respect to Paragraph 34 of the Complaint, Respondents state that the Columbus City Charter speaks for itself.
28. Respondents state that the allegations contained in Paragraphs 35-39 state legal conclusions to which no responses are required.
29. Respondents deny the allegations contained in Paragraph 40 of the Complaint.
30. Respondents state that the allegations contained in Paragraph 41 of the Complaint are not the type of factual allegations requiring a responsive pleading. To the extent responses may be required, Respondents deny the allegations.
31. With respect to Paragraph 42 of the Complaint, Respondents admit that they received a letter from Relators' counsel on August 17, 2018 referencing the letter as a response to the Settlemeyer protest to the Columbus Bill of Rights initiative petition. Respondents state that the record of the August 24, 2018 Board of Elections meeting speaks for itself. Respondents admit that on August 24, 2018 they voted 4-0 to not place the proposed ordinance on the November 6, 2018 ballot. Respondents deny the remaining allegations contained in Paragraph 42 of the Complaint.
32. Respondents deny the allegations contained in paragraphs 43-46 of the Complaint.
33. Respondents admit the first and second sentences of Paragraph 47 of the Complaint. Further answering, Respondents deny the remaining allegations contained in Paragraph 47 of the Complaint.

34. Respondents deny any and all allegations contained in the Complaint not specifically admitted herein as being true.
35. Respondents deny that Relators are entitled to any of the relief referenced in their prayer relief.

AFFIRMATIVE DEFENSES

36. Relators fail to state a claim upon which relief in mandamus can be granted.
37. Relators do not have a clear legal right to the requested relief.
38. Respondents have no clear legal duty to provide the requested relief.
39. At all times, the Respondents acted in good faith and with legal and factual justification.
40. Relators' claims are barred by the doctrine of laches, waiver, and estoppel.
41. Relators are not legally entitled to attorneys' fees, costs, and expenses.
42. Respondents reserve the right to supplement their Answer with additional defenses, including affirmative defenses, as litigation in this matter proceeds.

WHEREFORE, having fully answered Relators' Complaint, Respondents respectfully request that this Court deny the relief sought and dismiss the Complaint in its entirety.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on August 31, 2018 a true and accurate copy of the foregoing was filed electronically and served by electronic mail on the following:

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