



# Richard C. Pfeiffer, Jr.

CITY ATTORNEY

CITY ATTORNEY'S OFFICE • COLUMBUS OHIO

## MEMORANDUM

TO: Andrew J. Ginther, President, City Council

FROM: Richard C. Pfeiffer, Jr., City Attorney *REP/jtc*

CC: Andrea Blevins, CMC, City Clerk

DATE: December 4, 2014

RE: Legal Sufficiency of Initiative Petition

The City Clerk has forwarded to my office for review of its legal sufficiency an initiative petition filed with her office on November 25, 2014. As stated by the petitioners in the cover letter accompanying the filing of the petition, the pre-circulation copy of this petition was filed with the City Clerk on April 15, 2014. This pre-circulation filing thus coincides with the pre-circulation filing that was at issue in *State ex rel. Columbus Coalition for Responsive Government v. Blevins*, 140 Ohio St. 3d 294, 2014-Ohio-3745, and that decision by the Ohio Supreme Court is therefore controlling here as well.

In the *Columbus Coalition* case, decided on August 29, 2014, the Court ruled that the City Clerk had properly rejected that initiative petition due to the petitioners' failure to comply with the requirement of R.C. 731.32 that a certified copy of the proposed ordinance be filed with the City Auditor prior to circulation of the petition. As in the *Columbus Coalition* case, petitioners here were required to strictly comply with the requirement of R.C. 731.32, and their failure to comply with that mandatory requirement is likewise fatal to this petition.

I note that while the City Charter has recently been amended by the addition new Section 42-4 to provide that the pre-circulation filings be made with the City Clerk, that change is effective only prospectively from the date of the certification of the November 4, 2014 election results. When petitioners filed their pre-circulation copy on April 15, 2014, the law in effect at that time, as determined by the Ohio Supreme Court, clearly required filing with the City Auditor rather than the City Clerk.

Accordingly, it is my opinion, and City Council and the City Clerk are so advised, that the initiative petition filed with the City Clerk on November 25, 2014 is not legally sufficient.

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