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Clerk Doug Ruccione

THEODORA LACEY, RESHMA KHAN,
JEREMY LENTZ, TEJI VEGA, and LORETTA
WEINBERG,

Plaintiffs,

v.

DOUG RUCCIONE, IN HIS OFFICIAL
CAPACITY AS THE ACTING TOWNSHIP
CLERK FOR THE TOWNSHIP OF TEANECK,
AND JOHN HOGAN IN HIS OFFICIAL
CAPACITY AS THE COUNTY CLERK FOR THE
COUNTY OF BERGEN,

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: BERGEN COUNTY
DOCKET NO.: BER-L-5526-21

Civil Action

CERTIFICATION OF DOUG RUCCIONE

I, Doug Ruccione, of legal age, do hereby certify and state:

1. I am the official Clerk for the Township of Teaneck, and as such, I am fully familiar with the facts surrounding this matter.

2. I submit this Certification as an opposition to Plaintiff's Verified Complaint and Order to Show Cause with Temporary Restraints filed by the Plaintiff's.

1. On May 26, 2021, I received an email from Ron Schwartz ("Schwartz") explaining his role within OTOV and the groups purpose in "beginning an initiative to get a referendum on the ballot this November to change the date of the Teaneck municipal election from May to November." Schwartz further explained that under the appropriate statute the group prepared a petition and proposed ordinance for registered voters of

Teaneck to sign. Schwartz further requested a meeting with me to review the proposed petition and ordinance and sought guidance on language and form of the petition along with the appropriate number of signatures needed.

2. Also attached to his May 26, 2021 email, Schwartz attached the original petition and proposed ordinance.

3. On May 27, 2021, I responded and confirmed receipt of the materials and relayed to Schwartz that the Township Attorney, John L. Shahdanian II, Esq. (“Mr. Shahdanian”), was reviewing the draft petition. I suggested that a Zoom call be held with the Township Attorney and the representatives of OTOV to further discuss the petition.

4. On May 28, 2021, Schwartz responded to me confirming a Zoom call and asked for me to provide him with the number of signatures needed for the petition. Schwartz further explained that OTOV calculated that the amount needed was 791 based on 10% from the 2019 General Assembly elections. I confirmed to Mr. Schwartz that 10% of the votes from the 2019 General Assembly elections was 791, however, I made clear that I was not sure that 10% was the correct minimum number of signatures needed according to the statute. When initially reviewing the Petition, I was utilizing the statute cited by the Committee, *i.e.*, *N.J.S.A. 40:69A-25.1*.

5. On June 1, 2021, Schwartz wrote to me and indicated that the Committee had consulted with an attorney and that they “redid the petition.” Schwartz enclosed a copy of the newly drafted petition, which intentionally omitted the original ordinance, but still stated that it relied upon *N.J.S.A. 40:69A-25.1*.

6. On June 16, 2021, I, along with Township Attorneys Mr. Shahdanian, and William F. Rupp, Esq. ("Mr. Rupp"), met in person, with several members of OTOV and their legal counsel at the Teaneck Municipal Building. During that meeting, OTOV was explicitly told that I, as the Clerk, could not provide OTOV with legal advice or legal guidance in regard to the Petition.

7. At no time during that meeting did I advise the Committee as to how many signatures were required for their Petition. In fact, a question was raised by Mr. Rupp as to the correct number of signatures and no resolution of that question ever occurred.

8. On June 26 and June 28, 2021, I received emails from Schwartz regarding Schwartz's understanding and summary of the June 16, 2021, meeting.

9. On June 28, 2021, I simply responded to Schwartz, thanking him for the recap.

10. On July 9, 2021, I received the Petition from the Committee (the "Initial Petition").

11. On July 29, 2021, I issued a Notice of Insufficiency regarding the Initial Petition to the Committee explaining that: (1) The number of signatures submitted was insufficient under any potentially applicable statute. I indicated that as the Petition states that it was submitted in accordance with *N.J.S.A. 40:69A-25.1*, that pursuant to *N.J.S.A. 40:69A-25.1(a)(2)* the number of signatures needed must be equal in number to at least 25 percent of the total votes cast in the municipality at the last election at which members of the General Assembly were elected; and (2) That the form of the Petition was insufficient, in that an ordinance should have been included if the Committee intended

to rely upon the Uniform Nonpartisan Elections Law statutes including *N.J.S.A.* 40:45-7.1 and *N.J.S.A.* 40:69A-184.

12. My findings in the Notice of Insufficiency were based around the fact that the Committee submitted the Initial Petition in accordance with *N.J.S.A.* 40:69A-25, which was made explicitly clear on the face of the Petition.

13. Although my email from May 28, 2021, confirmed that 10% from the 2019 General Assembly Election was 791, my confirmation was purely factual based on a calculation, and did not constitute an admission that 10% from the 2019 General Assembly election represented the appropriate number of signatures needed. In fact, I expressed doubt to the Committee regarding the minimum number of signatures required by the statute (*N.J.S.A.* 40:69A-25.1), which they were using. Further, at the June 16, 2021, meeting, the Committee was specifically told that I was not able to provide legal advice or guidance.

14. Within the Notice of Insufficiency, I further stated that the electronic signatures submitted by the Committee were invalid based on Governor Murphy's Executive Order 244, which was supplemented by P.L. 2021, C.103. The Executive Order terminated the Public Health Emergency and the relaxation of petition requirements, which included the use of electronic signatures, as of July 4, 2021. I explained that I received the Petition, with electronic signatures, past the July 4, 2021, deadline, thus they were invalid.

15. I further determined that out of the 1,125 handwritten signatures, 653 were valid. Handwritten signatures were rejected for one or more of the following

reasons: 97 signatures came from non-registered voters or registered voters who were not residents of Teaneck; 322 signatures contained information that did not correspond with voter's registration information; 39 signatures were not fully completed; 9 signatures contained illegible information; and there were 5 duplicate signatures. Consequently, I advised the Committee that they had not submitted enough signatures with their Petition no matter which statute (25.1, the Uniform Nonpartisan Elections Law or *N.J.S.A. 40:69A-184*) they were utilizing to proceed.

16. On August 4, 2021, I received an email from Scott Salmon, counsel for the Committee, asking for confirmation as to the date that a supplemental petition should be submitted to Teaneck.

17. On August 9, 2021, I received an amended petition (the "Amended Petition") from the Committee responding to the Initial Notice of Insufficiency.

18. In support of the Amended Petition, on August 9, 2021, I also received a letter from Salmon requesting that I accept the electronic signatures and addressing all of the issues raised in the initial Notice of Insufficiency. Specifically, the Committee addressed the electronic signature issue, the signature verification process, that the Petition was being submitted as a "direct voter initiative" and attempted to distinguish *N.J.S.A. 40:69A-25.1* from *N.J.S.A. 40:69A-184* and the need for an ordinance.

19. On August 10, 2021, I received an OPRA request from Salmon for scanned copies of both the Initial and Amended Petition, in which I confirmed receipt of on that same day. I received an additional email from Salmon on August 17, 2021, at 8:02 p.m., stating his belief that my response to the OPRA request was late and that if he did not

receive the response the following morning, he would promptly file suit. I responded back to Salmon that same night and explained that his response was not late pursuant to statute and that I would send the requested documents to Salmon the following morning, which I did.

20. On August 16, 2021, I advised Mr. Shahdanian that I would not be able to complete his review of the over 2000 new signatures by August 17th. Thus, on August 16th Mr. Shahdanian again contacted Salmon and requested an extension until the close of business on August 18, 2021. However, Mr. Shahdanian was advised by Salmon that unless I agreed to waive all other objections to the sufficiency of the Amended Petition aside from the number of signatures submitted, no further extension would be granted. I would not agree to said ultimatum.

21. While further review of the Amended Petition was still underway, but with no further extensions granted, I sent a second letter to the Committee explaining that as of 3:00 p.m. on Tuesday, August 17, 2021, I had completed the review of 655 of the newly submitted signatures that accompanied the Amended Petition. Of those signatures reviewed, it was determined that 482 were valid. While combining that number with the number of valid signatures in the initial submission, the total number of valid signatures was 1,135.

22. I explained that when the entire review was complete, I would provide the Committee with an updated correspondence reflecting same. *See Salmon* at Exhibit H.

23. Further within the letter, I explained that the Committee had conflated *N.J.S.A. 40:69A-25.1* and *N.J.S.A. 40:45-7.1*, with the Committees continued reliance on *N.J.S.A. 40:69A-25.1* as the basis of the Petition.

24. I explained that *N.J.S.A.40:69A-25.1* only applies to changes from non-partisan to partisan or vice versa and that the applicable statute to change the municipal election date is *N.J.S.A. 40:45-7.1*, which requires an ordinance.

25. I further explained that any reasonable person reviewing the Petition would have been confused by the conflation of the two laws, and that the Petition was miswritten and confusing.

26. As such, I was unable to certify the Amended Petition.

27. I have received numerous emails from the Committee and Teaneck residents, regarding the Petition, and have responded to all such emails in a timely fashion.

28. On August 20, 2021, I completed my review of the Amended Petition count and advised the Committee that of the newly submitted 2080 signatures, 1486 were deemed valid and the total number of valid signatures submitted by the Committee was 2139.

Dated: August __, 2021

Doug Ruccione

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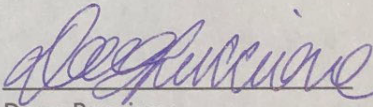
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Dated: August 23 2021


Doug Ruccione

Certification of Genuineness of Signature For Doug Ruccione
Pursuant to Rule 1:4-4

I, Valentina M. Scirica, of full age, upon my oath, certify and state that the individual who signed this certification by facsimile signature has acknowledged to me the genuineness of his signature. If the court or any party requests it, an original signature on the certification will be filed with the court.


Valentina M. Scirica, Esq.

(274032019)

Dated: August 23, 2021