

April 13, 2004

DAMN IT !

I knew this would happen, I have been waiting for this to happen, and now it has happened.

RED ALERT FOR THE ANN ARBOR MEDICAL MARIJUANA CITY CHARTER AMENDMENT BALLOT INITIATIVE

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Greetings

The petition of the Ann Arbor medical marijuana city charter amendment initiative has been declared invalid by Abigail Elias, a city attorney. I spoke with her this morning.

(Background: The city estimates that 4170 valid signatures will be required. We are now at 5500 signatures and need 750 more to reach our turn in target of a "50% cushion". Thanks to a small MPP grant, we will be sure to have enough signatures. Our turn in date is May 7.)

Enclosed you will find a copy of Michigan Compiled Laws 117.21 through 117.25. Ms. Elias problem is located in her interpretation of Section 117.25, paragraphs 1, 2, and 3.

Paragraph 1 states that "An initiatory petition authorized by this act" ... shall state what body or organization" is "responsible for the circulation of the petition".

Comment: The "initiatory petition" is the entire document, front and back, including both pre printed text and signatures. In no way does paragraph 1 designate the *location* for stating "what body or organization" is "responsible".

Paragraph 2 states “The verification shall state that the petition was circulated at the request of and pursuant to the directions of the association, organization, or persons desiring the amendment”

Comment: To me this would seem a good reason for putting the “organization responsible” in the verification section, as we have done. Ms. Elias, however, says there is some doctrine in the law that means “If they write it in the law two separate times then that means you have to do two separate things” [not the exact words]. She says we must have the “organization responsible” *printed in two places on the front of the petition*. She says it must be at the top of the petition as well as in the verification section. I would respond:

- to say that the law requires this redundancy on the face of a petition is “prima facie” absurd
- I can show examples of petitions approved in Michigan which list the sponsoring organization only one time
- Ms. Elias can’t show any petitions approved in Michigan that list the sponsoring organization two times on the front
- Ms. Elias claims not to be able to produce a copy of the ZORF [Zone of Reproductive Freedom] petition, which was added to the city charter by the election of April 2, 1990. We should see if this petition listed the name of the “organization responsible” twice on the front.
- This “hairsplitting” is inconsequential, non substantive - compared with the fact that many people have worked very hard for many months, often very cold, to get the valid signatures of clearly more than the proper number of Ann Arbor citizens legally required to get this on the ballot. Very few registered voters refuse to sign; Ann Arbor voters want this on the ballot and will pass it with 80% in favor. Ann Arbor must respect the initiative process and the will of its citizens who signed this petition in good faith – assuming that the city would respect the initiative process.
- I’m sure that the actual arbiters of election law in Michigan – the attorneys at the State Secretary of States Office in Lansing - would not agree with Ms. Elias. At minimum they would *not* think that Ms Elias interpretation is sufficient reason to throw out the petitions in a citizen’s initiative campaign where enough signatures had already been gathered.

Paragraph 3 discusses fraud and perjury. Ms. Elias strongly uses this paragraph to discredit our petition, with reasoning I can’t follow. It is something like “if the sponsoring organization isn’t also at the top of the petition then somebody [I forget whether it is the signer or the circulator] is committing perjury”. I still don’t get it.

This is transparent harassment.

A relevant event happened to our petitioner Trena Moss a couple of weeks ago. As she was petitioning a man said to her “You don’t think you are ever going to pass that here in Ann Arbor do you?”

Trena replied, "Well, Ann Arbor is a pretty liberal town."

The man then said, "Well, I'm the City Attorney and we have a strategy to keep that from happening and I guarantee you that it will never happen".

Another citizen had heard this interchange. This man approached Trena, called the first man an unflattering name, and signed her petition. Trena made a mark beside his name, so we have a witness and a notarized date certain.

So, the Ann Arbor city attorney's feel that their job is to figure out "strategies" to defeat citizen generated initiatives? Do they forget what town they work in? I think they would be happier working in Oklahoma or Missouri.

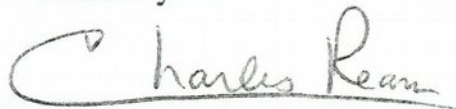
So, all you brilliant lawyers, can the forces of darkness kill our Ann Arbor initiative with this nit picking? We need help! What should we do? I especially need an opinion from Neal. We should make sure to name them all individually and sue them for lots.

The acting clerk of Ann Arbor is now Ron Olsen, a man so competent that the city always dumps the hard jobs on him whenever it screws up. He seems to be honest and friendly, but MCL117.25 paragraph 8 states: "Any person aggrieved by any action, or failure of action, of the city clerk may bring an action against the clerk in the circuit court for writ of mandamus or for other appropriate relief."

I doubt that Mr. Olsen needs a "loose cannon" of a city attorney to confuse him at the moment. Legally, it seems that the buck stops with him.

We must get on the ballot. We have plenty of signatures. Please help if you have any ideas.

Sincerely

A handwritten signature in cursive script that reads "Charles Ream". The signature is written in dark ink and is positioned above the printed name.

Charles Ream

cc. Mike Segesta and Matt Abel, attorneys at law with Michigan NORML, Cynthia Heenan, Constitutional Litigation Associates, Washtenaw County ACLU, Mayor John Hieftje, Acting Clerk Ron Olsen