

IN THE CIRCUIT COURT OF THE TWENTY-SECOND JUDICIAL CIRCUIT
MCHENRY COUNTY, ILLINOIS

| | | |
|------------------------------------|---|-----------|
| MICHAEL SMITH, |) | |
| |) | |
| PLAINTIFFS, |) | |
| |) | |
| VS. |) | NO. _____ |
| |) | |
| CHARLES LUTZOW, IN HIS CAPACITY AS |) | |
| ALGONQUIN TOWNSHIP SUPERVISOR, |) | |
| MELISSA VICTOR IN HER CAPACITY AS |) | |
| ALGONQUIN TOWNSHIP TRUSTEE, DAN |) | |
| SHEA IN HIS CAPACITY AS ALGONQUIN |) | |
| TOWNSHIP TRUSTEE, DAVE CHAPMAN |) | |
| IN HIS CAPACITY AS ALGONQUIN |) | |
| TOWNSHIP TRUSTEE, RACHEL LAWRENCE |) | |
| IN HER CAPACITY AS ALGONQUIN |) | |
| TOWNSHIP TRUSTEE |) | |
| AND THE TOWN OF ALGONQUIN, |) | |
| COMMONLY KNOWN AS ALGONQUIN |) | |
| TOWNSHIP |) | |
| |) | |
| DEFENDANTS, |) | |

COMPLAINT

NOW COMES the Plaintiff, MICHAEL SMITH, (hereinafter at times “Plaintiff”), by and through his attorney, DENISE AMBROZIAK, and as and for its Complaint against the Defendants, Charles Lutzow, in his capacity as Algonquin Township Supervisor, Melissa Victor in her capacity as Algonquin Township Trustee, Dan Shea in his capacity as Algonquin Township Trustee, Dave Chapman in his capacity as Algonquin Township Trustee, Rachel Lawrence in her capacity as Algonquin Township Trustee, and the Town of Algonquin, Commonly known as Algonquin Township (collectively the "Defendants"), and alleges as follows (hereinafter “Defendants” or the “township”); hereby states and alleges as follows:

PARTIES

1. The Plaintiff is an elector in Algonquin Township..
2. The Defendants are the duly elected officials of Algonquin Township and Algonquin Township, a unit of government in McHenry County Illinois.
3. The Plaintiff is a natural person named herein in this action and is a resident of Algonquin Township.

JURISDICTION AND VENUE

4. Jurisdiction and venue are proper as the Plaintiff resides and is located in McHenry County. Algonquin Township is a unit of government in McHenry County.

FACTS COMMON TO ALL COUNTS

5. Defendants have scheduled a special meeting of the Board of Trustees of Algonquin Township for Saturday December 22, 2018 without providing adequate notice of the meeting.
6. The first public notice of the Special Meeting was on Friday 12/21/2018 which was not by way of publication of a public notice but rather a newspaper article reporting on the scheduling of a special meeting of the Algonquin Township Board to be conducted Saturday December 22, 2018 at 11:00am.
7. Special Meetings of the Township Board must have at least 14 days notice and must be conducted after 6:00pm.
8. Plaintiff MICHAEL SMITH is unavailable to attend the Special Meeting of Algonquin Township.
9. 60 ILCS 1/35-5 provides as follows in pertinent parts:

Sec. 35-5. Special township meeting. Special township meetings **shall be held when the township board (or at least 15 voters of the township)** file in the office of the township clerk a written statement that a special meeting is necessary for the interests of the township. The statement also shall set forth

the objects of the meeting, which must be relevant to powers granted to electors under this Code. **The special township meeting shall be held no less than 14 nor more than 45 days after the written request is filed in the office of the township clerk. Special township meetings may not begin before 6 p.m.**

(Source: P.A. 95-761, eff. 7-28-08.) Emphasis added

10. (60 ILCS 1/35-10) provides as follows in pertinent parts:

Sec. 35-10. Notice of special meeting; business at meeting.

(a) **Notice of a special township meeting shall be given in the same manner and for the same length of time as for regular township meetings.**

(b) The notice shall set forth the object of the meeting as contained in the statement filed with the township clerk, which must be relevant to powers granted to electors under this Code. No business shall be done at a special meeting except the business that is embraced in the statement and notice.

(Source: P.A. 95-761, eff. 7-28-08.)

**COUNT I:
DECLARATORY JUDGMENT AND INJUNCTIVE RELIEF**

11. Plaintiff re-alleges the foregoing Paragraphs 1-10 of this Complaint as if fully stated herein.

12. The nature of this count is a proceeding for declaratory relief under 735 ILCS 5/2-701 for the purpose of determining a question in actual controversy between the parties concerning the rights of the Defendants to conduct a special meeting and the validity of the actions taken at the special meeting scheduled for December 22, 2018 at 11:00am.

13. An actual controversy exists between Plaintiffs and Defendants, relative to their legal rights and duties pursuant to state statute.

14. As Algonquin Township electors, the Plaintiff has the right to attend any Special Meeting and cast votes.

15. As Algonquin Township electors, Plaintiff is entitled to 14 days notice of a special meeting.

16. There has not been 14 days notice before the scheduled special Meeting of December 22, 2018 of Algonquin Township.

17. Special Meetings must take place after 6:00pm and the noticed meeting is at 11:00am

WHEREFORE, the Plaintiff respectfully requests that this Honorable Court grant the following relief:

- A. Enjoin Defendants from conducting a special meeting of Algonquin Township on Saturday December 11, 2018
- B. A judgment declaring the notice of the public meeting of Algonquin Township inadequate;
- C. Declare any action taken at the December 22, 2018 meeting void ab initio.
- D. Issue an order requiring the Defendants re-notice its special meeting at least 14 days from the date of the notice.
- E. Award Plaintiff his costs of suit incurred in the bringing of this action;
- F. For any further relief this Court deems just and proper.

MICHAEL SMITH

By: /S/Denise Ambroziak
Denise Ambroziak
Plaintiffs' Attorney

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