

PRESS RELEASE:

REJECTION OF MONTCLAIR'S RENT CONTROL APPEAL WILL PUT MATTER ON THE BALLOT

MONTCLAIR, N.J., NOVEMBER 30, 2021 - In a unanimous, published opinion, an Appellate Division panel affirmed an Essex County Superior Court decision that the Montclair Municipal Clerk acted arbitrarily and capriciously in rejecting a petition for Referendum on Montclair's Rent Control Ordinance.

The Ordinance has been stayed and ineffective since its passage in March 2020, which occurred at the time that the COVID 19 state of emergency was declared. The case challenged the decision of the Municipal Clerk who failed to follow a gubernatorial directive to reach out to petition signers to confirm their intention to sign the referendum petition prior to rejecting their signature based on a comparison of their e-signature to that appearing on the voter registration records.

In part, the decision reads "we conclude it was unreasonable, because of the limiting circumstance of the COVID-19 pandemic, and the Governor's emergency order precluding door-to-door solicitations, for the clerk not to reach out and provide voters with an opportunity to cure the alleged uncertain signatures before attempting to disenfranchise them from the referendum process. Despite...the obvious fact that an e-signature will likely differ in some or many respects from an inked signature, there is nothing in the record to explain how the clerk considered these limitations."

The Appellate Division ruling provided that with access to the court now being available an evidentiary hearing could be conducted by the trial court to confirm that the signers intended their e-signature to be their assent to the referendum petition.

"Because the Clerk did not follow the guidance directing the clerk to contact the signers before rejecting their signatures, the Committee of petitioners was found to be only 18 votes short of the requirement. However, the Appellate Court made it clear that the clerk's action was improper and led to the rejection of more than 400 signatures that should have been counted," says Charles Gormally of Brach Eichler in Roseland, attorney for the Committee of Petitioners that sponsored the Referendum.

"The evidentiary hearing, if the Township insists on proceeding with it, the Committee will readily establish that at least 18 voters will confirm that they intended their electronic signatures to be their consent to the referendum and will compel a certification of the petition."

"If its past obstruction and politicking in this matter is any indication, we expect that Montclair officials will continue their attempts to disrupt the Referendum process. But the writing is on the wall: this matter is headed for the ballot and the voters will have a chance to decide," says Ron Simoncini, Executive Director of the Montclair Property Owners Association, which supports the Referendum.

"The fact remains that this Ordinance should have been properly vetted from the outset, but instead it was jammed through without getting input from all of the stakeholders. The Property Owners provided input on the Ordinance and requested practical amendments designed to make it Constitutionally enforceable and reduced the negative impacts to all parties while maintaining all the rights and protections the Ordinance sought for existing residents of Montclair. The Mayor and Council's refusal to enter into a good faith dialogue about the requested changes is an indication of the administration's unwillingness to put equitable policy in front of special interest politics," continued Mr. Simoncini.

"The Property Owners recognize that rent control can provide a measure of protection to tenants and are in agreement that protections should be considered. But absent a sincere dialogue on the impacts and unintended consequences---including the exorbitant costs of administering it, we have no choice but to seek a repeal of this Ordinance - and we do so not only in our own interest, but because this Ordinance will harm all the residents of Montclair."