

# Washington Supreme Court rules against Envision Spokane

OLYMPIA – The city of Spokane and some local business organizations won the third and final round in the fight over a proposed ballot measure called the Community Bill of Rights.

A unanimous state Supreme Court ruled Thursday that the 2013 proposal – which included provisions to give neighborhoods the right to block proposed developments and would have declared the Spokane River has “a right to exist and flourish” – goes beyond things local citizens can decide at the ballot box.

The court doesn’t usually approve challenges to initiatives before they go to voters, Justice Susan Owens wrote in the appeal. But there are exceptions, and the Community Bill of Rights was one.

“We hold that the initiative exceeded the scope of local legislative authority and thus should not be put on the ballot,” she concluded.

Brad Read, board president of Envision Spokane, the initiative’s sponsor, said he fears the ruling will lead to more challenges of citizen initiatives by government and business groups. But that won’t stop Envision Spokane from challenging existing laws.

“Nobody’s going to take this as a final blow and say ‘We’re giving up,’ ” Read said.

Spokane Mayor David Condon said city officials were faced with a ballot measure they were sure was illegal. “That puts elected officials in a precarious position of administering something that is not legal if it passes,” he said. It spent \$73,000 on outside legal counsel to handle the challenge.

The city has since changed how it deals with initiative proposals, requiring them to go through a legal review before signatures are gathered. Sponsors can change their proposal if the examiner finds legal problems, or proceed with it unchanged, Condon said.

The initiative was the third charter change proposed by Envision Spokane, a nonpartisan liberal group, which attempted to establish four “rights” in city law. All go beyond city authority in some respect, Spokane County Superior Court Maryann Moreno ruled in 2013.

That kept it off the ballot as appeals continued. Envision Spokane proposed a scaled-down initiative, the Worker Bill of Rights, that was soundly defeated by voters in November.

A Court of Appeals panel ruled the groups that sued over the 2013 proposal didn’t have standing, and said the initiative could go before voters. But Thursday, the Supreme Court said the appeals court was wrong, and Moreno was right.

Statewide initiatives are not subject to review before an election because they're established by the constitution. But local initiatives are set up by statute, and have greater limitations, Owens said.

A provision that would give neighborhoods the right to reject developments planned for their area is an attempt to modify zoning rules. But administrative matters like zoning aren't things that can be changed through initiative, she said.

Giving legal rights to the Spokane River conflicts with water rights law, which is established by the state, and the aquifer is located in Idaho, which is outside the city's authority.

A provision that would have given employees workplace rights conflicts with state and federal labor laws and tries to expand city law into a constitutional issue.

The final provision tried to strip the legal rights of a corporation that violated the rights in the city charter. That seems to be a response to the Citizen United ruling that says corporations have rights under the federal constitution, Owens wrote.

A city "cannot undo decisions of the United States Supreme Court," she said.

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Published: Feb. 4, 2016, 9:18 a.m.

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