IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
CHAMPAIGN COUNTY, ILLINOIS

JACK ANDERSON and WENDELL GOLSTON, Petitioners-objectors, v. VILLAGE OF RANTOUL MUNICIPAL OFFICERS ELECTORAL BOARD, CHARLES R. SMITH, SAM HALL, and JANET E. GRAY, in their capacity as members of the Village of Rantoul Municipal Officers Electoral Board, a quasi-adjudicative body; JANET E. GRAY, Village Clerk in her capacity as the local election official; AARON AMMONS, Champaign County Clerk in his capacity as the election authority; and TERRY WORKMAN, public question proponent, Respondents.	)	No. 23 MR 11 Hon. Benjamin W. Dyer

ORDER ON JUDICIAL REVIEW

This petition for judicial review arises out of an election controversy over a public question concerning the Village of Rantoul abandoning its current practice of electing trustees from districts. Petitions to place the public question of abandonment on the April 2023 ballot circulated and were certified by the Village Clerk. Two qualified electors filed an objection. After a hearing on the objection, the Rantoul Electoral Board voted 2-1 to overrule the objection, and the objectors now petition the circuit court for judicial review of the Electoral Board's decision. For the reasons that follow, the objection is sustained, and the decision of the Electoral Board is reversed.

I.

On the November 6, 2018, general election ballot, the electors of the Village of Rantoul approved a proposition asking if the Village "shall be divided into 6 districts with one trustee

elected from each district." On June 9, 2020, the Rantoul Board adopted an ordinance dividing Rantoul into six districts, and candidates were elected from those districts in the April 6, 2021, consolidated election. The first elected trustees began serving their terms on May 4, 2021. Less than two years later, between September 29 and December 1, 2022, public question proponent (and respondent) Terry Workman and others circulated petitions in Rantoul to place a public question on the ballot for Rantoul electors asking: "[s]hall the Village of Rantoul abandon the method of electing trustees from districts so that the trustees shall be hereafter elected on a village-wide basis?"[1] (Administrative Record ("A.R.") 6 - 68.) On December 1, 2022, Rantoul Village Clerk Janet Gray certified the public question to appear on the April general election ballot. (Id. at 5.)

Rantoul electors Jack Anderson and Wendell Golston (the "objectors") filed a document entitled "Verified Objectors' Petition," with the Champaign County Clerk on January 6, 2023, although the document does not contain a verification nor notarization, but it does appear to contain two signatures. (Id. at 69.) The objection contends that the public question offends the Illinois Municipal Code, specifically 65 ILCS 5/3.1-25-85, which provides:

> [a]ny municipality that has operated for more than 4 years under the provisions of Section 3.1-25-75 may abandon its method of electing trustees under that Section and elect its trustees under the provisions of Section 3.1-25-5 then applicable to villages, by proceeding under this Section.

According to the objectors, the public question is premature because Rantoul has not operated under 65 ILCS 5/31.1-25-75 for more than 4 years. On January 17, 2023, the Electoral Board held a public hearing where Anderson and Golston presented their objection, and Workman spoke in favor of overruling the objection. Workman did not raise the issue of signatures or verification before the Electoral Board. On January 17, 2023, the Electoral Board voted 2-1

[1] The petitions themselves are notarized between September 29, 2022, and November 30, 2022.

to overrule the objection, which it then memorialized two days later in a written decision. The objectors petitioned for review in the circuit courts pursuant to 10 ILCS 5/10-10.1 on January 24, 2023.

II.

Preliminarily, the court addresses the issues of jurisdiction and the standard of review. Workman appears to make a challenge to the jurisdiction of the circuit court to hear the petition for judicial review by asserting there is a problem with service. The basis for that contention is that the term *"et al."* was used in the objection itself to refer to the respondents, and that the objectors "have not listed the persons against whom their relief is sought." (Workman Br. at 2.) Workman raised this issue in passing before the Electoral Board, and his under-developed argument appears to be aimed at the absence from the objectors' petition for judicial review of Sherry Johnson, a Rantoul trustee who was named in the original objection before the board. (A.R. at 69.) But in the petition for judicial review, the objectors sued the Village of Rantoul Municipal Officers Electoral Board and its members in their capacity of that board, together with the Village Clerk, Workman, and the Champaign County Clerk. Workman claims that by omitting Johnson in the petition for judicial review, the objectors violated the Due Process Clause of the Fourteenth Amendment, the Code of Civil Procedure, and the Election Code. However, the objectors filed a proof of service on January 24, 2023, demonstrating service by certified mail to each of the named entities in their petition, and Workman does not identify any authority by which Johnson would be a necessary party for judicial review. The court finds no basis for Workman's complaints about the form of the petition for judicial review in the controlling statute, 10 ILCS 5/10-10.1, the Code of Civil Procedure, or the Constitution. From the record before the court, the objectors have strictly complied with the Election Code requirements to obtain judicial review, and the court obtains jurisdiction over this controversy.

The parties also disagree on the standard of review to be applied by the court. The objectors assert that the issue for review is a question of law, meaning that the court should apply *de novo* review to the Electoral Board's decision. Workman urges the court to determine this matter as a mixed question of fact and law because among other reasons he claims, "[t]he term 'abandonment' … presents substantial questions of fact." (Workman Br. at 6.) But no material fact is in dispute because none of the parties take issue with any factual finding or factual conclusion by the Electoral Board. Instead, the Electoral Board grappled with the same issues now raised in circuit court: what does the Municipal Code require with respect to the abandonment of electing trustees from districts? Because that question is purely one of law, the court applies *de novo* review. *See Ramirez v. Chi. Bd. of Election Comm'rs*, 2020 IL App (1 Dist.) 200240, ¶ 10.

III.

This court is obliged to enforce the intent of the legislature, and the best evidence of legislative intent is found in the plain language of the statute. *See JPMorgan Chase Bank, N.A. v. Earth Foods, Inc.*, 238 Ill. 2d 455, 461 (2010). The operative statutes in this dispute are found in the Illinois Municipal Code, and specifically 65 ILCS 5, sections 3.1-25-85 and 3.1-25-75. Section 3.1-25-85 specifies that the four-year time period endures for "any municipality that has *operated*," and does not use other words like "adopted," "elected," or "approved," that would point toward the act of voting as the starting point for the four-year time period. In a similar vein, the statute uses the clause "under the *provisions* of Section 3.1-25-75," and not "under Section 3.1-25-75" or "initiating under Section 3.1-25-75." The objectors contend that the unqualified usage of "provisions" in Section 3.1-25-85 means that all provisions of Section 3.1-25-75 must be adhered to for a period of four years in order to satisfy Section 3.1-25-85. Section 3.1-25-75 provides:

> (a) After a village with a population of 5,000 or more adopts the provisions of this Section in the manner prescribed in Section 3.1-25-80 [65 ILCS 5/3.1-25-80], the board of trustees by ordinance shall divide and, whenever necessary thereafter, shall redistrict the village into 6 compact and contiguous districts of approximately equal population as required by law. This redistricting shall be completed not less than 30 days before the first day for the filing of nominating petitions for the next succeeding election of village officers held in accordance with the general election law.
> (b) Each of the districts shall be represented by one trustee who shall have been an actual resident of the district for at least 6 months immediately before his or her election in the first election after a redistricting, unless the trustee is a resident of a newly incorporated municipality. Only the electors of a district shall elect the trustee from that district.
> (c) The provisions of this Code relating to terms of office of alderpersons in cities shall also apply to the terms of office of trustees under this Section.

Within this section, the objectors identify six different provisions in this section that must be satisfied. (Objectors' Br. at 7.) But while the number of provisions present may be subject to debate depending upon how the statute is parsed, there is no doubt that two of the provisions include: (1) the division of the village into districts; and (2) that "[e]ach of the districts shall be represented by one trustee." *See id.* A straightforward interpretation of this language means that a municipality is not operating within the meaning of Section 3.1-25-85 until the representation of each of the districts is being fulfilled by an elected and sworn trustee.

Guidance from the Appellate Court on this issue is scarce and dated: the two most applicable decisions are *Mason v. Cutkomp*, 15 Ill. App. 2d 378 (Ill. App. Ct. (2 Dist.) 1957) and *People ex rel. De Doncker v. City of E. Moline*, 23 Ill. App. 2d 334 (Ill. App. Ct. (2 Dist.) 1959), both arising out of Rock Island County in the then-Second District Appellate Court and issued more than 60 years ago. Still, both cases are helpful in resolving this dispute. In *Mason*, Rock Island voters filed petitions asking for an election on the question of abandoning the managerial form of municipal government. Under the then-controlling statute, Section 20—13 of the Revised Cities and Villages Act, abandonment was available for any city or

village "which has operated for four years or more under the Managerial Form of Municipal Government." 15 Ill. App. 2d at 380. The *Mason* court found "a plain legislative intent to provide a *minimum* trial period for city manager government to operate free from the instability, unrest and uncertainty that obviously would attend proceedings looking to its possible termination." *Mason* further found that "all the various steps in connection [with the abandonment procedure] are part of one series of acts, none of which may precede the expiration of the period of time set out in the statute." *Id.* at 386. And although Workman argues that *De Doncker* overruled *Mason*, that position is not borne out by a careful reading of *De Doncker*, which evaluated a different statute and in fact *agreed* with its decision in *Mason* that "none of the various steps in that series of acts (including the petition to abandon) may precede the expiration of the 4 year period of time set out in the statute." *De Doncker*, 23 Ill. App. 2d at 345.

Even more telling, the *De Doncker* case examined a wholly different statutory provision requiring that if a majority of electors voting on the that proposition voted yes, "the mayor or president shall immediately issue a proclamation declaring this article in force, [t]henceforth this article shall be in effect in that municipality." In other words, *De Doncker* examined a statute that began operating at the immediate moment of adoption by the voters. The objectors refer to this type of provision as a "self-executing" clause that clearly establishes the time of operation of the new form of government. This type of provision for immediate or self-executing operation is absent from the Municipal Code statutes concerning the election of trustees from districts, which are instead accompanied by the necessary organizational provisions specified in Section 3.1-25-75 to draw the districts, elect trustees, and then have those trustees represent their districts. The absence of an immediate self-execution clause is not surprising, given the obvious logistical and operational challenges of

creating districts, attracting candidates, and then having those candidates run, be elected, and then be sworn into office.

The upshot of drawing these distinctions between the Municipal Code statutes and the various forms of government they contemplate is that the circumstances of this case can be read harmoniously among the Illinois Municipal Code, *De Doncker* and *Mason*. Moreover, even assuming – counterfactually – that the abandonment of district trustees *did* have an immediate operation provision, petitions that began circulating prior to November 6, 2022, would still fall inside the four-year time period that – hypothetically – would have begun on November 6, 2018. The record makes evident that some petitions began circulating as early as late September 2022. Under the decisions of both *De Doncker* and *Mason*, this September 2022 circulation would constitute a "series of acts … preced[ing] the expiration of the [4 year] period of time set out in the statute." *Mason*, 15 Ill. App. 2d at 386. In other words, even if the court were to adopt Workman's legal theory of the case, which it does not, the unrebutted evidence of Workman's dated, notarized petitions in the administrative record would fail his own test because many of them predated November 6, 2022. On these points, the objectors' position is compatible with the plain statutory language and both relevant Appellate Court decisions. Workman's is not, and also injects exactly the sort of instability that the legislature sought to prevent when it imposed the four-year statutory period protecting the newly adopted form of government.

Lastly, Workman raised several issues in his written filing and argument that were not presented to the Electoral Board. These issues included the absence of signatures or verification on the objection and the claimed illegality of the current form of government in Rantoul because of an alleged failure to comply with 65 ILCS 5/3.1-25-75(a) after the adoption of the 2018 public question that began the process of electing trustees from districts. But the circuit court cannot consider those matters because "issues or defenses not presented to the

administrative agency will not be considered for the first time on administrative review." *Cinkus v. Stickney Mun. Officers Electoral Bd.*, 228 2d 200, 214 (2008).

IV.

For the foregoing reasons, the court determines that Workman's public question offends Illinois Municipal Code Provisions 65 ILCS 5/3.1-25-85 and 65 ILCS 5/3.1-25-75, meaning that the question is premature and the objection of Anderson and Golston must be sustained. Accordingly, the decision of the Village of Rantoul Electoral Board is reversed. Owing to this ruling, petitioners' emergency application for a stay of the Electoral Board's ruling is denied as moot.

ENTER:

February 3, 2023
Date

Benjamin W. Dyer
Circuit Judge