



Richard C. Pfeiffer, Jr.

CITY ATTORNEY

CITY ATTORNEY'S OFFICE • COLUMBUS OHIO

MEMORANDUM

TO: All Members of City Council
Andrea Blevins, City Clerk

FROM: Richard C. Pfeiffer, Jr., City Attorney *RCF*

DATE: July 14, 2015

RE: Review of Charter Amendment Petition—"Community Bill of Rights"

As required by Section 42-9 of the City Charter, the City Clerk has forwarded to me a copy a charter amendment petition filed with her office on July 2, 2015, entitled by the petitioners as "Community Bill of Rights." I am required by that same section to "advise on the legal sufficiency of the petition, based upon any applicable local, state or federal laws, rules or regulations." Further, Section 42-11 provides that "[n]o city officer may consider the subject matter of a petition when determining the legal sufficiency thereof, except as required to assure compliance with applicable provisions of this charter, general laws of the state, or ordinance of council."

Section 42-2 of the City Charter, which sets forth the requirements as to petition forms, provides as follows:

Petition forms.

Each petition for a proposal initiated by a citizen shall comply with the following as to form and with general laws of the state, unless otherwise provided by this charter or ordinance of council:

- (a) A petition may be circulated in separate part-petitions, but shall be uniform in character.
- (b) Each part-petition shall be circulated and submitted as a single instrument.
- (c) The petition and parts thereof shall be printed in a single, uniform color.
- (d) A petition may only contain one proposal, which shall not address multiple or unrelated subject matters or questions of law.

Civil Division
77 N. Front Street
Columbus, Ohio 43215
614-645-7385
Fax 614-645-6949

Claims Division
77 N. Front Street
Columbus, Ohio 43215
614-645-7385
Fax 614-724-6503

Prosecutor Division
375 S. High Street
Columbus, Ohio 43215
614-645-7483
Fax 614-645-8902

Real Estate Division
77 N. Front Street
Columbus, Ohio 43215
614-645-7712
Fax 614-645-3913

Police Legal Advisor
120 Marconi Blvd.
Columbus, Ohio 43215
614-645-4530
Fax 614-645-4551

(e) The title of the proposal shall clearly and without argument describe the proposed ordinance, referendum, recall, or charter amendment, and such title shall be placed, in at least fourteen-point font, on the top of each page of a part-petition, which pages shall be numbered sequentially.

(f) A petition shall contain a full and correct copy of any proposed ordinance, referendum, or charter amendment, with no summary, argument or other ancillary information regarding the proposal placed thereon, unless otherwise required by this charter or ordinance of council.

(g) On each page of a part-petition where voters' signatures may be placed, the following shall be printed, in at least twelve-point font, below the title of such proposal: "NOTICE: Whoever knowingly signs this petition more than once; signs a name other than one's own on this petition, except as provided by general laws of the state; or signs this petition when not a qualified elector of the City of Columbus, is liable to prosecution."

(h) The following sentence shall appear in the circulator's statement provided for by general law: "I am provided or promised moneys or things of value to circulate this petition by (Name and address of employer)."

The subject petition fails to comply with several of these requirements. First, the title of the proposal ("Community Bill of Rights") does not clearly describe the proposed charter amendment and such title is not placed, in at least fourteen-point font, on the top of each page of the part-petition on sequentially numbered pages, all as required by Section 42-2(e). Second, the petition contains notice language that is similar to what is required by Section 42-2(g), but there is no such notice on each page of the part-petition where voters' signatures may be placed, as required. Finally, the circulator's statement does not contain the compensation statement required by Section 42-2(h).

The settled rule is that election laws are mandatory and require strict compliance and that substantial compliance is acceptable only when an election provision expressly states that it is. *State ex rel. Ditmars v. McSweeney*, 94 Ohio St. 3d 472, 476 (2002). Section 42-2 of the City Charter does not allow for substantial compliance; thus, its provisions are mandatory and require strict compliance.

Accordingly, it is my opinion, and City Council is so advised, that the charter amendment petition filed with the City Clerk on July 2, 2015, entitled by the petitioners as "Community Bill of Rights," fails to comply with the requirements of Section 42-2 of the City Charter and therefore the petition is not legally sufficient.