

LEGISLATIVE REVIEW
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SUPREME COURT REVERSES ITSELF IN RARE MOVE

Recently we reported to you OHBA filed an amicus brief in a major election case regarding an initiative to rewrite the City of Powell's comprehensive plan and retroactively invalidate permits. In *State ex rel. Brian Ebersole, Sharon Valvona, and Thomas Happensack v. City of Powell, Ohio and Sue Ross, City Clerk of Powell, Ohio*, the developer challenged the proposed initiative to be presented to the municipal residents at the November election. We found the initiative to not only set a bad precedent, but possibly create a planning process at odds with existing law by specifying representatives from private interests to compose the commission.

Our victory was short lived. Early this week the Supreme Court reversed itself and allowed the initiative to move forward. At this time, we are not sure if the issue will appear this November or at a later date. Otherwise, we are examining if a proposed initiative may create planning commissions at odds with existing law. Unfortunately, it appears a municipality may not consider the purpose of any initiative presented to it but only to the extent of whether proper procedure was observed. We are also unsure if the Board of Elections may consider the substance of an issue before it certifies an issue to be placed before voters.

On a positive note, property owners with properly issued permits should have full vested rights despite the outcome of the election.