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SUPREME COURT NO. 84921-8
SNOHOMISH COUNTY SUPERIOR COURT NO. 10-2-06342-9

IN THE SUPREME COURT
OF THE STATE OF WASHINGTON

Mukilteo Citizens For Simple Government,

Appellant,

v.

City of Mukilteo, Christine Boughman, Snohomish County, Carolyn Weikel,

Respondents,

and

Nicholas Sherwood, Alex Rion, Tim Eyman,

Respondent Intervenors.

CITY OF MUKILTEO'S AND CHRISTINA BOUGHMAN'S ANSWER TO STATEMENT OF GROUNDS FOR DIRECT REVIEW

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TABLE OF CONTENTS

Page

I. IDENTITY OF ANSWERING PARTIES.....1
II. NATURE OF THE CASE AND DECISION.....1
III. ARGUMENT.....1
A. No Fundamental and Urgent Issue of Broad Public Import Exists That Warrants Direct Supreme Court Review. 1
IV. CONCLUSION.....4

TABLE OF AUTHORITIES

Page

Cases

City of Sequim v. Malkasian, 157 Wn.2d 251, 260-61, 138 P.3d 943 (2006) 3

Statutes

Chapter 35A.11.080 - .100 RCW 1, 2

Rules

RAP 4.2(a)(4) 1, 3

I. IDENTITY OF ANSWERING PARTIES

The answering parties are the City of Mukilteo, a municipal corporation of the State of Washington, and Christina Boughman, Mukilteo City Clerk, collectively referred to as the "City".

II. NATURE OF THE CASE AND DECISION

The City requests that this Court deny the request for direct review of the Superior Court's ruling in *Mukilteo Citizens for Simple Government v. City of Mukilteo, et al.* The issue presented for appellate review by Mukilteo Citizens for Simple Government ("Citizens") is not an accurate characterization of the issue because Citizens does not understand the facts of this matter. This matter does not involve an initiative of the people exercising powers granted under chapter 35A.11.080 - .100 RCW. This is about the Mukilteo City Council's decision, on its own accord, to allow an opportunity for its electorate to express its opinions on the subject of automated traffic safety cameras.

III. ARGUMENT

A. No Fundamental and Urgent Issue of Broad Public Import Exists That Warrants Direct Supreme Court Review.

Citizens have not identified a fundamental and urgent issue of broad public import as required under RAP 4.2(a)(4). Citizens' entire argument is based upon the faulty premise that the "Initiative is invalid

because it exceeds the scope of the local initiative power." Citizens' Statement of Grounds for Direct Review, p. 3. Citizens cites several cases to support that proposition, along with cases stating that pre-election review of an initiative is appropriate to determine whether a proposed initiative is beyond the scope of the initiative power. Those cases have no application here because the question submitted to the electorate by the City Council was not an initiative under chapter 35A.11.080 - .100, and the City Council recognized that it was not subject to the initiative power. CP 84. Instead, the City Council, under its own initiative and consistent with its stated desire, exercised its right to seek input from voters, and approved Resolution No. 2010-22 sending the question to the electorate. CP 84-86.

Citizens further claims the "Initiative" would improperly modify and restrict the City Council's authority (Statement of Grounds, p. 4), but the City Council's authority is not restricted here because any change relating to the City's automated traffic safety camera ordinance would require action by the City Council. Contrary to Citizens' assertions, the role of elected officials is not usurped. This is not direct legislation that is prohibited by law because it is not direct legislation: the City Council seeks input from its electorate. Because this is about the decision of a single city council to seek input from its citizens, there simply is no broad public import present.

Citizens cites case law suggesting that the City Council's action here frustrates the mandates of the people of the State. Statement of Grounds, p. 7. On the contrary, the City Council's decision to hear from its electorate is political and not legal--the people now have a new opportunity to have their voices heard. Preventing an election here only frustrates the electorate's opportunity to be heard.

In addition, Citizens states that one of the Intervenors publicized his intent to bring similar initiatives across the state. Citizens' Statement of Grounds, p. 8. Assuming the statement is correct, the intervenor would have a losing battle against a city council that chose to exercise its powers relating to automated traffic safety cameras without a vote of its electorate. A lawsuit brought by an initiative proponent to force an election under those circumstances would be the type of lawsuit that may have broad public import. The Superior Court did not rule that the initiative process applies to ordinances relating to automated traffic safety cameras. If it had, the broad public import would be obvious. That is not the case here.

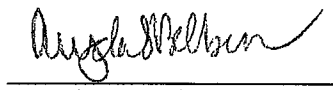
Finally, Citizens' cannot satisfy the requirement under RAP 4.2(a)(4) that the issue requires "prompt and ultimate determination," as relief (a declaration), if appropriate, is still available after the November 2, 2010, election. *See City of Sequim v. Malkasian*, 157 Wn.2d 251, 260-61, 138 P.3d 943 (2006).

IV. CONCLUSION

For the reasons stated above, Citizens has failed to demonstrate grounds for direct review by the Supreme Court.

RESPECTFULLY SUBMITTED this 23rd day of August, 2010.

OGDEN MURPHY WALLACE, P.L.L.C.

By 

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Certificate of Service

I, the undersigned, certify that on the 23rd day of August, 2010, I caused a true and correct copy of this Answer to be served, by the methods indicated below, on the following persons:

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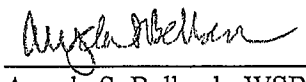

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