

FILED
05-01-2020
Clerk of Circuit Court
Racine County
2020CV001023
Honorable Eugene A.
Gasiorkiewicz
Branch 2

Court File Stamp

STATE OF WISCONSIN - CIRCUIT COURT- RACINE COUNTY

IN RE: NOTICE OF APPEAL OF THE
DECISION OF THE RACINE UNIFIED
SCHOOL DISTRICT BOARD OF
CANVASSERS REGARDING THE
SCHOOL FUNDING REFERENDUM
(RUSD 4620) THAT TOOK PLACE ON
APRIL 7, 2020, AND, WHICH WAS
RENDERED ON APRIL 24, 2020 AND
CERTIFIED ON APRIL 27, 2020.

NOTICE OF APPEAL OF THE DECISION OF THE RACINE UNIFIED SCHOOL
DISTRICT BOARD OF CANVASSERS IN THE ABOVE-CAPTIONED MATTER

TO: Racine County Clerk of Circuit Court
730 Wisconsin Ave.
Racine, WI 53403

Racine Unified Board of Canvassers
Elizabeth Tobias
3109 Mt. Pleasant St.
Racine, WI 53404

Racine Unified Board of Canvassers
Tammy Leverich
3109 Mt. Pleasant St.
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Racine Unified Board of Canvassers
Melissa Abel
3109 Mt. Pleasant St.
Racine, WI 53404

YES FOR OUR CHILDREN
A referendum Committee
840 Lake St. Suite 300
Racine, WI 53403

The Racine Unified School District
c/o Clerk John Heckenlively
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Racine, WI 53402

Chelsea Powell
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Wisconsin Election Commission
212 East Wisconsin Ave.
Third Floor P.O. Box 7984
Madison, WI 53707-7984

George Meyers
1307 N. Wisconsin Street
Racine, WI 53402

Pursuant to Wis. Stats. §§ 9.01(6) and 9.01(7) Notice is hereby given that James Sewell, Dennis Montey, and George Meyers, through their undersigned counsel, appeal to the Racine County Circuit Court, the decision of the Racine Unified School District Board of Canvassers in the above-captioned matter rendered on April 24, 2020, and certified on April 27, 2020, a copy of the Certification of the Board of Canvassers is attached hereto and incorporated herein as Exhibit A.

1. The Appellees are all proper parties in this action as they are all residents and qualified electors in the Racine Unified School District, and they voted in the April 7, 2020 election.

2. On Tuesday, April 7, 2020, an election was held containing a School referendum authorizing a One Billion dollar (\$1,000,000,000.00) expenditure over thirty years.

3. Upon information and belief, the alleged total votes cast in that election were significantly higher than the votes cast in the School referendum.

4. Upon information and belief, the alleged total votes cast by eligible electors on the school referendum were 33,425.

5. Upon information and belief, the alleged total number of "Yes" votes was 16,715 and the "No" votes were 16,710.

6. Upon information and belief, the Petitioners were not permitted to examine ballots casts by eligible electors who purportedly did not cast a vote in the school referendum. (the "Undervote").

7. Upon information and belief, the Petitioner George Meyer requested to examine the undervotes, but the Board of Canvassers denied that request.

8. Upon information and belief, in the recount, the Board of Canvassers utilized three procedures for rejecting or accepting a ballot cast in the school referendum.

9. Upon information and belief, the three procedures were as follows:

- a. The Clerk and the Board of Canvassers rejected the vote;
- b. The Clerk rejected a vote, and the Board of Canvassers overruled the Clerk's decision; and
- c. The Clerk accepted a vote, and the Board of Canvassers overruled and rejected that vote.

10. Upon information and belief, hundreds of ballots were rejected and not counted by the Clerk and Board of Canvassers.

11. Upon information and belief, the rejected ballots are still contained in their original, sealed envelopes, and have not been opened. Therefore those ballots contain votes that should have been counted in the School Referendum.

12. Upon information and belief, the municipally created/designed an envelope at times which obscured the U.S. Postal Services postmark, which then caused the rejection of the ballot.

13. Therefore, a lawfully cast ballot by an elector, through no fault of their own, was rejected, rendering the voter disenfranchised.

14. Upon information and belief, approximately thirty-three ("33") ballots were initially rejected by the Municipal Clerk, and subsequently, the Board of Canvasser's overruled the Clerk and accepted those ballots.

15. Upon information and belief, the Board of Canvasser's decision to accept some of the ballots and reject other ballots was unreasonable and not consistent with Wisconsin Election law.

16. Upon information and belief, the ballots that were accepted by the Clerk and subsequently rejected by the Board of Canvassers were classified as "drawdowns."

17. Upon information and belief, one category of drawdowns was for envelopes that did not contain a witness address. The Board of Canvasser then rejected the Clerk's decision to count the vote resulting in a drawdown. The Board of Canvassers did not use reasonable efforts to verify the address of the witness. Thus, resulting in a drawdown and a vote not being counted. Further disenfranchising the elector.

18. Upon information and belief, the Board of Canvasser's incorrectly tallied the drawdown vote resulting in an incorrect vote tally.

19. Upon information and belief, these are but a few of the many objections raised at the recount by the appellees.

Wherefore, Appellees request that the Court issue an order directing each affected municipal Clerk, to transmit immediately all ballots, papers, and records affecting the appeal to the Clerk of Court or to impound and secure such ballots, papers and, records, or both and set a scheduling order.

Dated: May 1, 2020

Dated: May 1, 2020

ATTORNEY VINCENT J. BOBOT
Attorneys for Appellants

MAISTELMAN & ASSOCIATES, LLC
Attorneys for Appellants

/s/

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