

From: Richard Friedman

Sent: Thursday, June 12, 2014 12:30 PM

Dear Mr. Mayor:

I am a professor at UM Law School; among the courses I teach is Constitutional Law. Stephen Postema consulted informally with me when he was preparing his supplemental brief in the ballot access case, and I have read Judge Zatkoff's opinion. In my view (and those of others I have consulted), the opinion is poorly reasoned: A judicial decision that a provision of law is constitutionally invalid does not rip the provision out of the books, and the city should not have to re-enact the provision – in this case, part of the city's charter -- to take advantage of a later over-ruling of the case law. I believe Judge Zatkoff's decision, if left standing, may well cause mischief for Ann Arbor and other municipalities, and indeed states, in the future. But because the decision is so weak, I believe the chance of success on appeal is excellent. The city's position was and is legally correct, and I hope the city does appeal.

I am expressing no view on the merits of the particular charter provision ordinance at issue here. If the City Council believes the provision is a bad one, it may of course seek to have it amended.

Please feel free to share this message with members of the Council if you wish.

Sincerely,

Rich Friedman