

**UNITED STATES DISTRICT COURT
IN THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

ROBERT DASCOLA,

Plaintiff,

vs.

Case No. 2:14-cv-11296-LPZ-RSW
Hon. Lawrence P. Zatkoff
Magistrate Judge R. Steven Whalen

CITY OF ANN ARBOR and
JACQUELINE BEAUDRY,
ANN ARBOR CITY CLERK,

Defendants.

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**DEFENDANTS' BRIEF IN RESPONSE TO PLAINTIFF'S POST-
JUDGMENT MOTION FOR ADDITIONAL INJUNCTIVE RELIEF**

STATEMENT OF ISSUES PRESENTED

Should the Ann Arbor City Clerk count the first ballots sent out to absentee voters and received back by the City Clerk in the 3rd Ward primary election, when the first ballot was approved by the Washtenaw County Election Commission but does not contain the Plaintiff's name, and the voter does not return a second replacement ballot.

Plaintiff Answers: No

Defendants' Answer: The City and the City Clerk have not taken a position on this. As this dispute is primarily between the Bureau of Elections and the Plaintiff, as the Director of Elections has issued a directive to the City Clerk on this issue and the Secretary of State maintains statutory supervisory control over local election officials, the City Clerk seeks guidance from the Court on the issue.

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INTRODUCTION

On May 20, 2014, this Court ordered the Ann Arbor City Clerk to accept and process any nomination petitions submitted by Plaintiff. The City Clerk did this and approved the proof ballots containing Plaintiff's name on the 3rd Ward ballot. As set forth in detail below, unauthorized changes were then made by persons employed by the Washtenaw County Clerk's Office that inadvertently took Plaintiff's name off the ballot. The City Clerk was never informed of the changes. The Washtenaw County Election Commission approved the ballot without Plaintiff's name on it.

The first ballots were mailed by the City Clerk to 392 absentee voters in the 3rd Ward. The City Clerk immediately sent replacement ballots and has engaged in follow-up with first ballot voters to obtain replacement ballots, and she estimates that it is likely that less than 10 first ballots will remain (that is, those not replaced by the second replacement ballots). The Plaintiff objects to any first ballots being counted. The Director of Elections for the Michigan Bureau of Elections has directed that the first ballots be counted and the Secretary of State maintains statutory supervisory control over local election officials. The City Clerk has made no decision on this. Because of the dispute between the Plaintiff and the State Director of Elections, the City Clerk seeks to have the Court provide guidance

before the August 5, 2014 primary. The current brief does not advocate for one position, but recognizes the difficult situation and the competing issues of voter disenfranchisement and an incomplete ballot. This response brief outlines some case law that addresses ballot error as well as the statutory supervisory control issue.

STATEMENT OF FACTS

The Ann Arbor City Clerk arranged for Plaintiff to be on the primary ballot for Councilmember of the 3rd Ward. On May 21, 2014, the Ann Arbor City Clerk sent the Affidavit of Identity to the Washtenaw County Clerk precisely so that Plaintiff could be placed on the ballot. Exhibit 1, Affidavit of Jacqueline Beaudry, City Clerk and Exhibit 2, Email. The candidates for Ann Arbor elections were placed on a ballot being prepared by the Washtenaw County Clerk's office because the ballot contained city, county, and state races.

Pursuant to established process, the County Clerk's Office advised the City Clerk to review the proof ballots and sign off on the ballots:

Ballot Order & Proofing – Due Monday, June 2

The ballot order, proofs, and proofing checklist are attached. ... Proofing checklists/corrections and the ballot order are due **by no later than 4:00 p.m. on Monday, June 2.**
Exhibit 3.

Pursuant to established process, the City Clerk timely reviewed the "proof" ballots for all City wards. Plaintiff was correctly on the proof ballots. See Exhibit 1 and

Exhibit 4. Pursuant to established process, the City Clerk filled out a form and checked that “All races are listed and candidates’ names are properly rotated.”

Exhibit 5. This form was sent by the City Clerk to the County Clerk.

After the proof ballots were approved by the City Clerk, the preparation of the ballot was done by the Washtenaw County Clerk’s office, but for some unexplained reason the computer programmer or other vendor employed by the County Clerk’s office deleted all of the City of Ann Arbor races on the ballot. New proof ballots were produced with this error. This error evidently was caught by the County Clerk’s office. However, the County Clerk’s office never informed the City Clerk of this error.

The County Clerk’s office then added the Ann Arbor City races back onto the ballot, but now without the Plaintiff’s name on the ballot for the 3rd Ward race. This error was not caught by the Washtenaw County Clerk’s Office. Evidently this new ballot was never checked against the initial proof ballots that had been approved. When the ballot was “corrected” a second time new proof ballots were never sent to the City Clerk to review.

The final proof ballots without the Plaintiff’s name on them were then sent to the Washtenaw County Election Commission for final approval. The Election Commission consists of the Washtenaw County Clerk, a Washtenaw County Probate Judge, and the Washtenaw County Treasurer. After discussing and

reviewing the ballots, the Commission voted to approve the ballots on June 9, 2014. Exhibit 6.

The County Clerk's Office evidently did not inform the Washtenaw County Election Commission of the changes that had occurred on the ballot after the initial ballots were proofed and the Washtenaw County Election Commission did not catch the omission of Plaintiff's name.

After the Washtenaw County Election Commission approved the ballots, they were sent to the printer; once the ballots were printed they were delivered to the City Clerk's office and stuffed into envelopes to be sent to residents who had requested absentee ballots. On June 25, 2014 The Ann Arbor City Clerk mailed over 1,800 absentee ballots, including 392 absentee ballots to residents in the 3rd Ward. Upon receipt of an absentee ballot on Friday, June 27, 2014, a 3rd Ward resident called the City Clerk's office to inform the City Clerk of the omission on the ballot. The City Clerk's office immediately ceased sending the 3rd Ward absentee ballots.

New ballots were requested by the City Clerk and immediately ordered by the Washtenaw County Clerk's office. The second ballots were delivered to the Ann Arbor City Clerk's office on Monday June 30, 2014. On that day, second ballots were sent to the 392 residents who had been mailed the first ballot along with a letter explaining the error and requesting that the second ballots be returned.

It is a fair assumption that these letters were received by the 392 3rd Ward residents at the latest by July 5, 2014. As new requests for 3rd Ward absentee ballots were received, the second ballots were mailed out.

Between June 30 and July 3, 2014, the City had received 40 first ballots from 3rd Ward residents. On each day that the first ballots came in, if the City Clerk could obtain their phone number, the City Clerk immediately called the residents that had sent those ballots. The City Clerk informed the residents of the error, and told them that a second replacement ballot had been mailed. Generally, the residents were appreciative and indicated that they would send in the second ballot. If the resident was not home, a message was left on the phone answering machine.

Between July 7 and July 9, 2014¹ the City received 57 ballots from 3rd Ward residents. Of these, 52 were the second ballots that had just been received by the residents. Only 5 of these ballots were the first ballots, and all of these were sent before the second ballots had likely been received by the residents based on their signature date or postmark (and, of these, two residents had also sent in the second ballot the next day). Including those two, a total of 26 second ballots were from residents who had sent in a first ballot, therefore replacing the ballot for these 26 residents.

¹ Because of the July 4th holiday on Friday, followed by the weekend, the City Clerk did not receive mail July 4-6, 2014.

Therefore, as of Wednesday, July 9, 2014 there remain only 19 first ballots that have not been replaced by a second ballot. Of the 19 remaining first ballots, 4 of the residents who sent those ballots have been contacted and have responded that they will send in the second ballot. The City Clerk estimates that the number of first ballots only (without a second ballot received) will likely be less than 15 by the end of the present week. The City Clerk anticipates that the flow of first ballots will cease over the next week based on the lack of first ballots coming in now that the residents have the second ballot and the letter that went with it, and the fact that the City Clerk is receiving the second ballots. It is possible that a resident with two ballots in hand will send in the first ballot; if that happens they will be contacted again by the City Clerk. If this is done the last days before the election it might be difficult to remedy.

Based on the activity thus far, the **City Clerk anticipates that the number of ballots in dispute – that is, first ballots only (without a second replacement ballot received) -- likely will be fewer than 10 by the date of the election.** The anticipated total number of votes in the 3rd Ward for this election is greater than 3,000. This is based on past experience, the fact that there are three 3rd Ward candidates on the ballot and that there is a contested mayoral race on the ballot in which two of the candidates are councilmembers from the 3rd Ward. These factors

are likely to increase the number of 3rd Ward voters.

Whether there are fewer than 10 first ballots, more than 10, or even only one first ballot remaining, the issue then becomes whether to count the vote in the 3rd Ward race on that ballot. Of course, all of the votes for all of the other races on the first ballots will be counted.²

The Director of Elections for the Michigan Bureau of Elections has instructed the City Clerk, by a letter dated June 30, 2014, that the votes on the first ballot should be counted in the 3rd ward race, but that all efforts should be taken to have the 392 absentee voters who received the first ballot return the replacement ballot. Exhibit 4. Specifically, the Director of Elections stated: “[T]here may be voters who would not change their vote in Ward 3 or will be out of town and unable to return the replacement ballot by Election Day. Neither situation can result in the disenfranchisement of these voters.” (Exh. 4) On Friday June 27, 2014, the Bureau of Elections had sent a statement that any first ballots would be counted, except for the 3rd Ward race. The Director of the Bureau of Elections, Christopher Thomas, explained in his June 30, 2014 letter that this was a mistake.

Plaintiff, while appreciative of the efforts made by the City Clerk’s office, has objected to the counting of any of the first ballots because Plaintiff’s name is not on the ballot. In counterpoint, there is concern by the Director of Elections that

² The mayoral race and judge races are also on the ballot.

some residents who sent in the first ballot will have left the City for the summer and will not return the second ballot for that reason or possibly other reasons.

Plaintiff's position is that no first ballots should be counted and that advice, direction and/or instruction from the Bureau of Elections should be ignored by the City Clerk. The issue of whether the City Clerk has the authority to disregard the directive of the Direction of the Elections absent a court order is a secondary issue, as the larger issue is whether rejecting the first ballot will lead to disenfranchisement of any voter who, in good faith, voted on a ballot which had been approved by the Washtenaw County Election Commission. As the City Clerk has made no determination on the counting of the ballots, this dispute is between the Bureau of Elections and the Plaintiff at this time. This brief outlines the legal issues and case authority below without advocating for a specific result, as the City Clerk seeks guidance from the Court on this issue before she has to direct the counting of the ballots in August.

DISCUSSION

A. Relevant Election Law Cases

Plaintiff has asked the City Clerk to not count the first ballots despite the directive of the Director of the Bureau of Elections and before completing an analysis of the law in this area.³ The state has not yet provided any analysis of the law supporting the Director of Election's direction. Plaintiff's brief could identify no law on point on this issue. Indeed, there does appear to be little specific law on the exact facts in the present case; research on this issue has found one Michigan Supreme Court case dealing with a ballot error and one federal case that also provides some insight on the issue. Some other state cases also deal with an omission of a candidate on the ballot. These cases are provided to the Court without a position on whether the Court should adopt the analysis in these cases in the present case.

The Michigan Supreme Court in *Brissette*, 137 Mich 717, 100 N.W. 906 (1904) addressed the issue of an incorrectly printed ballot, but in a different context. The mistake caused a candidate (Christian Ott) to be omitted on some

³ For equal protection and fairness reasons, the City Clerk will treat all first ballots the same. If the 3rd Ward votes are to be counted, votes for the other two candidates as well as any write in votes for Plaintiff will be counted. If the 3rd Ward votes are not to be counted, none of the votes, including any write in votes for Plaintiff, will be counted.

ballots, with the name of a non-existent person (O.H. Christian) printed on the ballot instead. The error was found on the day of election and a small number of voters had voted the defective ballot. The Court did not invalidate the ballot and went so far as to count the ballot for the fictitious person. The Court further would not count the votes for “O.H. Christian” as votes for Christian Ott, despite the argument that this was the likely intent of the voters.

In *Ott*, the Court determined that the courts or boards could not enter into a determination of the intention of the voters “any further than appears upon the face of the ballot.” The court concluded that it was not possible to make assumptions about how someone might have voted when by no error of his own, the candidate’s name was misstated on some of the ballots, and some of the voters chose that misstated name when they voted. The court said:

“The argument in behalf of [Christian Ott] is that, inasmuch as he had nothing whatever to do with the printing of his name, but that the placing of his name is regulated by law, therefore he cannot be deprived of votes by the action, either fraudulent or innocent, of those whose duty it is to report the proceedings of the caucus and to print the name upon the ballot. If [Ott's] contention [is] correct, it follows that, *if his name had not been printed upon the ballots at all, still the ballots should be counted for him; or, if the mistake had not been discovered, and all the ballots had been cast for O. H. Christian, still they must be counted for him.* This would assume that every one who voted the Citizen's ticket would have voted for . . . [Ott]. It would assume—which is unusual—that every member of [Ott's] party would have voted for him. We must assume, in order to sustain . . . [Ott's] right to the office that every one of the 12 men who voted for O. H. Christian would have voted for Christian Ott. A voter might know Christian Ott, and be unwilling to vote for him, but an elector might

be willing to vote for any other man, and, though not knowing O. H. Christian, might vote for him. Courts cannot assume, under such circumstances, that such votes would have been cast for [Ott].” 137 Mich. at 719 (emphasis added).

The court did not find the defective ballot void and counted the ballot. The court did not specifically deal with an equal protection analysis.

The City is aware of a federal case involving a ballot error, but it dealt with the addition, not omission, of a candidate. *Bennett v Mollis*, 590 F. Supp. 2d 273 (D.R.I. 2008). The Court provided a constitutional analysis in a lawsuit brought by voters who received erroneous ballots (in a race in which 4 of 13 candidates were to be elected, a person was listed as a fourteenth candidate who had timely withdrawn his name as a candidate). The court ruled that the voters were not discriminated against because of the correction of the ballot three hours into the election. The *Bennett* court then determined that voter reliance on the incorrect ballot would not make a difference in the outcome. The Judge relied heavily on a statistical study that determined the approximately 2,900 incorrect ballots could not possibly change the outcome of the election.

B. Law on Disenfranchisement

In *Obama for America*, 697 F. 3d 423, 429 (6th Cir. 2012) and *Bryanton v Johnson*, 902 F. Supp. 2d 983, 996 (E.D. Mich 2012), the Courts discussed the fundamental importance of the right to vote. The Director of Elections has expressed concern about disenfranchisement of residents who return only the first

ballots. The *Bennett* court following precedent determined that for an election error to become a key that “unlocks the restraints on the federal court's authority to act, the Plaintiffs must demonstrate either intentional election fraud or an unintentional error resulting in broad-gauge unfairness.” *Id.* at 278. The Court noted that there was no intentional fraud in the election. Plaintiffs had to proceed on the theory that the “unintentional injection of incorrect ballots into the election process created a patent and fundamental unfairness.” *Id.* The court stated, “Plaintiffs must clear a high bar to prevail on this theory, however, because the First Circuit has held that save for a 'total complete disenfranchisement of the electorate as a whole' garden variety election errors do not harbingers patent and fundamental unfairness.” *Id.*

However, there are other cases that find that a failure to print names of the proper candidates on a significant number of ballots may cause an election to be void. See *Stawitz v Nelson* 188 Kan 430, 362 P. 2d 629 (1961). However, in the *Stawitz* no replacement ballot was sent, the voters were never given the opportunity to vote for the omitted candidate, and the name was omitted from ballots in 20 out of 135 precincts, thereby disenfranchising over 6,000 voters.

C. Secretary of State Direction on Vote Counting

The Court need not reach the issue of the statutory validity of the directive of the Director of Elections if the Court determines that the course of action in that directive is correct, whether the City Clerk were to act on her own or at the

directive of the Director of Elections. If, however, the Court determines that another course of action is required relative to the counting of any remaining first ballots, the Court will need to address this issue.

The primary issue as to the validity of the direction of the Director of Elections to count the first ballots is based on the issue of disenfranchisement of voters who support either Plaintiff or one of the other candidates. Even without direction from the Director of Elections, the Ann Arbor City Clerk would need to follow the best course to best protect the right of the voters and the candidates. Plaintiff has also raised questions as to state election procedures. As to the statutory authority, the City Clerk takes no position, except to recognize the applicable statutory provisions. Plaintiff's claims to the contrary or concerning positions taken are incorrect. The City Clerk seeks the direction of the Court concerning this issue so that the issue is resolved immediately.

The Director of Elections has cited the relevant statutes. Plaintiff disagrees that the following statutes provide the Director of Elections with the authority he asserts.

- MCL 168.21 - The secretary of state shall be the chief election officer of the state and shall have **supervisory control** over local election officials in the performance of their duties under the provisions of this act.
- MCL 168.31
 - (1) The secretary of state shall do all of the following:
 - (a) Subject to subsection (2), **issue instructions** and promulgate rules pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, for the conduct of elections and registrations in

accordance with the laws of this state.

(b) **Advise and direct** local election officials as to the proper methods of conducting elections.

- MCL 168.931

(1) A person who violates 1 or more of the following subdivisions is guilty of a misdemeanor:

(h) A person shall not willfully fail to perform a duty imposed upon that person by this act, or disobey a **lawful instruction or order** of the secretary of state as chief state election officer or of a board of county election commissioners, board of city election commissioners, or board of inspectors of election.

Plaintiff's brief claims that all actions of the Secretary of State ("SOS") have to comply with the Michigan Administrative Procedures Act ("MAPA") MCL 24.201 et seq., including advice and directives. This is not in 168.31(a) or (b), and that position is not at all clear from the statute. MCL 168.31 actually has 14 subsections (a – n) and only subsection (a) mentions MAPA. Even within subsection a, "issue instructions" is separate from "promulgate rules." Although it is clear that the promulgation of rules is governed by the MAPA, it is not clear that the issuance of advice, direction, or even instruction is intended to be governed by

the MAPA.⁴ (Plaintiff states that “Section 38 ... directs the Secretary of State to **issue rules** and **promulgate instructions** pursuant to MAPA” (emphasis added), but that is not the actual language of the statute, as set forth above in Section 31.)

Plaintiff cites to *Bryanton v. Johnson, supra*, for his argument challenging the directive from the Director of Elections here as outside the bounds of authority under MAPA. (The case doesn’t deal with the advice or direction set forth in 168.32(b).)

The Court concluded, among other things, that, “On two grounds

⁴ MCL 24.207 defines a “rule” subject to the procedural requirements of MAPA as “[A]n agency regulation, statement, standard, policy, ruling, or instruction of **general applicability** that implements or applies law enforced or administered by the agency, or that prescribes the organization, procedure or practice of the agency, including the amendment, suspension, or rescission of the law enforced or administered by the agency.” (Emphasis added.) MCL 24.207 then identifies 17 agency actions that are not rules, none of which clearly applies in this situation, see, e.g., categories (g) and (h), but none of which clarifies that the directive in this case **is** included as a rule. Because the directive of the Director of Elections is unique to the printing error in Ann Arbor, it is not clear that his directive is one of “general applicability” that would trigger the requirements of the MAPA. In addition, the need for a prompt response and direction relative to unique situations that may arise in a local election seems to weigh against application of the MAPA to a situation such as this. Nevertheless, given the lack of certainty in MCL 24.207 as to whether a directive of this sort does (even if characterized as a limited instruction) or does not trigger the MAPA, the City Clerk defers to the State to articulate its position and to this Court to make a decision. That the Director of Elections’ directive to the Ann Arbor City Clerk is not a rule requiring promulgation under the MAPA appears to be supported by the decisions in *Kent County Aeronautics Bd v Dep’t of State Police*, 239 Mich. App. 563, 583, 609 N.W. 2d 593 (2000) in another context (intergovernmental communication advising what would constitute an equivalent site did not affect the public’s rights, even though it impacted an individual’s property rights).

Defendant's instruction/guideline fails: (1) it appears unlawful under Michigan law; and (2) even if within her power, the instruction/guideline appears unlawful because Defendant did not follow the Michigan Administrative Procedures Act in implementing this change." (902 F. Supp. 2d at 1001)

The Court made a number of arguments to support its conclusion. First, the governor vetoed a bill that would have required citizenship verification on applications to vote, and the SOS was attempting to unilaterally change ballot applications. The requirements of ballot applications are specifically provided for in MCL 168.523 and MCL 168.759(5) and neither require inclusion of any citizenship verification checkbox. MCL 168.523 addresses I.D. and signature requirements when voting in person, and MCL 168.759(5) provides the standard form to be used in absentee voter applications. Thus, the SOS's requirement was contrary to, not in furtherance, of the applicable statutes.

The SOS argued that she was not required to follow MAPA. Instead, she had authority under MCL 168.31(1)(e) to require the citizenship question on ballot applications independent of MAPA. The Court rejected this argument, reasoning that 168.31(1)(e) did not grant her authority to change ballot application requirements specifically provided for by statute (in MCL 168.523 and MCL 168.759(5)). The Court, however, did not reject SOS's position that under 168.31(1)(e), she did not have to follow MAPA. Instead, the Court stated,

“Defendant’s authority to promulgate new rules with regard to ballot applications, if she has such authority, would be derived under §168.31(1)(a), which requires rules to be promulgated pursuant to MAPA.” (902 F. Supp. 2d at1003) This reasoning appears to contradict Plaintiff’s assertion that the position that 168.31(1)(a) and (b) must be read together and that both require compliance with MAPA.

Again, whether the City Clerk has to follow the directive of the Director of Elections is presently a dispute between the Plaintiff and the State and must be resolved because of the circumstances. The City Clerk has made no decision on this and defers to the Court for decision.

CONCLUSION

The City and the City Clerk respectfully request that the Court provide guidance to the parties on this issue. The City and City Clerk object to Plaintiff’s request for attorney fees under the circumstances.

Dated July 9, 2014

Respectfully submitted,

By: /s/ Stephen K. Postema
Stephen K. Postema (P38871)
Attorneys for Defendants
OFFICE OF THE CITY ATTORNEY

CERTIFICATE OF SERVICE

I hereby certify that on July 9, 2014, I electronically filed the foregoing document with the Clerk of the Court using the ECF System which will send notice of such filing to the following: Thomas Wieder; and I hereby certify that I have mailed by US Mail the document to the following non-ECF participant: None.

/s/Jane Allen
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Ann Arbor City Attorney's Office
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INDEX OF EXHIBITS

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AFFIDAVIT OF JACQUELINE BEAUDRY, ANN ARBOR CITY CLERK

STATE OF MICHIGAN)
 :SS
COUNTY OF WASHTENAW)

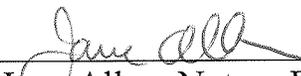
I, Jacqueline Beaudry, state as follows:

1. I have personal knowledge of the facts stated in this affidavit and, if sworn as a witness, I am competent to testify to them.
2. I am the City Clerk for the City of Ann Arbor, and have been since April, 2005.
3. On May 23, 2014, I received the email attached to Defendant's Brief in Response to Plaintiff's Post-Judgment Motion for Additional Injunctive Relief as Exhibit 3.
4. Attached to the email was a 350 page ballot proof for all of the ballots in Washtenaw County.
5. Included in this ballot proof were the 10 pages attached to the brief as Exhibit 4, which covered the 9 precincts in 3rd Ward of the City of Ann Arbor, one of which is split. These all contained Mr. Dascola's name.
6. I approved this proof ballot on May 29, 2014 as indicated on the form, which is Exhibit 5 attached to the brief.

7. I swear and affirm that the above statements are true to the best of my information, knowledge and belief, formed after diligent examination of the books and records of the Clerk's Office.


Jacqueline Beaudry

Subscribed and sworn to before me this 9th day of July, 2014.


Jane Allen, Notary Public
Washtenaw County Michigan

JANE ALLEN
Notary Public, State of Michigan
County of Washtenaw
My Commission Expires June 27, 2017
Acting in the County of *Washtenaw*

Exhibit 2: Email dated May 21, 2014

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Defendants.

Thomas Wieder (P33228)
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Office of the City Attorney
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**DEFENDANTS' BRIEF IN RESPONSE TO PLAINTIFF'S
POST-JUDGMENT MOTION FOR ADDITIONAL INJUNCTIVE RELIEF**

Exhibit 2: Email dated May 21, 2014

Beaudry, Jacqueline

From: Edward Golembiewski [golembiewskie@ewashtenaw.org]
Sent: Wednesday, May 21, 2014 3:25 PM
To: Beaudry, Jacqueline
Subject: RE: Dascola

Got it, thanks.

From: Beaudry, Jacqueline [<mailto:JBeaudry@a2gov.org>]
Sent: Wednesday, May 21, 2014 3:02 PM
To: Edward Golembiewski
Subject: RE: Dascola

Sorry, I was in a meeting. I think Dena sent it over.

Jacqueline Beaudry, City Clerk
City Clerk's Office | Guy C. Larcom City Hall | 301 E. Huron, 2nd Floor · Ann Arbor · MI · 48104
734.794.6140 (O) · 734.994.8296 (F) |
jbeaudry@a2gov.org | www.a2gov.org

 Think Green! Please don't print this e-mail unless absolutely necessary.

From: Edward Golembiewski [<mailto:golembiewskie@ewashtenaw.org>]
Sent: Wednesday, May 21, 2014 1:39 PM
To: Beaudry, Jacqueline
Subject: Dascola

Hey Jackie,

Not to rush you, but can you fax that affidavit this afternoon? We're almost set with ballot proofs.

Ed

Ed Golembiewski
Chief Deputy Clerk / Director of Elections
Washtenaw County

P: (734) 222-6730
F: (734) 222-6528

200 N. Main Street
Suite 120
Ann Arbor, MI 48104

Exhibit 3: Email dated May 23, 2014

UNITED STATES DISTRICT COURT
IN THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ROBERT DASCOLA,

Plaintiff,

vs.

Case No. 2:14-cv-11296-LPZ-RSW
Hon. Lawrence P. Zatkoff
Magistrate Judge R. Steven Whalen

CITY OF ANN ARBOR and
JACQUELINE BEAUDRY,
ANN ARBOR CITY CLERK,

Defendants.

Thomas Wieder (P33228)
Attorney for Plaintiff
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wiedert@aol.com

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aelias@a2gov.org

**DEFENDANTS' BRIEF IN RESPONSE TO PLAINTIFF'S
POST-JUDGMENT MOTION FOR ADDITIONAL INJUNCTIVE RELIEF**

Exhibit 3: Email dated May 23, 2014

Beaudry, Jacqueline

From: Edward Golembiewski [golembiewskie@ewashtenaw.org]
Sent: Friday, May 23, 2014 4:00 PM
To: l-citytwpclerk
Subject: Planning for the August 5 Primary
Attachments: Washtenaw Proof 2-1.pdf; BallotProofingChecklist2014.doc; Washtenaw County Ballot Order - Aug 2014.xls

Importance: High

Hello Clerks! Here are the details for the August primary. Please review carefully:

Ballot Order & Proofing – Due Monday, June 2

The ballot order, proofs, and proofing checklist are attached. You can use the “find” tool in Adobe to locate your ballots. Remember that many of you have more than one ballot style in a given precinct. Proofing checklists/corrections and the ballot order are due **by no later than 4:00 p.m. on Monday, June 2.**

Public Notices

Please remember you are responsible for posting all 3 of your notices for this election (last day to register, notice of election, notice of public accuracy test).

Treasurer’s Statements: Only GENERAL LAW Townships that have a township proposal and those jurisdictions with the Wayne RESA proposal on the ballot will receive a Treasurer’s Statement of money to be raised by tax to include in their notices of election. You’ll receive the statement by the end of June. *Tax statements are no longer required* for school district millage and bond proposals.

Chelsea City, Lyndon Twp, Dexter Twp, Sylvan Twp, and Lima: Please note that you MUST publish the ENTIRE PROPOSAL LANGUAGE for Chelsea District Library on your Notice of Last Day to Register AND Notice of Election.

AccuVote Cards – Available at the June WCMTCA Meeting

I’ll plan on bringing memory cards to the June 18 meeting and you can pick them up at the office after that.

Absentee and MOVE Ballots

Absentee ballots will arrive at your office by June 20. MOVE ballot requests received since November 6, 2013 must be processed by June 21.

County Election Inspector Trainings

Tuesday, July 8	9:00 a.m. – Noon	Webster Township Hall
Thursday, July 10	1:00 p.m. – 4:00 p.m.	Ypsilanti Township Hall
Monday, July 14 Sheriff’s office)	9:00 a.m. – Noon	Washtenaw LRC Room A - 4135 Washtenaw, Ann Arbor 48108 (next to
Wednesday, July 16 Sheriff’s office)	9:00 a.m. – Noon	Washtenaw LRC Room A - 4135 Washtenaw, Ann Arbor 48108 (next to
Monday, July 21	1:00 p.m. – 4:00 p.m.	Lodi Township Hall
Thursday, July 24	6:00 p.m. – 9:00 p.m.	Ypsilanti Township Hall

Tuesday, July 29 1:00 p.m. – 4:00 p.m. Washtenaw LRC Room A - 4135 Washtenaw, Ann Arbor 48108 (next to Sheriff's office)

PLEASE REMEMBER that only you, not the inspectors are to confirm attendance for these classes. Please do so only by sending an email to trainingsvp@ewashtenaw.org. Please do not send your training attendee confirmations to me.

Thanks and have a great Memorial Day weekend!

Ed Golembiewski

Chief Deputy Clerk / Director of Elections
Washtenaw County

P: (734) 222-6730
F: (734) 222-6528

200 N. Main Street
Suite 120
Ann Arbor, MI 48104

Exhibit 4: Proof Ballot

UNITED STATES DISTRICT COURT
IN THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ROBERT DASCOLA,

Plaintiff,

vs.

Case No. 2:14-cv-11296-LPZ-RSW
Hon. Lawrence P. Zatkoff
Magistrate Judge R. Steven Whalen

CITY OF ANN ARBOR and
JACQUELINE BEAUDRY,
ANN ARBOR CITY CLERK,

Defendants.

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spostema@a2gov.org
aelias@a2gov.org

**DEFENDANTS' BRIEF IN RESPONSE TO PLAINTIFF'S
POST-JUDGMENT MOTION FOR ADDITIONAL INJUNCTIVE RELIEF**

Exhibit 4: Proof Ballot

OFFICIAL BALLOT
 Primary Election
 Tuesday, August 5, 2014
 Washtenaw County, Michigan
 City of Ann Arbor, Ward 3, Precinct 2

PARTISAN SECTION VOTE ONLY 1 PARTY SECTION		NONPARTISAN SECTION
 REPUBLICAN PARTY SECTION		JUDICIAL
 DEMOCRATIC PARTY SECTION		JUDGE OF CIRCUIT COURT 22ND CIRCUIT NON-INCUMBENT POSITION Vote for not more than 1
STATE		
GOVERNOR Vote for not more than 1 Rick Snyder <input type="radio"/> <input type="radio"/>	GOVERNOR Vote for not more than 1 Mark Schauer <input type="radio"/> <input type="radio"/>	Michael Woodyard <input type="radio"/> Pat Conlin <input type="radio"/> Veronique Liem <input type="radio"/> <input type="radio"/>
CONGRESSIONAL		JUDGE OF PROBATE COURT NON-INCUMBENT POSITION Vote for not more than 1
UNITED STATES SENATOR Vote for not more than 1 Terri Lynn Land <input type="radio"/> <input type="radio"/>	UNITED STATES SENATOR Vote for not more than 1 Gary Peters <input type="radio"/> <input type="radio"/>	Jane A. Bassett <input type="radio"/> Tamara Garwood <input type="radio"/> Constance L. Jones <input type="radio"/> Julia B. Owdziej <input type="radio"/> Tracy Van den Bergh <input type="radio"/> <input type="radio"/>
REPRESENTATIVE IN CONGRESS 12TH DISTRICT Vote for not more than 1 Terry Bowman <input type="radio"/> <input type="radio"/>	REPRESENTATIVE IN CONGRESS 12TH DISTRICT Vote for not more than 1 Debbie Dingell <input type="radio"/> Raymond G. Mullins <input type="radio"/> <input type="radio"/>	PROPOSAL SECTION
LEGISLATIVE		STATE
STATE SENATOR 18TH DISTRICT Vote for not more than 1 Terry M. Linden <input type="radio"/> <input type="radio"/>	LEGISLATIVE STATE SENATOR 18TH DISTRICT Vote for not more than 1 Rebekah Warren <input type="radio"/> <input type="radio"/>	APPROVAL OR DISAPPROVAL OF AMENDATORY ACT TO REDUCE STATE USE TAX AND REPLACE WITH A LOCAL COMMUNITY STABILIZATION SHARE TO MODERNIZE THE TAX SYSTEM TO HELP SMALL BUSINESSES GROW AND CREATE JOBS The amendatory act adopted by the Legislature would: 1. Reduce the state use tax and replace with a local community stabilization share of the tax for the purpose of modernizing the tax system to help small businesses grow and create jobs in Michigan. 2. Require Local Community Stabilization Authority to provide revenue to local governments dedicated for local purposes, including police safety, fire protection, and ambulance emergency services. 3. Increase portion of state use tax dedicated for aid to local school districts. 4. Prohibit Authority from increasing taxes. 5. Prohibit total use tax rate from exceeding existing constitutional 6% limitation. Should this law be approved? YES <input type="radio"/> NO <input type="radio"/>
REPRESENTATIVE IN STATE LEGISLATURE 53RD DISTRICT Vote for not more than 1 John J. Spisak <input type="radio"/> <input type="radio"/>	REPRESENTATIVE IN STATE LEGISLATURE 53RD DISTRICT Vote for not more than 1 Jeff Irwin <input type="radio"/> <input type="radio"/>	
COUNTY COUNTY COMMISSIONER 8TH DISTRICT Vote for not more than 1 Jeffrey R. Gallatin <input type="radio"/> <input type="radio"/>	COUNTY COUNTY COMMISSIONER 8TH DISTRICT Vote for not more than 1 Yousef Rabhi <input type="radio"/> <input type="radio"/>	
CITY MAYOR Vote for not more than 1 <input type="radio"/>	CITY MAYOR Vote for not more than 1 Sabra Briere <input type="radio"/> Stephen Kunselman <input type="radio"/> Sally Hart Petersen <input type="radio"/> Christopher Taylor <input type="radio"/> <input type="radio"/>	
COUNCIL MEMBER WARD 3 Vote for not more than 1 <input type="radio"/>	COUNCIL MEMBER WARD 3 Vote for not more than 1 Julie Grand <input type="radio"/> Samuel McMullen <input type="radio"/> Robert Dascola <input type="radio"/> <input type="radio"/>	
DELEGATE TO COUNTY CONVENTION Vote for not more than 2 <input type="radio"/> <input type="radio"/>	DELEGATE TO COUNTY CONVENTION Vote for not more than 2 <input type="radio"/> <input type="radio"/>	

VOTE BOTH FRONT AND BACK OF BALLOT

OFFICIAL BALLOT
 Primary Election
 Tuesday, August 5, 2014
 Washtenaw County, Michigan
 City of Ann Arbor, Ward 3, Precinct 3

PARTISAN SECTION VOTE ONLY 1 PARTY SECTION		NONPARTISAN SECTION			
 REPUBLICAN PARTY SECTION		 DEMOCRATIC PARTY SECTION		JUDICIAL	
STATE GOVERNOR Vote for not more than 1 Rick Snyder <input type="radio"/>		STATE GOVERNOR Vote for not more than 1 Mark Schauer <input type="radio"/>		JUDGE OF CIRCUIT COURT 22ND CIRCUIT NON-INCUMBENT POSITION Vote for not more than 1 Pat Conlin <input type="radio"/> Veronique Liem <input type="radio"/> Michael Woodyard <input type="radio"/>	
CONGRESSIONAL UNITED STATES SENATOR Vote for not more than 1 Terri Lynn Land <input type="radio"/>		CONGRESSIONAL UNITED STATES SENATOR Vote for not more than 1 Gary Peters <input type="radio"/>		JUDGE OF PROBATE COURT NON-INCUMBENT POSITION Vote for not more than 1 Tamara Garwood <input type="radio"/> Constance L. Jones <input type="radio"/> Julia B. Owdziej <input type="radio"/> Tracy Van den Bergh <input type="radio"/> Jane A. Bassett <input type="radio"/>	
LEGISLATIVE STATE SENATOR 18TH DISTRICT Vote for not more than 1 Terry M. Linden <input type="radio"/>		LEGISLATIVE STATE SENATOR 18TH DISTRICT Vote for not more than 1 Rebekah Warren <input type="radio"/>		PROPOSAL SECTION STATE APPROVAL OR DISAPPROVAL OF AMENDATORY ACT TO REDUCE STATE USE TAX AND REPLACE WITH A LOCAL COMMUNITY STABILIZATION SHARE TO MODERNIZE THE TAX SYSTEM TO HELP SMALL BUSINESSES GROW AND CREATE JOBS The amendatory act adopted by the Legislature would: 1. Reduce the state use tax and replace with a local community stabilization share of the tax for the purpose of modernizing the tax system to help small businesses grow and create jobs in Michigan. 2. Require Local Community Stabilization Authority to provide revenue to local governments dedicated for local purposes, including police safety, fire protection, and ambulance emergency services. 3. Increase portion of state use tax dedicated for aid to local school districts. 4. Prohibit Authority from increasing taxes. 5. Prohibit total use tax rate from exceeding existing constitutional 6% limitation. Should this law be approved? YES <input type="radio"/> NO <input type="radio"/>	
LEGISLATIVE REPRESENTATIVE IN STATE LEGISLATURE 53RD DISTRICT Vote for not more than 1 John J. Spisak <input type="radio"/>		LEGISLATIVE REPRESENTATIVE IN STATE LEGISLATURE 53RD DISTRICT Vote for not more than 1 Jeff Irwin <input type="radio"/>			
COUNTY COUNTY COMMISSIONER 8TH DISTRICT Vote for not more than 1 Jeffrey R. Gallatin <input type="radio"/>		COUNTY COUNTY COMMISSIONER 8TH DISTRICT Vote for not more than 1 Yousef Rabhi <input type="radio"/>			
CITY MAYOR Vote for not more than 1 <input type="radio"/>		CITY MAYOR Vote for not more than 1 Stephen Kunselman <input type="radio"/> Sally Hart Petersen <input type="radio"/> Christopher Taylor <input type="radio"/> Sabra Briere <input type="radio"/>			
CITY COUNCIL MEMBER WARD 3 Vote for not more than 1 <input type="radio"/>		CITY COUNCIL MEMBER WARD 3 Vote for not more than 1 Samuel McMullen <input type="radio"/> Robert Dascola <input type="radio"/> Julie Grand <input type="radio"/>			
DELEGATE DELEGATE TO COUNTY CONVENTION Vote for not more than 1 Fred Ward <input type="radio"/>		DELEGATE DELEGATE TO COUNTY CONVENTION Vote for not more than 3 Doug Scott <input type="radio"/>			

VOTE BOTH FRONT AND BACK OF BALLOT

OFFICIAL BALLOT
 Primary Election
 Tuesday, August 5, 2014
 Washtenaw County, Michigan
 City of Ann Arbor, Ward 3, Precinct 4

PARTISAN SECTION VOTE ONLY 1 PARTY SECTION		NONPARTISAN SECTION
 REPUBLICAN PARTY SECTION		JUDICIAL
STATE		JUDGE OF CIRCUIT COURT 22ND CIRCUIT NON-INCUMBENT POSITION Vote for not more than 1
GOVERNOR Vote for not more than 1 Rick Snyder <input type="radio"/>	GOVERNOR Vote for not more than 1 Mark Schauer <input type="radio"/>	Veronique Liam <input type="radio"/> Michael Woodyard <input type="radio"/> Pat Conlin <input type="radio"/>
CONGRESSIONAL		JUDGE OF PROBATE COURT NON-INCUMBENT POSITION Vote for not more than 1
UNITED STATES SENATOR Vote for not more than 1 Terri Lynn Land <input type="radio"/>	UNITED STATES SENATOR Vote for not more than 1 Gary Peters <input type="radio"/>	Constance L. Jones <input type="radio"/> Julia B. Owdziej <input type="radio"/> Tracy Van den Bergh <input type="radio"/> Jane A. Bassett <input type="radio"/> Tamara Garwood <input type="radio"/>
REPRESENTATIVE IN CONGRESS 12TH DISTRICT Vote for not more than 1 Terry Bowman <input type="radio"/>	REPRESENTATIVE IN CONGRESS 12TH DISTRICT Vote for not more than 1 Debbie Dingell <input type="radio"/> Raymond G. Mullins <input type="radio"/>	PROPOSAL SECTION
LEGISLATIVE		STATE
STATE SENATOR 18TH DISTRICT Vote for not more than 1 Terry M. Linden <input type="radio"/>	LEGISLATIVE	APPROVAL OR DISAPPROVAL OF AMENDATORY ACT TO REDUCE STATE USE TAX AND REPLACE WITH A LOCAL COMMUNITY STABILIZATION SHARE TO MODERNIZE THE TAX SYSTEM TO HELP SMALL BUSINESSES GROW AND CREATE JOBS The amendatory act adopted by the Legislature would: 1. Reduce the state use tax and replace with a local community stabilization share of the tax for the purpose of modernizing the tax system to help small businesses grow and create jobs in Michigan. 2. Require Local Community Stabilization Authority to provide revenue to local governments dedicated for local purposes, including police safety, fire protection, and ambulance emergency services. 3. Increase portion of state use tax dedicated for aid to local school districts. 4. Prohibit Authority from increasing taxes. 5. Prohibit total use tax rate from exceeding existing constitutional 6% limitation. Should this law be approved? YES <input type="radio"/> NO <input type="radio"/>
REPRESENTATIVE IN STATE LEGISLATURE 53RD DISTRICT Vote for not more than 1 John J. Spisak <input type="radio"/>	STATE SENATOR 18TH DISTRICT Vote for not more than 1 Rebekah Warren <input type="radio"/>	
REPRESENTATIVE IN STATE LEGISLATURE 53RD DISTRICT Vote for not more than 1 Jeff Irwin <input type="radio"/>	REPRESENTATIVE IN STATE LEGISLATURE 53RD DISTRICT Vote for not more than 1 Jeff Irwin <input type="radio"/>	
COUNTY	COUNTY	
COUNTY COMMISSIONER 8TH DISTRICT Vote for not more than 1 Jeffrey R. Gallatin <input type="radio"/>	COUNTY COMMISSIONER 8TH DISTRICT Vote for not more than 1 Yousef Rabhi <input type="radio"/>	
CITY	CITY	
MAYOR Vote for not more than 1 <input type="radio"/>	MAYOR Vote for not more than 1 Sally Hart Petersen <input type="radio"/> Christopher Taylor <input type="radio"/> Sabra Briere <input type="radio"/> Stephen Kunselman <input type="radio"/>	
COUNCIL MEMBER WARD 3 Vote for not more than 1 <input type="radio"/>	COUNCIL MEMBER WARD 3 Vote for not more than 1 Robert Dascola <input type="radio"/> Julie Grand <input type="radio"/> Samuel McMullen <input type="radio"/>	
DELEGATE	DELEGATE	
DELEGATE TO COUNTY CONVENTION Vote for not more than 1 Stuart Sandler <input type="radio"/>	DELEGATE TO COUNTY CONVENTION Vote for not more than 2 Rory Crook <input type="radio"/> Michael Koen <input type="radio"/>	

VOTE BOTH FRONT AND BACK OF BALLOT

OFFICIAL BALLOT
Primary Election
Tuesday, August 5, 2014
Washtenaw County, Michigan
City of Ann Arbor, Ward 3, Precinct 5SH53

PARTISAN SECTION VOTE ONLY 1 PARTY SECTION		NONPARTISAN SECTION
 REPUBLICAN PARTY SECTION	 DEMOCRATIC PARTY SECTION	JUDICIAL
STATE	STATE	JUDGE OF CIRCUIT COURT 22ND CIRCUIT NON-INCUMBENT POSITION Vote for not more than 1
GOVERNOR Vote for not more than 1 Rick Snyder <input type="radio"/>	GOVERNOR Vote for not more than 1 Mark Schauer <input type="radio"/>	Michael Woodyard <input type="radio"/>
<input type="radio"/>	<input type="radio"/>	Pat Conlin <input type="radio"/>
<input type="radio"/>	<input type="radio"/>	Veronique Liem <input type="radio"/>
<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
CONGRESSIONAL	CONGRESSIONAL	JUDGE OF PROBATE COURT NON-INCUMBENT POSITION Vote for not more than 1
UNITED STATES SENATOR Vote for not more than 1 Terri Lynn Land <input type="radio"/>	UNITED STATES SENATOR Vote for not more than 1 Gary Peters <input type="radio"/>	Julia B. Owdziej <input type="radio"/>
<input type="radio"/>	<input type="radio"/>	Tracy Van den Bergh <input type="radio"/>
REPRESENTATIVE IN CONGRESS 12TH DISTRICT Vote for not more than 1 Terry Bowman <input type="radio"/>	REPRESENTATIVE IN CONGRESS 12TH DISTRICT Vote for not more than 1 Raymond G. Mullins <input type="radio"/>	Jane A. Bassett <input type="radio"/>
<input type="radio"/>	<input type="radio"/>	Tamara Garwood <input type="radio"/>
<input type="radio"/>	<input type="radio"/>	Constance L. Jones <input type="radio"/>
<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
LEGISLATIVE	LEGISLATIVE	PROPOSAL SECTION
STATE SENATOR 18TH DISTRICT Vote for not more than 1 Terry M. Linden <input type="radio"/>	STATE SENATOR 18TH DISTRICT Vote for not more than 1 Rebekah Warren <input type="radio"/>	STATE
<input type="radio"/>	<input type="radio"/>	APPROVAL OR DISAPPROVAL OF AMENDATORY ACT TO REDUCE STATE USE TAX AND REPLACE WITH A LOCAL COMMUNITY STABILIZATION SHARE TO MODERNIZE THE TAX SYSTEM TO HELP SMALL BUSINESSES GROW AND CREATE JOBS
REPRESENTATIVE IN STATE LEGISLATURE 53RD DISTRICT Vote for not more than 1 John J. Spisak <input type="radio"/>	REPRESENTATIVE IN STATE LEGISLATURE 53RD DISTRICT Vote for not more than 1 Jeff Irwin <input type="radio"/>	The amendatory act adopted by the Legislature would: 1. Reduce the state use tax and replace with a local community stabilization share of the tax for the purpose of modernizing the tax system to help small businesses grow and create jobs in Michigan. 2. Require Local Community Stabilization Authority to provide revenue to local governments dedicated for local purposes, including police safety, fire protection, and ambulance emergency services. 3. Increase portion of state use tax dedicated for aid to local school districts. 4. Prohibit Authority from increasing taxes. 5. Prohibit total use tax rate from exceeding existing constitutional 6% limitation. Should this law be approved? YES <input type="radio"/>
<input type="radio"/>	<input type="radio"/>	NO <input type="radio"/>
COUNTY	COUNTY	
COUNTY COMMISSIONER 7TH DISTRICT Vote for not more than 1 Joe Miriam <input type="radio"/>	COUNTY COMMISSIONER 7TH DISTRICT Vote for not more than 1 Andy LaBarre <input type="radio"/>	
<input type="radio"/>	<input type="radio"/>	
CITY	CITY	
MAYOR Vote for not more than 1 <input type="radio"/>	MAYOR Vote for not more than 1 Christopher Taylor <input type="radio"/>	
<input type="radio"/>	Sabra Briere <input type="radio"/>	
COUNCIL MEMBER WARD 3 Vote for not more than 1 <input type="radio"/>	Stephen Kunselman <input type="radio"/>	
<input type="radio"/>	Sally Hart Petersen <input type="radio"/>	
<input type="radio"/>	<input type="radio"/>	
DELEGATE	COUNCIL MEMBER WARD 3 Vote for not more than 1 Julie Grand <input type="radio"/>	
DELEGATE TO COUNTY CONVENTION Vote for not more than 2 Alan L. Dettling <input type="radio"/>	Samuel McMullen <input type="radio"/>	
<input type="radio"/>	Robert Dascola <input type="radio"/>	
<input type="radio"/>	<input type="radio"/>	
<input type="radio"/>	DELEGATE	
<input type="radio"/>	DELEGATE TO COUNTY CONVENTION Vote for not more than 3 Susan Baskett <input type="radio"/>	
<input type="radio"/>	<input type="radio"/>	
<input type="radio"/>	<input type="radio"/>	
<input type="radio"/>	<input type="radio"/>	
<input type="radio"/>	<input type="radio"/>	

VOTE BOTH FRONT AND BACK OF BALLOT

OFFICIAL BALLOT
 Primary Election
 Tuesday, August 5, 2014
 Washtenaw County, Michigan
 City of Ann Arbor, Ward 3, Precinct 6

PARTISAN SECTION VOTE ONLY 1 PARTY SECTION		NONPARTISAN SECTION
 REPUBLICAN PARTY SECTION	 DEMOCRATIC PARTY SECTION	JUDICIAL
STATE	STATE	JUDGE OF CIRCUIT COURT 22ND CIRCUIT NON-INCUMBENT POSITION Vote for not more than 1
GOVERNOR Vote for not more than 1	GOVERNOR Vote for not more than 1	Pat Conlin <input type="radio"/>
Rick Snyder <input type="radio"/>	Mark Schauer <input type="radio"/>	Veronique Liem <input type="radio"/>
		Michael Woodyard <input type="radio"/>
CONGRESSIONAL	CONGRESSIONAL	JUDGE OF PROBATE COURT NON-INCUMBENT POSITION Vote for not more than 1
UNITED STATES SENATOR Vote for not more than 1	UNITED STATES SENATOR Vote for not more than 1	Tracy Van den Bergh <input type="radio"/>
Terri Lynn Land <input type="radio"/>	Gary Peters <input type="radio"/>	Jane A. Bassett <input type="radio"/>
REPRESENTATIVE IN CONGRESS 12TH DISTRICT Vote for not more than 1	REPRESENTATIVE IN CONGRESS 12TH DISTRICT Vote for not more than 1	Tamara Garwood <input type="radio"/>
Terry Bowman <input type="radio"/>	Debbie Dingell <input type="radio"/>	Constance L. Jones <input type="radio"/>
	Raymond G. Mullins <input type="radio"/>	Julia B. Qwdziej <input type="radio"/>
LEGISLATIVE	LEGISLATIVE	PROPOSAL SECTION
STATE SENATOR 18TH DISTRICT Vote for not more than 1	STATE SENATOR 18TH DISTRICT Vote for not more than 1	STATE
Terry M. Linden <input type="radio"/>	Rebekah Warren <input type="radio"/>	APPROVAL OR DISAPPROVAL OF AMENDATORY ACT TO REDUCE STATE USE TAX AND REPLACE WITH A LOCAL COMMUNITY STABILIZATION SHARE TO MODERNIZE THE TAX SYSTEM TO HELP SMALL BUSINESSES GROW AND CREATE JOBS
REPRESENTATIVE IN STATE LEGISLATURE 53RD DISTRICT Vote for not more than 1	REPRESENTATIVE IN STATE LEGISLATURE 53RD DISTRICT Vote for not more than 1	The amendatory act adopted by the Legislature would:
John J. Spisak <input type="radio"/>	Jeff Irwin <input type="radio"/>	1. Reduce the state use tax and replace with a local community stabilization share of the tax for the purpose of modernizing the tax system to help small businesses grow and create jobs in Michigan.
COUNTY	COUNTY	2. Require Local Community Stabilization Authority to provide revenue to local governments dedicated for local purposes, including police safety, fire protection, and ambulance emergency services.
COUNTY COMMISSIONER 7TH DISTRICT Vote for not more than 1	COUNTY COMMISSIONER 7TH DISTRICT Vote for not more than 1	3. Increase portion of state use tax dedicated for aid to local school districts.
Joe Miriani <input type="radio"/>	Andy LaBarre <input type="radio"/>	4. Prohibit Authority from increasing taxes.
CITY	CITY	5. Prohibit total use tax rate from exceeding existing constitutional 6% limitation.
MAYOR Vote for not more than 1	MAYOR Vote for not more than 1	Should this law be approved? YES <input type="radio"/>
		NO <input type="radio"/>
COUNCIL MEMBER WARD 3 Vote for not more than 1	Sabra Briere <input type="radio"/>	
	Stephen Kunselman <input type="radio"/>	
	Sally Hart Petersen <input type="radio"/>	
	Christopher Taylor <input type="radio"/>	
DELEGATE		
DELEGATE TO COUNTY CONVENTION Vote for not more than 1	COUNCIL MEMBER WARD 3 Vote for not more than 1	
Joyce A. Ham <input type="radio"/>	Samuel McMullen <input type="radio"/>	
	Robert Dascola <input type="radio"/>	
	Julie Grand <input type="radio"/>	
	DELEGATE	
	DELEGATE TO COUNTY CONVENTION Vote for not more than 2	
	Steven Gulick <input type="radio"/>	

VOTE BOTH FRONT AND BACK OF BALLOT

OFFICIAL BALLOT
 Primary Election
 Tuesday, August 5, 2014
 Washtenaw County, Michigan
 City of Ann Arbor, Ward 3, Precinct 7CC7

PARTISAN SECTION VOTE ONLY 1 PARTY SECTION		NONPARTISAN SECTION
 REPUBLICAN PARTY SECTION	 DEMOCRATIC PARTY SECTION	JUDICIAL
STATE	STATE	JUDGE OF CIRCUIT COURT 22ND CIRCUIT NON-INCUMBENT POSITION Vote for not more than 1
GOVERNOR Vote for not more than 1	GOVERNOR Vote for not more than 1	Veronique Liem <input type="radio"/>
Rick Snyder <input type="radio"/>	Mark Schauer <input type="radio"/>	Michael Woodyard <input type="radio"/>
		Pat Conlin <input type="radio"/>
CONGRESSIONAL	CONGRESSIONAL	JUDGE OF PROBATE COURT NON-INCUMBENT POSITION Vote for not more than 1
UNITED STATES SENATOR Vote for not more than 1	UNITED STATES SENATOR Vote for not more than 1	Jane A. Bassett <input type="radio"/>
Terri Lynn Land <input type="radio"/>	Gary Peters <input type="radio"/>	Tamara Garwood <input type="radio"/>
		Constance L. Jones <input type="radio"/>
REPRESENTATIVE IN CONGRESS 12TH DISTRICT Vote for not more than 1	REPRESENTATIVE IN CONGRESS 12TH DISTRICT Vote for not more than 1	Julia B. Owdziej <input type="radio"/>
Terry Bowman <input type="radio"/>	Raymond G. Mullins <input type="radio"/>	Tracy Van den Bergh <input type="radio"/>
	Debbie Dingell <input type="radio"/>	
LEGISLATIVE	LEGISLATIVE	PROPOSAL SECTION
STATE SENATOR 18TH DISTRICT Vote for not more than 1	STATE SENATOR 18TH DISTRICT Vote for not more than 1	STATE
Terry M. Linden <input type="radio"/>	Rebekah Warren <input type="radio"/>	APPROVAL OR DISAPPROVAL OF AMENDATORY ACT TO REDUCE STATE USE TAX AND REPLACE WITH A LOCAL COMMUNITY STABILIZATION SHARE TO MODERNIZE THE TAX SYSTEM TO HELP SMALL BUSINESSES GROW AND CREATE JOBS
REPRESENTATIVE IN STATE LEGISLATURE 53RD DISTRICT Vote for not more than 1	REPRESENTATIVE IN STATE LEGISLATURE 53RD DISTRICT Vote for not more than 1	The amendatory act adopted by the Legislature would:
John J. Spisak <input type="radio"/>	Jeff Irwin <input type="radio"/>	1. Reduce the state use tax and replace with a local community stabilization share of the tax for the purpose of modernizing the tax system to help small businesses grow and create jobs in Michigan.
		2. Require Local Community Stabilization Authority to provide revenue to local governments dedicated for local purposes, including police safety, fire protection, and ambulance emergency services.
COUNTY	COUNTY	3. Increase portion of state use tax dedicated for aid to local school districts.
COUNTY COMMISSIONER 7TH DISTRICT Vote for not more than 1	COUNTY COMMISSIONER 7TH DISTRICT Vote for not more than 1	4. Prohibit Authority from increasing taxes.
Joe Miriani <input type="radio"/>	Andy LaBarre <input type="radio"/>	5. Prohibit total use tax rate from exceeding existing constitutional 6% limitation.
		Should this law be approved?
CITY	CITY	YES <input type="radio"/>
MAYOR Vote for not more than 1	MAYOR Vote for not more than 1	NO <input type="radio"/>
COUNCIL MEMBER WARD 3 Vote for not more than 1	Stephen Kunselman <input type="radio"/>	
	Sally Hart Petersen <input type="radio"/>	
	Christopher Taylor <input type="radio"/>	
	Sabra Briere <input type="radio"/>	
DELEGATE		
DELEGATE TO COUNTY CONVENTION Vote for not more than 2	COUNCIL MEMBER WARD 3 Vote for not more than 1	
John J. Spisak <input type="radio"/>	Robert Dascola <input type="radio"/>	
	Julie Grand <input type="radio"/>	
	Samuel McMullen <input type="radio"/>	
	DELEGATE	
	DELEGATE TO COUNTY CONVENTION Vote for not more than 2	

VOTE BOTH FRONT AND BACK OF BALLOT

OFFICIAL BALLOT
 Primary Election
 Tuesday, August 5, 2014
 Washtenaw County, Michigan
 City of Ann Arbor, Ward 3, Precinct 8

PARTISAN SECTION VOTE ONLY 1 PARTY SECTION		NONPARTISAN SECTION
 REPUBLICAN PARTY SECTION	 DEMOCRATIC PARTY SECTION	JUDICIAL
STATE	STATE	JUDGE OF CIRCUIT COURT 22ND CIRCUIT NON-INCUMBENT POSITION Vote for not more than 1
GOVERNOR Vote for not more than 1	GOVERNOR Vote for not more than 1	Michael Woodyard <input type="radio"/>
Rick Snyder <input type="radio"/>	Mark Schauer <input type="radio"/>	Pat Conlin <input type="radio"/>
		Veronique Liem <input type="radio"/>
		<input type="radio"/>
CONGRESSIONAL	CONGRESSIONAL	JUDGE OF PROBATE COURT NON-INCUMBENT POSITION Vote for not more than 1
UNITED STATES SENATOR Vote for not more than 1	UNITED STATES SENATOR Vote for not more than 1	Tamara Garwood <input type="radio"/>
Terri Lynn Land <input type="radio"/>	Gary Peters <input type="radio"/>	Constance L. Jones <input type="radio"/>
		Julia B. Owdziej <input type="radio"/>
REPRESENTATIVE IN CONGRESS 12TH DISTRICT Vote for not more than 1	REPRESENTATIVE IN CONGRESS 12TH DISTRICT Vote for not more than 1	Tracy Van den Bergh <input type="radio"/>
Terry Bowman <input type="radio"/>	Debbie Dingell <input type="radio"/>	Jane A. Bassett <input type="radio"/>
	Raymond G. Mullins <input type="radio"/>	
	<input type="radio"/>	PROPOSAL SECTION
LEGISLATIVE	LEGISLATIVE	STATE
STATE SENATOR 18TH DISTRICT Vote for not more than 1	STATE SENATOR 18TH DISTRICT Vote for not more than 1	APPROVAL OR DISAPPROVAL OF AMENDATORY ACT TO REDUCE STATE USE TAX AND REPLACE WITH A LOCAL COMMUNITY STABILIZATION SHARE TO MODERNIZE THE TAX SYSTEM TO HELP SMALL BUSINESSES GROW AND CREATE JOBS
Terry M. Linden <input type="radio"/>	Rebekah Warren <input type="radio"/>	The amendatory act adopted by the Legislature would: 1. Reduce the state use tax and replace with a local community stabilization share of the tax for the purpose of modernizing the tax system to help small businesses grow and create jobs in Michigan. 2. Require Local Community Stabilization Authority to provide revenue to local governments dedicated for local purposes, including police safety, fire protection, and ambulance emergency services. 3. Increase portion of state use tax dedicated for aid to local school districts. 4. Prohibit Authority from increasing taxes. 5. Prohibit total use tax rate from exceeding existing constitutional 6% limitation. Should this law be approved? YES <input type="radio"/> NO <input type="radio"/>
REPRESENTATIVE IN STATE LEGISLATURE 53RD DISTRICT Vote for not more than 1	REPRESENTATIVE IN STATE LEGISLATURE 53RD DISTRICT Vote for not more than 1	
John J. Spisak <input type="radio"/>	Jeff Irwin <input type="radio"/>	
	<input type="radio"/>	
	<input type="radio"/>	
COUNTY	COUNTY	
COUNTY COMMISSIONER 7TH DISTRICT Vote for not more than 1	COUNTY COMMISSIONER 7TH DISTRICT Vote for not more than 1	
Joe Miriani <input type="radio"/>	Andy LaBarre <input type="radio"/>	
	<input type="radio"/>	
CITY	CITY	
MAYOR Vote for not more than 1	MAYOR Vote for not more than 1	
<input type="radio"/>	Sally Hart Petersen <input type="radio"/>	
COUNCIL MEMBER WARD 3 Vote for not more than 1	Christopher Taylor <input type="radio"/>	
<input type="radio"/>	Sabra Briere <input type="radio"/>	
	Stephen Kunselman <input type="radio"/>	
	<input type="radio"/>	
DELEGATE	COUNCIL MEMBER WARD 3 Vote for not more than 1	
DELEGATE TO COUNTY CONVENTION Vote for not more than 2	Julie Grand <input type="radio"/>	
Joe Miriani <input type="radio"/>	Samuel McMullen <input type="radio"/>	
<input type="radio"/>	Robert Dascola <input type="radio"/>	
<input type="radio"/>	<input type="radio"/>	
	DELEGATE	
	DELEGATE TO COUNTY CONVENTION Vote for not more than 3	
	Karen Kostamo <input type="radio"/>	
	<input type="radio"/>	
	<input type="radio"/>	
	<input type="radio"/>	

VOTE BOTH FRONT AND BACK OF BALLOT

OFFICIAL BALLOT
 Primary Election
 Tuesday, August 5, 2014
 Washtenaw County, Michigan
 City of Ann Arbor, Ward 3, Precinct 9

PARTISAN SECTION VOTE ONLY 1 PARTY SECTION		NONPARTISAN SECTION
 REPUBLICAN PARTY SECTION	 DEMOCRATIC PARTY SECTION	JUDICIAL
STATE	STATE	JUDGE OF CIRCUIT COURT 22ND CIRCUIT NON-INCUMBENT POSITION Vote for not more than 1
GOVERNOR Vote for not more than 1	GOVERNOR Vote for not more than 1	Pat Conlin <input type="radio"/>
Rick Snyder <input type="radio"/>	Mark Schauer <input type="radio"/>	Veronique Liem <input type="radio"/>
<input type="radio"/>	<input type="radio"/>	Michael Woodyard <input type="radio"/>
<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
CONGRESSIONAL	CONGRESSIONAL	JUDGE OF PROBATE COURT NON-INCUMBENT POSITION Vote for not more than 1
UNITED STATES SENATOR Vote for not more than 1	UNITED STATES SENATOR Vote for not more than 1	Constance L. Jones <input type="radio"/>
Terri Lynn Land <input type="radio"/>	Gary Peters <input type="radio"/>	Julia B. Owdziej <input type="radio"/>
<input type="radio"/>	<input type="radio"/>	Tracy Van den Bergh <input type="radio"/>
REPRESENTATIVE IN CONGRESS 12TH DISTRICT Vote for not more than 1	REPRESENTATIVE IN CONGRESS 12TH DISTRICT Vote for not more than 1	Jane A. Bassett <input type="radio"/>
Terry Bowman <input type="radio"/>	Raymond G. Mullins <input type="radio"/>	Tamara Garwood <input type="radio"/>
<input type="radio"/>	Debbie Dingell <input type="radio"/>	<input type="radio"/>
<input type="radio"/>	<input type="radio"/>	PROPOSAL SECTION
LEGISLATIVE	LEGISLATIVE	STATE
STATE SENATOR 18TH DISTRICT Vote for not more than 1	STATE SENATOR 18TH DISTRICT Vote for not more than 1	APPROVAL OR DISAPPROVAL OF AMENDATORY ACT TO REDUCE STATE USE TAX AND REPLACE WITH A LOCAL COMMUNITY STABILIZATION SHARE TO MODERNIZE THE TAX SYSTEM TO HELP SMALL BUSINESSES GROW AND CREATE JOBS
Terry M. Linden <input type="radio"/>	Rebekah Warren <input type="radio"/>	The amendatory act adopted by the Legislature would:
<input type="radio"/>	<input type="radio"/>	1. Reduce the state use tax and replace with a local community stabilization share of the tax for the purpose of modernizing the tax system to help small businesses grow and create jobs in Michigan.
REPRESENTATIVE IN STATE LEGISLATURE 53RD DISTRICT Vote for not more than 1	REPRESENTATIVE IN STATE LEGISLATURE 53RD DISTRICT Vote for not more than 1	2. Require Local Community Stabilization Authority to provide revenue to local governments dedicated for local purposes, including police safety, fire protection, and ambulance emergency services.
John J. Spisak <input type="radio"/>	Jeff Irwin <input type="radio"/>	3. Increase portion of state use tax dedicated for aid to local school districts.
<input type="radio"/>	<input type="radio"/>	4. Prohibit Authority from increasing taxes.
COUNTY	COUNTY	5. Prohibit total use tax rate from exceeding existing constitutional 6% limitation.
COUNTY COMMISSIONER 7TH DISTRICT Vote for not more than 1	COUNTY COMMISSIONER 7TH DISTRICT Vote for not more than 1	Should this law be approved?
Joe Miriani <input type="radio"/>	Andy LaBarre <input type="radio"/>	YES <input type="radio"/>
<input type="radio"/>	<input type="radio"/>	NO <input type="radio"/>
CITY	CITY	
MAYOR Vote for not more than 1	MAYOR Vote for not more than 1	
<input type="radio"/>	Christopher Taylor <input type="radio"/>	
COUNCIL MEMBER WARD 3 Vote for not more than 1	Sabra Briere <input type="radio"/>	
<input type="radio"/>	Stephen Kunselman <input type="radio"/>	
DELEGATE	Sally Hart Petersen <input type="radio"/>	
DELEGATE TO COUNTY CONVENTION Vote for not more than 1	COUNCIL MEMBER WARD 3 Vote for not more than 1	
Brad Smart <input type="radio"/>	Samuel McMullen <input type="radio"/>	
Brenda Smart <input type="radio"/>	Robert Dascola <input type="radio"/>	
<input type="radio"/>	Julie Grand <input type="radio"/>	
<input type="radio"/>	<input type="radio"/>	
DELEGATE	DELEGATE	
DELEGATE TO COUNTY CONVENTION Vote for not more than 3	DELEGATE TO COUNTY CONVENTION Vote for not more than 3	
<input type="radio"/>	<input type="radio"/>	
<input type="radio"/>	<input type="radio"/>	
<input type="radio"/>	<input type="radio"/>	

VOTE BOTH FRONT AND BACK OF BALLOT

Exhibit 5: Proof Ballot Review Form
UNITED STATES DISTRICT COURT
IN THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ROBERT DASCOLA,

Plaintiff,

vs.

Case No. 2:14-cv-11296-LPZ-RSW
Hon. Lawrence P. Zatkoff
Magistrate Judge R. Steven Whalen

CITY OF ANN ARBOR and
JACQUELINE BEAUDRY,
ANN ARBOR CITY CLERK,

Defendants.

Thomas Wieder (P33228)
Attorney for Plaintiff
2445 Newport Rd.
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(734)769-6100
wiedert@aol.com

Office of the City Attorney
Stephen K. Postema (P38871)
Abigail Elias (P34941)
Attorneys for Defendants
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aelias@a2gov.org

**DEFENDANTS' BRIEF IN RESPONSE TO PLAINTIFF'S
POST-JUDGMENT MOTION FOR ADDITIONAL INJUNCTIVE RELIEF**

Exhibit 5: Proof Ballot Review Form

Exhibit 6: Minutes of Meeting June 9, 2014
UNITED STATES DISTRICT COURT
IN THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ROBERT DASCOLA,

Plaintiff,

vs.

Case No. 2:14-cv-11296-LPZ-RSW
Hon. Lawrence P. Zatkoff
Magistrate Judge R. Steven Whalen

CITY OF ANN ARBOR and
JACQUELINE BEAUDRY,
ANN ARBOR CITY CLERK,

Defendants.

Thomas Wieder (P33228)
Attorney for Plaintiff
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(734)769-6100
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Office of the City Attorney
Stephen K. Postema (P38871)
Abigail Elias (P34941)
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aelias@a2gov.org

**DEFENDANTS' BRIEF IN RESPONSE TO PLAINTIFF'S
POST-JUDGMENT MOTION FOR ADDITIONAL INJUNCTIVE RELIEF**

Exhibit 6: Minutes of Meeting June 9, 2014



WASHTENAW COUNTY ELECTION COMMISSION

June 9, 2014

MINUTES

A meeting of the Washtenaw County Election Commission was held in the Lower Level Conference Room at 200 N. Main St., Ann Arbor, MI 48107 at 12:30 p.m.

MEMBERS PRESENT: Judge Darlene O'Brien
Lawrence Kestenbaum, Clerk/Register
Catherine McClary, Treasurer

MEMBERS ABSENT: None.

OTHERS PRESENT: Ed Golembiewski, Director of Elections

Darlene O'Brien called the meeting to order at 12:32 p.m.

APPROVAL OF MINUTES

Catherine McClary, seconded by Lawrence Kestenbaum, moved that the minutes from the June 3, 2014 meeting be approved as presented. 3 Yeas. 0 Nays. 0 Absent. Motion carried.

PUBLIC PARTICIPATION

None.

APPROVE AUGUST 5, 2014 STATE PRIMARY BALLOTS

The Election Commission discussed the Washtenaw Judge of Probate position and considered MCL 168.435a(3); 168.444(1); Article VI, Section 24 of the Michigan Constitution; and the case of Janer v. Barnes (2010) and determined that the incumbency designation shall be granted to Candidate Owdziej.

Lawrence Kestenbaum, seconded by Catherine McClary, moved that the ballots for the August 5, 2014 State Primary be approved as presented. 3 Yeas. 0 Nays. 0 Absent. Motion carried.

NEW BUSINESS

None.

ADJOURNMENT

Darlene O'Brien adjourned the meeting at 12:56 p.m.

Judge Darlene O'Brien

Lawrence Kestenbaum, Clerk/Register

Ed Golembiewski, Director of Elections

APPROVED: 6/26/14

Exhibit 7: Letter dated June 30, 2014 from Michigan Bureau of Elections

UNITED STATES DISTRICT COURT
IN THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ROBERT DASCOLA,

Plaintiff,

vs.

Case No. 2:14-cv-11296-LPZ-RSW
Hon. Lawrence P. Zatkoff
Magistrate Judge R. Steven Whalen

CITY OF ANN ARBOR and
JACQUELINE BEAUDRY,
ANN ARBOR CITY CLERK,

Defendants.

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Attorney for Plaintiff
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Office of the City Attorney
Stephen K. Postema (P38871)
Abigail Elias (P34941)
Attorneys for Defendants
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**DEFENDANTS' BRIEF IN RESPONSE TO PLAINTIFF'S
POST-JUDGMENT MOTION FOR ADDITIONAL INJUNCTIVE RELIEF**

Exhibit 7: Letter dated June 30, 2014 from Michigan Bureau of Elections



STATE OF MICHIGAN
BUREAU OF ELECTIONS
LANSING

June 30, 2014

Ms. Jacqueline Beaudry, Clerk
City of Ann Arbor
301 E. Huron St.
Ann Arbor MI 48107-8647

Dear Clerk Beaudry:

This letter serves to outline our discussions from earlier today regarding the tabulation of absent voter ballots for Ann Arbor's Ward 3 City Council candidates in the August 5, 2014 primary. The initial ballots you received from Washtenaw County omitted one candidate; upon discovery of the error, the county provided corrected replacement ballots, which are being re-issued today to the approximately 400 absent voters that had received the original ballot.

Regarding the impact of votes for Ward 3 City Council candidates when an absent voter returns only the original (incorrect) ballot and does not return the replacement ballot – those votes are valid and shall be counted. Voters who cast votes in Ward 3 and only return the original ballot cannot have their votes voided due to the ballot printing error. Each of the voters is being given an opportunity to cast a replacement ballot and every attempt should be made to encourage these voters to return the replacement ballot. However, there may be voters who would not change their vote in Ward 3 or will be out of town and unable to return the replacement ballot by Election Day. Neither situation can result in the disenfranchisement of these voters.

Regarding the Bureau of Elections' statement issued last Friday afternoon (June 27), indicating that votes would not be counted for any Ward 3 City Council candidate if a voter returned only the original (incorrect) ballot – this initial statement was based on a prior incident where replacement ballots were issued. Upon further review, the facts behind this prior case and the situation that has occurred with the primary ballots for Ann Arbor's Ward 3 ballot are distinguishable; the prior direction cannot be applied to this situation.

Please do not hesitate to contact this office if you have questions or need further clarification.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Thomas".

Christopher M. Thomas
Director of Elections

c: Lawrence Kestenbaum, Washtenaw County Clerk
Ed Golenbiewski, Washtenaw County Elections Director