No. 1028148

SUPREME COURT
OF THE STATE OF WASHINGTON

JEWELS HELPING HANDS and BEN STUCKART,

Petitioners,

v.

BRIAN HANSEN, CITY OF SPOKANE, SPOKANE COUNTY, and VICKY DALTON,

Respondents.

RESPONDENT BRIAN HANSEN'S (1) ANSWER TO PETITION FOR REVIEW AND (2) CONDITIONAL CROSS-PETITION FOR REVIEW

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I. INTRODUCTION

Exercising the city's broad police power, Spokane's city council eased a total ban on camping on public property by adopting an exception to enforcement if no overnight shelter is available. It also designated areas where the ban remains enforceable regardless of shelter availability. It adopted these measures not as part of homeless-housing planning or policymaking but to protect public safety and public lands.

Spokane voter Brian Hansen proposed an initiative to expand the locations on public property where the camping ban is always enforceable to include certain areas where children congregate. Before a public vote, Plaintiffs challenged the initiative in an expedited, special proceeding. By statute, the superior court's order rejecting their challenge was not appealable.

Plaintiffs appealed anyway. The Court of Appeals, Division Three, deferred consideration of Hansen's motion to dismiss the appeal and refused to enjoin a public vote pending

appeal. After Spokane voters overwhelmingly approved the initiative, Division Three affirmed the superior court on the merits and denied Hansen's motion to dismiss as moot.

Division Three correctly concluded that Plaintiffs failed to demonstrate that the initiative exceeded Spokane voters' broad initiative power. Its decision conflicts with no precedent, and Plaintiffs' petition raises no issue of substantial public interest. Contrary to Plaintiffs' arguments, Division Three correctly concluded that the initiative amended a classic vagrancy ordinance and applies only on public property. It was neither a zoning or land-use-planning ordinance nor did it conflict with the Homeless Housing and Assistance Act (HHAA), chapter 43.185C RCW. Review is thus unwarranted.

Respondent Hansen asks this Court to deny Plaintiffs' petition. But if this Court grants review of Plaintiffs' issues, it should also review the denial of Hansen's motion to dismiss. Although Division Three correctly affirmed on the merits, it should have dismissed the appeal before reaching the merits.

II. COUNTERSTATEMENT OF ISSUES

A. Petitioners' Issues

1. Not a zoning or land-use-planning ordinance. The ordinance the initiative amended applies only to individuals' conduct on public property. It does not regulate property owners' use or development of their property. Did Division Three correctly conclude that the initiative was not a zoning or land-use-planning measure?

2. No conflict with state homelessness-planning law. The HHAA is voluntary for local governments and does not mandate regulations to implement statewide policy or a homeless-housing plan. Did Division Three correctly conclude that the initiative did not conflict with the HHAA?

B. Respondent Hansen's Conditional Issue

Plaintiffs challenged the initiative under the election-contest statute, RCW 29A.68.011, triggering an expedited, special proceeding. A final decision under that statute is not appealable. Did Division Three err in reaching the merits of Plaintiffs' appeal instead of dismissing it?

III. STATEMENT OF THE CASE

A. In 2022, Spokane eased its total ban on camping on public property, adopting an exception to enforcement if no overnight shelter is available but designating areas where the ban remains enforceable regardless of shelter availability.

In 2018, Spokane's city council adopted an ordinance making it a misdemeanor to camp "in or upon any public

property" unless specifically authorized in an emergency declaration by the mayor. *See* SPOKANE MUN. CODE (SMC) § 12.02.1010 ("section 1010"); CP 123. Under applicable definitions, "public property" means "any City-owned property" and "camp" means using any of various means to remain overnight. SMC § 12.02.1002(A), (E).

In 2019, the United States Court of Appeals for the Ninth Circuit held that prosecuting individuals for sleeping outside on public property when shelter is unavailable is unconstitutional. *Martin v. City of Boise*, 920 F.3d 584, 616–17 (9th Cir. 2019). Spokane revamped its complete ban on camping on public property in 2022 to bring the code into "better alignment" with *Martin*. CP 117, 123–24.

In amending the 2018 ban, the city council invoked its broad statutory and constitutional police powers. CP 118. The council found that public lands and properties are "generally intended for the safe and sanitary use by the broader public to gather, move freely and safely about, and engage in diverse

activities, all of which are inconsistent with a campground and camping activity." CP 118. It also found that the adverse impacts of camping on public property "include, but are not limited to, unsanitary and/or unsafe conditions (i.e., human and food waste, drug paraphernalia, general litter, fire hazards, etc.)." *Id.* The council acted to protect public health and safety and in recognition of the city's "stewardship over its public lands and properties and a responsibility to set reasonable rules that will safeguard and protect those public lands and properties." *Id.*

Post-amendment, section 1010 still broadly prohibited camping "in or upon any public property." *See* CP 123 (§ A(1)). But the amendment established an exception to enforcement of that blanket ban: it could now be enforced against an individual only if no "low-barrier" overnight shelter was available for them. CP 124 (§ (C)(1)).

The amendment also established an exception to that exception, under which the ban remained enforceable in some areas on public property regardless of the availability of

overnight shelter. CP 123 (§ (A)(3)). The council established two such "never camp" areas: (1) underneath or within 50 feet of any railroad viaduct within Spokane Police's downtown precinct and (2) within three blocks of any congregate shelter, if a posted sign prohibits camping. *Id.*[1]

B. In 2023, Spokane voter Brian Hansen proposed an initiative to expand the locations on public property where the camping ban is always enforceable to include certain areas where children congregate.

Hansen and other Spokane residents believed that the never-camp areas did not go far enough to protect children. They wished to expand those areas to include public property near certain uses where children regularly congregate. Hansen proposed an initiative to expand the never-camp areas to include public property within 1,000 feet from the perimeter of a park, day care, child-care facility, or school. *See* CP 95–102.

[1] Although violation of section 1010 is a misdemeanor, violators are cited and released instead of being booked into jail unless they are subject to custodial arrest on a warrant or probable cause for another crime. SMC § 12.02.1010(B).

Spokane's hearing examiner concluded that the proposed measure was within the people's initiative power, was a proper exercise of the city's police power, and would be valid if adopted. CP 195–201, 203–05. Among other things, the hearing examiner concluded that the initiative "only regulates camping on 'public property.'" CP 204. Proponents then gathered the petition signatures required under the city charter to mandate action by the city council. CP 233, 237; *see also* CITY OF SPOKANE CHARTER § 82.B. The council passed a resolution directing the county auditor to place the initiative on the November 2023 general-election ballot. CP 36–40.

C. Plaintiffs challenged the initiative in an expedited, special proceeding under the election-contest statute.

Plaintiffs challenged the initiative in court, invoking the election-contest statute, RCW 29A.68.011, and its expedited procedure. CP 1–23. As required to invoke the statute, Plaintiffs filed an affidavit identifying an alleged error "about to be committed in printing the ballots." RCW 29A.68.011(2); CP 62.

Together with the affidavit, Plaintiffs filed a dispositive motion, supporting memorandum, and cover letter—each of which cited RCW 29A.68.011 and invoked its special, expedited procedure. CP 69–93, 162–63, 349. For instance, the motion stated that it was "made in conjunction with an affidavit of election error pursuant to RCW 29A.68.011, requiring the court to conduct an expedited proceeding to prevent an election error in the printing of ballots for the upcoming general election." CP 162. Plaintiffs brought their motion "[p]ursuant to RCW 29A.68" and asked the court to "issue an order to prevent election errors under RCW 29A.68." *Id.* The cover letter invoked the "statutory deadline under RCW 29A.68.011, which is designed to meet the County's ballot printing deadlines." CP 349; *see also* III RP (8/17/2023) 64.

At the hearing in superior court, Plaintiffs stated they were "using the affidavit of election error, which is a specific statute which is designed for exactly this…type of a controversy" and which imposed "a very short period of time [in which] the courts

must determine how the ballot is going to look." *Id.* The court acknowledged the "statutory deadline." III RP (8/17/2023) 114.

D. The superior court entered a final, nonappealable order rejecting Plaintiffs' challenge.

The superior court (Hon. Tony D. Hazel) rejected Plaintiffs' challenge in a detailed oral ruling. The court noted that Plaintiffs brought "a pre-election challenge alleging election error" and asserted that the initiative "constitutes an election error as contemplated by RCW 29A.68." RP (8/23/2023) 4, 6. After delivering its oral ruling, the court entered a written order and judgment incorporating the oral ruling and rejecting Plaintiffs' challenge "under RCW 29A.68.011." CP 346–47. An order under the election-contest statute "finally dispose[s]" of the matter and is not appealable. *Hatfield v. Greco*, 87 Wn.2d 780, 782, 557 P.2d 340 (1976) (dismissing appeal under former RCW 29.04.030, later recodified as RCW 29A.68.011).

E. Division Three deferred consideration of Hansen's motion to dismiss the appeal and denied Plaintiffs' request to enjoin a public vote pending appeal.

Plaintiffs immediately appealed. The next court day, Plaintiffs and Hansen each filed motions in the Court of Appeals. Plaintiffs moved for an injunction to prevent a vote pending appeal; Hansen moved to dismiss the appeal under RCW 29A.68.011's finality rule. A commissioner referred Hansen's motion to the merits panel but granted Plaintiffs' motion and enjoined the county auditor from placing the initiative on the November ballot. The same day, a panel granted Hansen's motion to modify the commissioner's ruling and dissolved the injunction, thus allowing a public vote.

F. After voters overwhelmingly approved the initiative, Division Three affirmed the superior court's decision rejecting Plaintiffs' challenge and denied Hansen's motion to dismiss as moot.

Spokane voters overwhelmingly approved the initiative. It passed in every precinct with 75 percent voting "yes" citywide.[2] The initiative became law effective November 28, 2023.

Post-election, Division Three affirmed the superior court's decision. Rejecting each of Plaintiffs' three grounds for challenging the initiative, the court held that the initiative (1) did not amend a zoning or land-use-planning ordinance or otherwise exercise powers reserved solely to the City Council, (2) did not conflict with state law on homelessness-response planning, and (3) did not constitute an exercise of administrative power. *See Slip Op.* at 6–18. The court denied as moot Hansen's motion to dismiss the appeal. *Id.* at 5 n.2.

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[2] https://cp.spokanecounty.org/elections/results.aspx (select dropdown for 11/07/2023 – General Election, results for Proposition 1) (last visited April 15, 2024); *see also Slip Op.* at 5 (taking judicial notice that the initiative passed by "a large majority of the votes").

IV. ARGUMENT WHY REVIEW SHOULD BE DENIED

Spokane voters have broad authority to legislate by initiative. *See* CITY OF SPOKANE CHARTER, art. I, § 4; *id.*, art. IX, § 82; *see also* RCW 35.22.200 (authorizing cities to allow direct legislation). The superior court's pre-election review was limited to whether the initiative exceeded the people's legislative power. *See Spokane Entrepreneurial Ctr. v. Spokane Moves to Amend Const.*, 185 Wn.2d 97, 104, 369 P.3d 140 (2016). The party challenging direct legislation has the burden to demonstrate illegality. *1000 Friends of Wash. v. McFarland*, 159 Wn.2d 165, 183, 149 P.3d 616 (2006) (plurality opinion). Division Three correctly concluded that Plaintiffs failed to carry that burden.[3]

A. Division Three's decision is consistent with precedent that restricts zoning or land-use-planning by direct legislation.

Nothing about Division Three's decision conflicts with case law that restricts zoning or land-use planning by direct

[3] In their petition for review, Plaintiffs have abandoned their challenge to the initiative as an exercise of administrative power.

legislation. *E.g.*, *Lince v. City of Bremerton*, 25 Wn. App. 309, 312–13, 607 P.2d 329 (1980). Division Three correctly concluded that section 1010 is not a zoning or land-use-planning ordinance for two fundamental reasons: it neither (1) applies to private property nor (2) dictates how property owners may use their property. Review under RAP 13.4(b)(1) or (b)(2) is thus unwarranted.

1. Section 1010 applies only on public property.

Though barely mentioned in their petition, central to Plaintiffs' argument that the initiative is zoning or land-use planning is the notion that section 1010 applies to private property as well as public property.[4] *See Appellants' Opening Brief* at 12–13, 29–34. Division Three parsed Spokane's municipal code and section 1010 and correctly concluded that the

[4] Although their petition is not entirely clear on the matter, it appears that Plaintiffs still maintain that section 1010 applies to private property. *See Petition* at 13 ("*Until 2022*, SMC 12.02.1010 only addressed camping on public land…." (emphasis added)), 26 (arguing that Division Three's decision could affect churches that host encampments).

ordinance applies only to public property. *See Slip Op.* at 7–11; CP 204.

Section 1010 is in title 12, article IV, chapter 2 of Spokane's municipal code. Title 12 regulates the use of "Public Ways and Property." Its purpose is to "regulate and control the obstruction of public rights-of-way in the City so that those rights-of-way remain accessible and safe for their intended public use." SMC § 12.01.005. Chapter 2 of title 12 governs "Obstruction [and] Encroachment of Public Ways." And article IV of chapter 2 governs "Protection of Public Lands and Properties." Title 12 does not regulate the use of private property; a different title contains the city's zoning and land-use-planning laws—title 17.

Article VI's statement of purpose references only public property. *See* SMC § 12.02.1000. It cites Spokane's commitment to "protecting its public lands" from "potential health and safety hazards which result from unregulated human activity." SMC § 12.02.1000(A). Article IV's purposes are

twofold: (1) "to set standards for the preservation of public lands and properties that prevent such harms…" and (2) "to promote the public health, safety and general welfare of citizens by providing protection to public lands and properties from the detrimental effects of unregulated human activity…." SMC § 12.02.1000(B). Article IV defines "public property" but never mentions, let alone defines, private property. *See* SMC § 12.02.1002(E).

Most significant, the plain language of section 1010 itself confirms that, like the rest of title 12, it applies only to public property. Section 1010 is captioned: "Unauthorized Camping on Public Property—Violation." SMC § 12.02.1010. Subsection (A)(1) of section 1010, which contains the law's prohibition, expressly applies only to public property: "No person may camp in or upon any *public property*…." SMC § 12.02.1010(A)(1) (emphasis added). Section 1010's remaining provisions likewise apply only to public property because they merely address (1) conditions of enforceability, (2) enforcement, and

(3) penalties; they do not modify the prohibition itself. *See* SMC § 12.02.1010(A)(2)–(3), (B)–(C).

2. Section 1010 is a classic vagrancy ordinance, not a zoning or land-use-planning ordinance.

Plaintiffs are not just wrong about the scope of section 1010. Their position has another fundamentally incorrect premise—that the act of camping on another's land is "land use" as that term is used in the context of zoning and planning. Citing McQuillin, the leading treatise on municipal corporations, Division Three correctly observed that zoning and land-use-planning ordinances "regulate the conduct of landowners, not land occupiers such as guests or trespassers." *Slip Op.* at 11 (citing 8 MCQUILLIN MUNICIPAL CORPORATIONS, various sections (3d ed. 2020); *id.* at 12 n.4.

Section 1010 is not a zoning or land-use-planning ordinance because it says nothing about what property owners can do with their property. Instead, it regulates individuals' conduct on public property. In this way, it is no different from bans on burning and littering on public property found in the

same chapter and article of Spokane's municipal code.[5] As Division Three observed, "[w]hen a zoning ordinance is violated, it is the owner who suffers the penalties, not a guest, invitee, or even a trespasser." *Id.* at 12.

Citing no authority, Plaintiffs assert that Division Three's decision allows an end run around the prohibition on zoning and land-use planning by direct legislation. They assert that, under the decision, an initiative need only "target[] the landowner's guests rather than the landowners" to obtain the same result as could otherwise be obtained solely via zoning or land-use restrictions. *Petition* at 26. As shown by Plaintiffs' church hypothetical, this argument relies on their incorrect premise that section 1010 applies to private property. Again, it does not. *See* § V.A.1, *supra*.

Beyond that, if an ordinance can effectively prevent a land use by prohibiting an activity, that is a policy choice that voters

[5] SMC § 12.02.1006 (prohibiting burning on public property); SMC § 12.02.1008 (prohibiting littering on public property).

are entitled to make. For instance, a noise ordinance could effectively prohibit shooting ranges; a ban on parking derelict vehicles could effectively prohibit wrecking yards; or a ban on keeping wild animals could prohibit zoos. An activity may be a prohibited nuisance even if otherwise permitted under zoning and land-use-planning ordinances. 8 MCQUILLIN MUNICIPAL CORPORATIONS § 25:15 (3d ed., updated June 2023). This does not mean that ordinances that ban nuisances are immune from direct legislation.

Instead of a zoning or land-use-planning ordinance, Division Three correctly concluded that section 1010 is "a classic vagrancy ordinance, which is an exercise of the city's general police powers." *Slip Op.* at 13 (citing 6A MCQUILLIN, *supra*, § 24:109 n.26). And Legislature granted the power to enact such ordinances to the city as a whole—not the local legislative body. *Id.* (citing RCW 35.22.280(34)–(35)); *see also* RCW 35.22.280(30) (delegating to cities the power to declare and police nuisances).

Plaintiffs' objection to "criminaliz[ing] homelessness" is misplaced. The initiative did no such thing. As Plaintiffs themselves point out, their cited case upheld a vagrancy ordinance "because it criminalized *specific conduct*," *Petition* at 28 n.8 (citing *State v. Jones*, 9 Wn. App. 1, 5, 511 P.2d 74 (1973)), as distinct from an ordinance that "was of a catchall nature in that it described conduct or condition or status which is as likely to be innocent and innocuous as it is that it is criminal." *Jones*, 9 Wn. App. at 5. Section 1010 criminalizes not homelessness itself but instead specific conduct—camping on public property.[6]

[6] Notably, Spokane's Community Court "does not penalize homelessness, but rather serves as a mechanism for assisting unsheltered persons to access and engage in the services and programming that assist individuals in exiting homelessness and through diversion, allows participants the opportunity to change their trajectory without a criminal conviction[.]" CP 120.

B. Division Three's decision is consistent with precedent that direct legislation must not conflict with state law because Division Three correctly concluded that the initiative did not conflict with the Homeless Housing and Assistance Act.

Nothing about Division Three's decision conflicts with case law under which direct legislation must not contravene state law. *E.g.*, *Whatcom County v. Brisbane*, 125 Wn.2d 345, 885 P.2d 1326 (1994). Review under RAP 13.4(b)(1) or (b)(2) is thus unwarranted.

Enacted in 2005, the HHAA established and funded a statewide homeless-housing program administered by the Department of Commerce. It contemplates coordinated planning by local governments with the goal of ending homelessness—originally by 2015. RCW 43.185C.005. The Legislature adopted the HHAA to allow the state "to play a primary coordinating, supporting, and monitoring role" in combating homelessness. *Id.*

HHAA planning is voluntary for local governments. The act established a framework for planning at the county level and

presumes county participation. But counties may opt out.[7] RCW 43.185C.080(3), .160(1). As for cities, like Spokane, Plaintiffs are incorrect that they are "required to plan." *Petition* at 11. A city may opt in and "assert responsibility for homeless housing within its borders if it so chooses[.]" RCW 43.185C.080(1).

Although Spokane has opted in, *see* CP 268–98, the HHAA does not require a local government to adopt regulations to implement a homeless-housing plan. And Spokane did not enact section 1010 or amend it in 2022 to implement the city's homeless-housing plan. It did so to protect public health and safety and the city's public lands and properties. *See* CP 118–20. Section 1010 has nothing to do with the HHAA.

In challenging the initiative, Plaintiffs have analogized between the HHAA and the Growth Management Act (GMA),

[7] If a county opts out, the state itself will "create and execute" a homeless-housing plan for the county. RCW 43.185C.080(3), .160(1).

chapter 36.70A RCW. But any such analogy is inapt. The two laws have entirely different structures and mechanisms. The GMA requires a county to adopt a comprehensive land-use plan consistent with statewide policy. RCW 36.70A.040(3). And a county must enact development regulations to implement that plan. RCW 36.70A.040(4). The GMA delegates the power to enact those regulations specifically to the local legislative body. *Id.*; *see Brisbane*, 125 Wn.2d at 349–50.

The HHAA is nothing like the GMA. It does not require local governments to adopt regulations, let alone implement statewide policy. The Court of Appeals correctly concluded that nothing in the initiative conflicts with the HHAA because the HHAA "says nothing about what cities may or may not do about individuals who are currently unhoused." *Slip Op.* at 14. Critically, "ordinances must implement state policy at the *direction* of the State to be immune from local [direct legislation]." *1000 Friends*, 159 Wn.2d at 183.

Spokane's voluntary HHAA planning changes nothing. All the HHAA requires is that the local homeless-housing task force develop and recommend a five-year homeless-housing plan to the legislative body. RCW 43.185C.050(1). The local government may then by resolution adopt that plan or a different plan. *Id.* The plan "may include" performance measures, recommendations for state legislation, and various "activities to reduce and prevent homelessness." RCW 43.185C.050(1), (2). The local government need not enact laws to implement the plan.

Plaintiffs have consistently relied on *Brisbane* to support their contention that HHAA forecloses direct legislation like the GMA. But far from supporting their position, *Brisbane* illustrates why their GMA analogy fails. *Brisbane* involved a referendum petition to amend an ordinance enacted to implement a comprehensive plan under the GMA. *See Brisbane*, 125 Wn.2d at 346–48. This Court allowed a challenge to proceed, reasoning that the GMA expressly delegated to the local legislative body the power to enact GMA-mandated regulations, and allowing

direct legislation would authorize "the potential repeal of ordinances required by the Legislature to be enacted for statewide growth management." *Id.* at 350–51.

Brisbane is inapposite because, unlike the GMA, the HHAA does not mandate implementation of statewide policy through local regulations. It requires no regulations at all.

Advancing their analogy nevertheless, Plaintiffs point to references in the HHAA to the local legislative body. But far from mandating legislation, the HHAA merely requires that three types of decisions, if made, be made by the local legislative body: (1) a county's decision not to participate in homeless planning, RCW 43.185C.080(3), .160(1); (2) a city's choice to accept the responsibility for housing homeless persons within its borders, RCW 43.185C.080; and (3) a local government's adoption of a five-year homeless housing plan, RCW 43.185C.050, .080(1). Enacting police-power regulations is not among these types of decisions.

Division Three observed that one HHAA provision "remotely overlaps" with the initiative in that it references "[t]emporary encampments." *Slip Op.* at 14 (quoting RCW 43.185C.160(2)(c)). Under that provision, a county homeless-housing task force, in addition to developing a five-year homeless-housing plan, must establish nonbinding "guidelines," "as needed," to address issues such as "[t]emporary encampments." RCW 43.185C.160(2). Division Three correctly concluded that the initiative did not conflict with this provision because "no part of this section requires cities or their legislative authority to implement the county task force guidelines." *Slip Op.* at 14–15. Indeed, the HHAA does not require that the task force recommend its guidelines to the local

legislative body, let alone that they be adopted as official guidelines, let alone given legally binding effect.[8]

Fundamentally, Plaintiffs' argument is based on two facts: (1) the HHAA is a statewide law that seeks encourage and coordinate planning to eliminate homelessness and (2) unauthorized camping on public property is associated with homelessness. That is not enough to foreclose the exercise of police power by direct legislation to restrict such camping.

[8] Plaintiffs cite a legislative finding that encampments "serve as pathways for individuals experiencing homelessness to receive services and achieve financial stability, health, and permanent housing." *Petition* at 10–11 (citing LAWS OF 2020, ch. 223, § 1). This finding pertains to encampments hosted by religious organizations on private property—not unauthorized camping on public property.

Plaintiffs also cite an authorization of funding for that could be used for a "Temporary Shelter Site," which may include a "hosted encampment." *Petition* at 11, 11 n.4 (citing Washington State Department of Commerce, *Guidelines for the Shelter Program Grant*, August 2020). Nothing indicates that such a site or encampment could be located on public property.

C. The petition raises no issue of substantial public interest about how homelessness policy is made.

Contrary to Plaintiffs' suggestion, Division Three's decision does not affect homelessness planning or change how policy can be made. Again, a prohibition of camping on public property is no different from bans on burning and littering also found Spokane's municipal code.[9] Rather than set homelessness policy, such ordinances govern individuals' conduct on public property for purposes of public safety and protecting public lands for use by all. *See* CP 118. The initiative was thus an authorized police-power measure and not subject to any state restrictions or processes. The petition raises no issue of substantial public interest that should be determined by this Court. *See* RAP 13.4(b)(4).

[9] SMC § 12.02.1006 (prohibiting burning on public property); SMC § 12.02.1008 (prohibiting littering on public property).

V. ARGUMENT FOR CONDITIONAL CROSS-REVIEW ON APPEALABILITY

The Court of Appeals correctly concluded that, once it reached and decided the merits in Hansen's favor, Hansen's motion to dismiss became moot. But the Court of Appeals never should have reached the merits. It should have dismissed under the election-contest statute's finality rule. If this Court grants Plaintiffs' petition for review, it should review the Court of Appeals' denial of Hansen's motion to dismiss. The refusal to dismiss Plaintiffs' appeal conflicts with RCW 29A.068.011 and multiple decisions of this Court, including *Hatfield*, 87 Wn.2d 780, thus warranting review under RAP 13.4(b)(1).

A. An order under the election-contest statute is not appealable.

The final judgment in any action or proceeding is appealable as a matter of right "[u]nless otherwise prohibited or provided by statute or court rule." RAP 2.2(a)(1). The election-contest statute, RCW 29A.68.011, is such a statute. The Legislature recognized the need for "speedy determination of an

emergent matter because of the need for certainty as to what will appear on a ballot a reasonable time in advance of any election." *Hatfield*, 87 Wn.2d at 782. So the Legislature authorized a special proceeding to provide expedited judicial review. And it required that such review "shall be heard and finally disposed of" by the court that hears the challenge. RCW 29A.68.011.

This Court has consistently interpreted that statutory text as meaning that the superior court's decision is not appealable as a matter of right. *See Hatfield*, 87 Wn.2d at 781; *see also Parker v. Wyman*, 176 Wn.2d 212, 216–17, 289 P.3d 628 (2012); *Kreidler v. Eikenberry*, 111 Wn.2d 828, 833–37, 766 P.2d 438 (1989).

B. The superior court decided this matter under the election-contest statute, so its order is not appealable, and Division Three should have dismissed this appeal without reaching the merits.

This was a special proceeding under the election-contest statute. As Plaintiffs themselves acknowledged to the Court of Appeals, they "filed a complaint and an affidavit for correction of election error triggering a special proceeding under

RCW 29A.68.011." *Motion for Injunction* at 2; *see also* CP 1–23, 62. Indeed, Plaintiffs invoked the election-contest statute at every turn, including in their complaint, cover letter, motion, memorandum, and statutory affidavit. CP 1, 62, 83, 93, 162, 349. They caused the superior court to hold an expedited, special proceeding and to decide the matter under the election-contest statute. *See* RP (8/23/2023) 4, 6; CP 346–47.

After reaping the benefits of the statute's expedited procedure by obtaining a final decision on their challenge before the election, Plaintiffs backpedaled when Hansen moved to dismiss their appeal. They pivoted away from the election-contest statute and asserted that superior court's order was appealable because they had cited another basis for the same relief, the Uniform Declaratory Judgments Act (UDJA), chapter 7.24 RCW.

But a party who commences a special proceeding under the election-contest statute may not avoid its finality rule by also citing an alternative basis for their relief request. Otherwise, the

finality rule could easily be circumvented in every election contest. Certainly, the Legislature cannot have intended that parties could so easily evade its provision for "speedy determination of an emergent matter." *Hatfield*, 87 Wn.2d at 782.

If this Court grants review of Plaintiffs' issues, it should also review the denial of Hansen's motion to dismiss, and then it should dismiss Plaintiffs' appeal.

VI. CONCLUSION

Review is unwarranted because Division Three correctly concluded that initiative was neither a zoning or land-use-planning measure nor did it conflict with the HHAA. But if this Court grants review, it should also review the denial of Hansen's motion to dismiss.

This document contains 4,852 words, excluding the parts of the document exempted from the word count by RAP 18.17.

Respectfully submitted this 1st day of May, 2024.

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CERTIFICATE OF SERVICE

The undersigned certifies under penalty of perjury under the laws of the State of Washington that I am an employee at Carney Badley Spellman, P.S., over the age of 18 years, not a party to nor interested in the above-entitled action, and competent to be a witness herein. On the date stated below, I caused to be served a true and correct copy of the foregoing document on the below-listed attorney(s) of record by the method(s) noted:

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DATED this 1st day of May, 2024.

/s/ Patti Saiden
Patti Saiden, Legal Assistant

APPENDIX A

Agenda Sheet for City Council Meeting of: 05/15/2023		**Date Rec'd**	5/11/2023
		Clerk's File #	LGL 2023-0027
		Renews #	
Submitting Dept	CITY CLERK	**Cross Ref #**	INITIATIVE 2023-4
Contact Name/Phone	TERRI PFISTER 625-6354	**Project #**	
Contact E-Mail	TPFISTER@SPOKANECITY.ORG	**Bid #**	
Agenda Item Type	Special Considerations	**Requisition #**	
Agenda Item Name	0260-INITIATIVE 2023-4 PROHIBITING ENCAMPMENTS		

Agenda Wording

City Clerk Report on Initiative 2023-4 filed by Brian Hansen prohibiting encampments near schools, parks, playgrounds, and child care facilities.

Summary (Background)

On May 10, 2023, Brian Hansen filed a revised (new) initiative with the Office of the City Clerk that addresses concerns in the Hearing Examiner's opinion regarding his previously submitted Initiative 2023-3. The City Attorney reviewed the measure pursuant to SMC 2.02.230. Per SMC 2.02.040, upon receiving this report from the City Clerk, the City Council may pass the measure as proposed, reject the initiative measure and propose another one dealing with the same subject to be considered as

Lease? NO Grant related? NO Public Works? NO

Fiscal Impact	**Budget Account**
Select $	#
Select $	#
Select $	#
Select $	#

Approvals		**Council Notifications**	
Dept Head	PFISTER, TERRI	**Study Session\Other**	
Division Director		**Council Sponsor**	
Finance	MURRAY, MICHELLE	**Distribution List**	
Legal	SMITHSON, LYNDEN	mpiccolo@spokanecity.org	
For the Mayor	PERKINS, JOHNNIE	Brian.Hansen@hcahealthcare.com	
Additional Approvals			
Purchasing			

Continuation of Wording, Summary, Budget, and Distribution

Agenda Wording

Summary (Background)

council legislation or submit the initiative measure to the voters on its own motion. If the City Council does not pass the measure as proposed or submit the initiative measure to the voters, the initiative and the ballot title and summary of the measure will be forwarded by the City Clerk to the City Hearing Examiner who shall issue a formal written opinion as to the legal validity and effect of the proposed measure.

Fiscal Impact		Budget Account
Select	$	#
Select	$	#

Distribution List

WARNING

Every person who signs this petition with any other than his or her true name, knowingly signs more than one of these petitions, signs this petition when he or she is not a legal voter, or makes any false statement on this petition may be punished by fine or imprisonment.

INITIATIVE PETITION TO THE CITIZENS OF THE CITY OF SPOKANE
INITIATIVE NO. 2023 - 4

We, the undersigned citizens and legal voters of the City of Spokane, Washington, respectfully direct that this proposed City Ordinance, known as Initiative No. 2023 - 4, a full, true and correct copy of which is printed herein, be submitted to the electors of the City of Spokane for their approval or rejection at the next available special or general municipal election. The proposed City Ordinance amendment shall appear as the following proposition:

BALLOT TITLE

INITIATIVE PROHIBITING ENCAMPMENTS NEAR SCHOOLS, PARKS, PLAYGROUNDS, & CHILD CARE FACILITIES.

The Spokane Municipal Code prohibits camping underneath or within 50 feet of any railroad viaduct located within the Spokane Police Department's Downtown Precinct and within three blocks of any congregate shelter. This measure amends SMC 12.02.1010 A. 3, to extend the prohibition on unauthorized camping to within 1,000 feet of any public or private school, public park, playground, or licensed child care facility as those terms are defined in the Revised Code of Washington.

Shall the Spokane Municipal Code be amended to prohibit encampments within 1,000 feet of any public or private school, public park, playground, or licensed child care facility?

_____ YES

_____ NO

Each of us for himself or herself says: I have personally signed this petition; I am a legal voter of the City of Spokane; my residence address is correctly stated; and I have knowingly signed this petition only once.

(The full text of the proposed City Ordinance is printed on the reverse side of this page and continuing on the pages following)

PETITIONER'S SIGNATURE (in dark ink and as shown on the signer's voter registration)	PRINTED NAME (legibly in dark ink)	ADDRESS WHERE REGISTERED TO VOTE (Street Address, City, State, Zip Code)
1.		
20.		

Petitioner: Brian Hansen, 8603 N Upper Mayes Ln, Spokane, WA 99208, (770) 680-6518; initiative2023.3@gmail.com

Signature-gathering firm: Groundgame Political Solutions, LLC, 217 E Capitol Ave, Jefferson City, Missouri 65101, (573) 415-8234;
City Business Registration No. 604951621-001-0001

SUMMARY OF MEASURE

THE LAW AS IT CURRENTLY EXISTS:

The Spokane Municipal Code currently prohibits camping underneath or within 50 feet of any railroad viaduct located within the Spokane Police Department's Downtown Precinct and within three blocks of any congregate shelter.

THE EFFECT OF THE PROPOSAL, IF APPROVED:

This measure amends the Spokane Municipal Code Section 12.02.1010A.3. by creating a new subsection 12.02.1010A.3.c. This ordinance amendment would make it unlawful to camp or store personal property, including camp facilities and camp paraphernalia, or to have unauthorized encampments within 1,000 feet of any public or private school, public park, playground, or licensed child care facility as those terms are defined in the Revised Code of Washington.

DECLARATION OF SIGNATURE GATHERER

I, (print name legibly) . . . . . ., swear or affirm under penalty of law that I circulated this sheet of the foregoing petition, and that, to the best of my knowledge, every person who signed this sheet of the foregoing petition knowingly and without any compensation or promise of compensation willingly signed his or her true name and that the information provided therewith is true and correct. I further acknowledge that under chapter 29A.84 RCW, forgery of signatures on this petition constitutes a class C felony, and that offering any consideration or gratuity to any person to induce them to sign a petition is a gross misdemeanor, such violations being punishable by fine or imprisonment or both. _____(Signature)_____(Date)

ORDINANCE NO. C - _____

AN ORDINANCE TO PROHIBIT ENCAMPMENTS WITHIN ONE THOUSAND (1000) FEET OF A PUBLIC OR PRIVATE SCHOOL, PUBLIC PARK, PLAYGROUND OR LICENSED CHILD CARE FACILITY

WHEREAS, the citizens of the City of Spokane recognize the need to protect schools, parks, playgrounds and child care facilities and have previously enacted laws to create protective areas around areas where children gather; and

WHEREAS, minor children are particularly vulnerable when they walk to and from schools, parks and playgrounds and deserve a safe environment when doing so; and

WHEREAS, Spokane has experienced criminal and traumatic acts in the presence and plain view of children near existing encampments; and

WHEREAS, the citizens of Spokane desire to act to keep the children of their City safe and provide law enforcement and the prosecutor lawful ordinances to enforce to keep schools, parks, playgrounds, and child care facilities safe.

NOW, THEREFORE, THE PEOPLE OF THE CITY OF SPOKANE HEREBY ORDAIN:

Section 1. That Section 12.02.1010 of Title 12 of the Spokane Municipal Code is amended to read as follows:

12.02.1010 Unauthorized Camping on Public Property – Violation

A. Prohibition

1. No person may camp in or upon any public property including, but not limited to, on conservation lands and natural areas abutting the Spokane River, Latah Creek and their tributaries, unless specifically authorized by declaration of the Mayor in emergency circumstances.

2. At all times, regardless of the availability of shelter, it is unlawful to camp where such activity poses:

   a. a substantial danger to any person,

   b. an immediate threat and/or an unreasonable risk of harm to public health or safety, or

   c. a disruption to vital government services.

   In such circumstances, the encampment shall be subject to expedited removal pursuant to SMC 12.02.1011.

3. At all times, regardless of the availability of shelter space or beds, it is unlawful to camp or store personal property, including camp facilities and camp paraphernalia, or to have unauthorized encampments, at any time in the following locations:

   a. Underneath or within 50 feet of any railroad viaduct located within the Spokane Police Department's Downtown Precinct boundary as shown out in Exhibit A; and

   b. Within three blocks of any congregate shelter provided that signs are posted prohibiting camping that are clearly visible to pedestrians.

   c. In public within one thousand (1,000) feet of the perimeter of the grounds of a park (SMC Section 12.06A.030(B&D)), a day care center or child care facility (RCW 35.63.170(3-4)), or a public or private school (RCW 28A.150.010 and RCW 28A.195.010).

B. Penalty

A violation of this section is a misdemeanor. Unless otherwise subject to custodial arrest on a warrant or probable cause for another crime, individuals subject to enforcement under this section shall be cited and released rather than being booked into jail. With the exception of those who do not meet the criteria for acceptance into community court, individuals subject to enforcement under this chapter shall be referred to community court by officer citation.

C. Enforcement

1. Law enforcement officers shall not issue a criminal citation to enforce unauthorized camping in violation of section 12.02.1010 (A)(1) when an individual is on public property at a time when there is no available overnight shelter. Nothing in this section shall be construed to prevent the enforcement of section 12.02.1003 at all times, regardless of the availability of shelter, when a person is causing harm to the Spokane River or Latah Creek or to the banks and natural areas that buffer these waterways; nor shall this section be construed to prevent the expedited removal of an encampment on any public property pursuant to section 12.02.1012 (C).

   a. Prior to issuing a citation to a homeless person who is sleeping, lying, sitting, or camping outdoors, the police officer must first confirm that a 24/7 low-barrier shelter had available space during the previous twenty-four hours that could have been utilized by that individual.

b. Confirmation of overnight shelter availability may come from data provided through a City-approved data system or through direct contact with regional low-barrier shelters, and shall consist of the following:

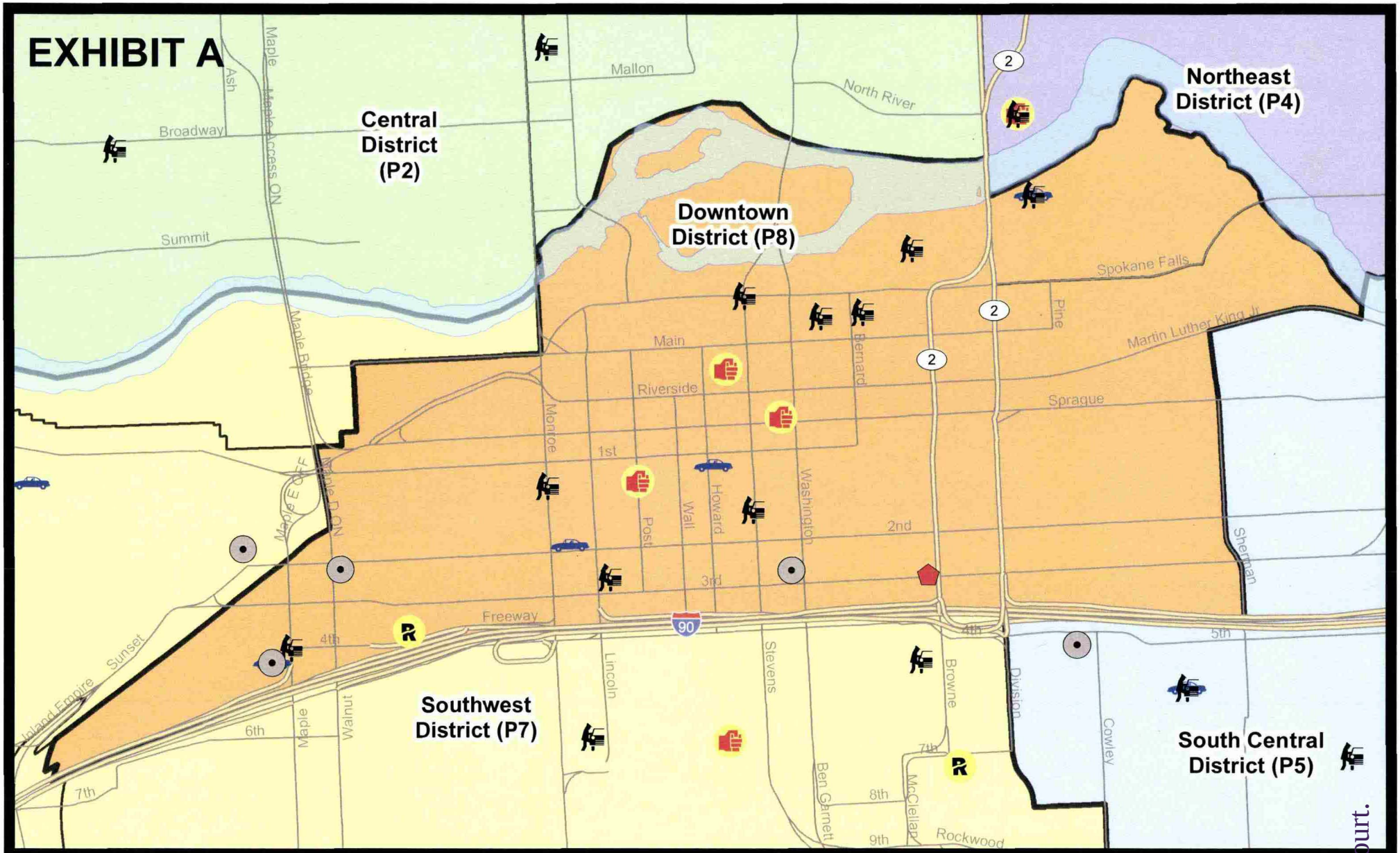
i. whether a shelter has available space for sleeping,
ii. the number of available spaces, and
iii. the guests each shelter will accept (i.e. men, women, families with children, etc.).

2. Sections 12.02.1010 (A)(2) and (A)(3) are enforceable at all times regardless of shelter availability.

Section 2. Severability. If any section, subsection, sentence, clause, phrase or word of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality thereof shall not affect the validity or constitutionality of any other section, subsection, sentence, clause, phrase or word of this ordinance.

Section 3. Submission to the Voters. This City ordinance shall be submitted to the voters of the City of Spokane for their approval or rejection at the next applicable election under Section 82 of the Spokane City Charter.

Section 4. Effective Date. If approved by the electors, this city ordinance amendment shall take effect and be in full force upon issuance of the certificate of election by the Spokane County Auditor's Office.



City of Spokane
Downtown District (P8)
Selected
Crime Types
2021-09-12 to 2021-09-18
Prepared By:
Crime Analysis Unit
Spokane Police Department

Legend

NIBRS Events

- Criminal Homicide
- Rape
- Robbery Commercial
- Robbery Person
- Aggravated Assault
- Burglary Residential
- Burglary Garage
- Burglary Commercial
- Vehicle Prowling
- Vehicle Theft
- Arson

Cases Represent LERMS Crime Codes
Points may indicate multiple events
Note: Veh Prowl is only Larceny category displayed

For Additional Information on Incidents pertaining to an Area, Trend, or Pattern Contact Information Analysis

0 0.2 Miles

Geographic Information System

N W E S

APPENDIX B

West's Revised Code of Washington Annotated
Title 35. Cities and Towns (Refs & Annos)
Chapter 35.22. First-Class Cities (Refs & Annos)

West's RCWA 35.22.280

35.22.280. Specific powers enumerated

Effective: July 22, 2011

Currentness

Any city of the first class shall have power:

(1) To provide for general and special elections, for questions to be voted upon, and for the election of officers;

(2) To provide for levying and collecting taxes on real and personal property for its corporate uses and purposes, and to provide for the payment of the debts and expenses of the corporation;

(3) To control the finances and property of the corporation, and to acquire, by purchase or otherwise, such lands and other property as may be necessary for any part of the corporate uses provided for by its charter, and to dispose of any such property as the interests of the corporation may, from time to time, require;

(4) To borrow money for corporate purposes on the credit of the corporation, and to issue negotiable bonds therefor, on such conditions and in such manner as shall be prescribed in its charter; but no city shall, in any manner or for any purpose, become indebted to an amount in the aggregate to exceed the limitation of indebtedness prescribed by chapter 39.36 RCW as now or hereafter amended;

(5) To issue bonds in place of or to supply means to meet maturing bonds or other indebtedness, or for the consolidation or funding of the same;

(6) To purchase or appropriate private property within or without its corporate limits, for its corporate uses, upon making just compensation to the owners thereof, and to institute and maintain such proceedings as may be authorized by the general laws of the state for the appropriation of private property for public use;

(7) To lay out, establish, open, alter, widen, extend, grade, pave, plank, establish grades, or otherwise improve streets, alleys, avenues, sidewalks, wharves, parks, and other public grounds, and to regulate and control the use thereof, and to vacate the same, and to authorize or prohibit the use of electricity at, in, or upon any of said streets, or for other purposes, and to prescribe the terms and conditions upon which the same may be so used, and to regulate the use thereof;

(8) To change the grade of any street, highway, or alley within its corporate limits, and to provide for the payment of damages to any abutting owner or owners who shall have built or made other improvements upon such street, highway, or alley at any point opposite to the point where such change shall be made with reference to the grade of such street, highway, or alley as the same existed prior to such change;

(9) To authorize or prohibit the locating and constructing of any railroad or street railroad in any street, alley, or public place in such city, and to prescribe the terms and conditions upon which any such railroad or street railroad shall be located or constructed; to provide for the alteration, change of grade, or removal thereof; to regulate the moving and operation of railroad and street railroad trains, cars, and locomotives within the corporate limits of said city; and to provide by ordinance for the protection of all persons and property against injury in the use of such railroads or street railroads;

(10) To provide for making local improvements, and to levy and collect special assessments on property benefited thereby, and for paying for the same or any portion thereof;

(11) To acquire, by purchase or otherwise, lands for public parks within or without the limits of such city, and to improve the same. When the language of any instrument by which any property is so acquired limits the use of said property to park purposes and contains a reservation of interest in favor of the grantor or any other person, and where it is found that the property so acquired is not needed for park purposes and that an exchange thereof for other property to be dedicated for park purposes is in the public interest, the city may, with the consent of the grantor or such other person, his or her heirs, successors, or assigns, exchange such property for other property to be dedicated for park purposes, and may make, execute, and deliver proper conveyances to effect the exchange. In any case where, owing to death or lapse of time, there is neither donor, heir, successor, or assignee to give consent, this consent may be executed by the city and filed for record with an affidavit setting forth all efforts made to locate people entitled to give such consent together with the facts which establish that no consent by such persons is attainable. Title to property so conveyed by the city shall vest in the grantee free and clear of any trust in favor of the public arising out of any prior dedication for park purposes, but the right of the public shall be transferred and preserved with like force and effect to the property received by the city in such exchange;

(12) To construct and keep in repair bridges, viaducts, and tunnels, and to regulate the use thereof;

(13) To determine what work shall be done or improvements made at the expense, in whole or in part, of the owners of the adjoining contiguous, or proximate property, or others specially benefited thereby; and to provide for the manner of making and collecting assessments therefor;

(14) To provide for erecting, purchasing, or otherwise acquiring waterworks, within or without the corporate limits of said city, to supply said city and its inhabitants with water, or authorize the construction of same by others when deemed for the best interests of such city and its inhabitants, and to regulate and control the use and price of the water so supplied;

(15) To provide for lighting the streets and all public places, and for furnishing the inhabitants thereof with gas or other lights, and to erect, or otherwise acquire, and to maintain the same, or to authorize the erection and maintenance of such works as may be necessary and convenient therefor, and to regulate and control the use thereof;

(16) To establish and regulate markets, and to provide for the weighing, measuring, and inspection of all articles of food and drink offered for sale thereat, or at any other place within its limits, by proper penalties, and to enforce the keeping of proper legal weights and measures by all vendors in such city, and to provide for the inspection thereof. Whenever the words "public markets" are used in this chapter, and the public market is managed in whole or in part by a public corporation created by a city, the words shall be construed to include all real or personal property located in a district or area designated by a city as a public market and traditionally devoted to providing farmers, crafts vendors and other merchants with retail space to market their wares to the public. Property located in such a district or area need not be exclusively or primarily used for such traditional public market retail activities and may include property used for other public purposes including, but not limited to, the provision of human services and low-income or moderate-income housing;

(17) To erect and establish hospitals and pesthouses, and to control and regulate the same;

(18) To provide for establishing and maintaining reform schools for juvenile offenders;

(19) To provide for the establishment and maintenance of public libraries, and to appropriate, annually, such percent of all moneys collected for fines, penalties, and licenses as shall be prescribed by its charter, for the support of a city library, which shall, under such regulations as shall be prescribed by ordinance, be open for use by the public;

(20) To regulate the burial of the dead, and to establish and regulate cemeteries within or without the corporate limits, and to acquire land therefor by purchase or otherwise; to cause cemeteries to be removed beyond the limits of the corporation, and to prohibit their establishment within two miles of the boundaries thereof;

(21) To direct the location and construction of all buildings in which any trade or occupation offensive to the senses or deleterious to public health or safety shall be carried on, and to regulate the management thereof; and to prohibit the erection or maintenance of such buildings or structures, or the carrying on of such trade or occupation within the limits of such corporation, or within the distance of two miles beyond the boundaries thereof;

(22) To provide for the prevention and extinguishment of fires and to regulate or prohibit the transportation, keeping, or storage of all combustible or explosive materials within its corporate limits, and to regulate and restrain the use of fireworks;

(23) To establish fire limits and to make all such regulations for the erection and maintenance of buildings or other structures within its corporate limits as the safety of persons or property may require, and to cause all such buildings and places as may from any cause be in a dangerous state to be put in safe condition;

(24) To regulate the manner in which stone, brick, and other buildings, party walls, and partition fences shall be constructed and maintained;

(25) To deepen, widen, dock, cover, wall, alter, or change the channels of waterways and courses, and to provide for the construction and maintenance of all such works as may be required for the accommodation of commerce, including canals, slips, public landing places, wharves, docks, and levees, and to control and regulate the use thereof;

(26) To control, regulate, or prohibit the anchorage, moorage, and landing of all watercrafts and their cargoes within the jurisdiction of the corporation;

(27) To fix the rates of wharfage and dockage, and to provide for the collection thereof, and to provide for the imposition and collection of such harbor fees as may be consistent with the laws of the United States;

(28) To license, regulate, control, or restrain wharf boats, tugs, and other boats used about the harbor or within such jurisdiction;

(29) To require the owners of public halls or other buildings to provide suitable means of exit; to provide for the prevention and abatement of nuisances, for the cleaning and purification of watercourses and canals, for the drainage and filling up of ponds on private property within its limits, when the same shall be offensive to the senses or dangerous to health; to regulate and control, and to prevent and punish, the defilement or pollution of all streams running through or into its corporate limits, and for the distance of five miles beyond its corporate limits, and on any stream or lake from which the water supply of said city is taken, for a distance of five miles beyond its source of supply; to provide for the cleaning of areas, vaults, and other places within its corporate limits which may be so kept as to become offensive to the senses or dangerous to health, and to make all such quarantine or other regulations as may be necessary for the preservation of the public health, and to remove all persons afflicted with any infectious or contagious disease to some suitable place to be provided for that purpose;

(30) To declare what shall be a nuisance, and to abate the same, and to impose fines upon parties who may create, continue, or suffer nuisances to exist;

(31) To regulate the selling or giving away of intoxicating, malt, vinous, mixed, or fermented liquors as authorized by the general laws of the state: PROVIDED, That no license shall be granted to any person or persons who shall not first comply with the general laws of the state in force at the time the same is granted;

(32) To grant licenses for any lawful purpose, and to fix by ordinance the amount to be paid therefor, and to provide for revoking the same. However, no license shall be granted to continue for longer than one year from the date thereof. A city may not require a business to be licensed based solely upon registration under or compliance with the streamlined sales and use tax agreement;

(33) To regulate the carrying on within its corporate limits of all occupations which are of such a nature as to affect the public health or the good order of said city, or to disturb the public peace, and which are not prohibited by law, and to provide for the punishment of all persons violating such regulations, and of all persons who knowingly permit the same to be violated in any building or upon any premises owned or controlled by them;

(34) To restrain and provide for the punishment of vagrants, mendicants, prostitutes, and other disorderly persons;

(35) To provide for the punishment of all disorderly conduct, and of all practices dangerous to public health or safety, and to make all regulations necessary for the preservation of public morality, health, peace, and good order within its limits, and to provide for the arrest, trial, and punishment of all persons charged with violating any of the ordinances of said city. The punishment shall not exceed a fine of five thousand dollars or imprisonment in the city jail for three hundred sixty-four days, or both such fine and imprisonment. The punishment for any criminal ordinance shall be the same as the punishment provided in state law for the same crime. Such cities alternatively may provide that violations of ordinances constitute a civil violation subject to monetary penalties, but no act which is a state crime may be made a civil violation;

(36) To project or extend its streets over and across any tidelands within its corporate limits, and along or across the harbor areas of such city, in such manner as will best promote the interests of commerce;

(37) To provide in their respective charters for a method to propose and adopt amendments thereto.

Credits

[2011 c 96 § 25, eff. July 22, 2011; 2009 c 549 § 2046, eff. July 26, 2009; 2008 c 129 § 1, eff. June 12, 2008; 1993 c 83 § 4; 1990 c 189 § 3; 1986 c 278 § 3; 1984 c 258 § 802; 1977 ex.s. c 316 § 20; 1971 ex.s. c 16 § 1; 1965 ex.s. c 116 § 2; 1965 c 7 § 35.22.280. Prior: 1890 p 218 § 5; RRS § 8966.]

OFFICIAL NOTES

Findings--Intent--2011 c 96: See note following RCW 9A.20.021.

Effective date--1993 c 83: See note following RCW 35.21.163.

Severability--1986 c 278: See note following RCW 36.01.010.

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

Severability--1977 ex.s. c 316: See note following RCW 70.48.020.

Notes of Decisions (174)

West's RCWA 35.22.280, WA ST 35.22.280
Current with effective legislation through chapter 248 of the 2024 Regular Session of the Washington Legislature. Some statute sections may be more current, see credits for details.

End of Document

APPENDIX C

West's Revised Code of Washington Annotated
Title 29a. Elections (Refs & Annos)
Chapter 29A.68. Contesting an Election

West's RCWA 29A.68.011

29A.68.011. Prevention and correction of ballot frauds and errors

Effective: June 9, 2016

Currentness

Any justice of the supreme court, judge of the court of appeals, or judge of the superior court in the proper county shall, by order, require any person charged with error, wrongful act, or neglect to forthwith correct the error, desist from the wrongful act, or perform the duty and to do as the court orders or to show cause forthwith why the error should not be corrected, the wrongful act desisted from, or the duty or order not performed, whenever it is made to appear to such justice or judge by affidavit of an elector that:

(1) An error or omission has occurred or is about to occur in printing the name of any candidate on official ballots; or

(2) An error other than as provided in subsections (1) and (3) of this section has been committed or is about to be committed in printing the ballots; or

(3) The name of any person has been or is about to be wrongfully placed upon the ballots.

An affidavit of an elector under this section when relating to a primary election must be filed with the appropriate court no later than two days following the closing of the filing period for such office and shall be heard and finally disposed of by the court not later than five days after the filing thereof. An affidavit of an elector under this section when relating to a general election must be filed with the appropriate court no later than three days following the official certification of the primary election returns, or official certification of candidates qualified to appear on the general election ballot, whichever is later, and shall be heard and finally disposed of by the court not later than five days after the filing thereof.

Credits

[2016 c 130 § 1, eff. June 9, 2016; 2013 c 11 § 71, eff. July 28, 2013; 2011 c 349 § 25, eff. Jan. 1, 2012; 2007 c 374 § 3, eff. July 22, 2007; 2005 c 243 § 22, eff. July 24, 2005; 2004 c 271 § 182, eff. June 10, 2004.]

OFFICIAL NOTES

Effective date--2011 c 349: See note following RCW 29A.04.255.

Notes of Decisions (34)

West's RCWA 29A.68.011, WA ST 29A.68.011
Current with effective legislation through chapter 248 of the 2024 Regular Session of the Washington Legislature. Some statute sections may be more current, see credits for details.

CARNEY BADLEY SPELLMAN

May 01, 2024 - 1:54 PM

Transmittal Information

Filed with Court:	Supreme Court
Appellate Court Case Number:	102,814-8
Appellate Court Case Title:	Jewels Helping Hands, et al. v. Brian Hansen, et al.
Superior Court Case Number:	23-2-03122-3

The following documents have been uploaded:

- 1028148_Answer_Reply_20240501135345SC463833_6385.pdf
  This File Contains:
  Answer/Reply - Answer to Petition for Review
  The Original File Name was Respondent Hansen Answer to Petition for Review and Conditional Cross.pdf

A copy of the uploaded files will be sent to:

- ahaile@spokanecity.org
- claire@smithandlowney.com
- cosgrove@carneylaw.com
- hart@carneylaw.com
- katelyn@pugetsoundkeeper.org
- katelyn@smithandlowney.com
- knoll@smithandlowney.com
- mcozza@spokanecounty.org
- mlamb@carneylaw.com
- mpiccolo@spokanecity.org
- nodle@spokanecity.org
- rzickau@spokanecounty.org
- scpaappeals@spokanecounty.org
- sdhansen@spokanecity.org

Comments:

Sender Name: Patti Saiden - Email: saiden@carneylaw.com
Filing on Behalf of: Jason Wayne Anderson - Email: anderson@carneylaw.com (Alternate Email:)

Address:
701 5th Ave, Suite 3600
Seattle, WA, 98104
Phone: (206) 622-8020 EXT 149

Note: The Filing Id is 20240501135345SC463833