STATE OF MICHIGAN

COURT OF APPEALS

CITY OF SOUTHFIELD and SOUTHFIELD CITY CLERK,

Petitioners-Appellees,

v

LAURICE COVENSKY,

Respondent-Appellant,

and

THE TARGET CORPORATION,

Respondent-Appellee.

UNPUBLISHED
November 20, 2007

No. 273101
Oakland Circuit Court
LC No. 2006-074439-CZ

Before: Talbot, P.J., and Fitzgerald and Kelly, JJ.

PER CURIAM.

Respondent, Laurice Covensky ("Covensky"), appeals as of right the trial court's order granting summary disposition in favor of respondent, Target Corporation ("Target"). This case involves a declaratory action filed by petitioners, City of Southfield ("the City"), and Southfield City Clerk ("the Clerk"). We affirm.

Covensky argues that the trial court erred in its declaration that the referendary petitions at issue are subject to the requirements of the Michigan Election Law. We disagree. We review de novo questions of statutory interpretation, *Woodard v Custer*, 476 Mich 545, 557; 719 NW2d 842 (2006), and a trial court's decision on a motion for summary disposition in a declaratory action, *Wayne Co v Wayne Co Retirement Comm*, 267 Mich App 230, 243; 704 NW2d 117 (2005).

The goal of statutory interpretation is to give effect to the intent of the Legislature. *American Federation of State, Co & Muni Employees v Detroit*, 267 Mich App 255, 715-716; 704 NW2d 712 (2005). If the statutory language is clear and unambiguous, this Court assumes that the Legislature intended its plain meaning and enforces the statute as written. *Id.* Every word should be given meaning, and this Court should construe the statute to avoid an interpretation that would render any part of the statute surplusage or nugatory. *Id.*

The Home Rule City Act, MCL 117.1 *et seq.*, authorizes a city to provide in its charter for "[t]he initiative and referendum on all matters within the scope of the powers of that city and the recall of city officials." MCL 117.4i(g). The Southfield City Charter, § 4.25(a), provides that a referendum on an ordinance enacted by the Council may be had by a petition, and the petition must have signatures by registered electors equal in number to 1,000 or 10 percent of those who voted in the last general city election, whichever is greater. Because 13,817 individuals voted in the November 2005 election, at least 1,381 or 1,382 valid petition signatures were required to submit the issue to the electorate.

MCL 117.25a provides that any petition brought under specified sections, including MCL 117.21, is subject to the Michigan Election Law, MCL 168.488. Pursuant to MCL 117.21(5), "[p]ropositions and questions shall be proposed, initiated, submitted and canvassed in a manner similar to that provided for charter amendments." Although the Home Rule City Act does not define "propositions" or questions," various provisions of this act demonstrate that the term "question" is a collective synonym for the terms "initiative" and "referendum." Specifically, MCL 117.3(a), which dictates that a city's charter must provide for the election of a mayor and a legislative body, refers to submitting a "question" of this nature to the electors for approval. Similarly, MCL 117.21(2) and MCL 117.23(1) refer to submitting a "proposed charter amendment or other question" to the electors, and MCL 117.5(e) and (g) refer to submitting a "question" about certain city powers to the electors. MCL 117.8(1), MCL 117.9(1), MCL 117.11(2) and (4), MCL 117.15, and MCL 117.16 state that a "question" regarding the incorporation of a city or changing its boundaries must be submitted to the electors. Most notably, MCL 117.14a describes how the "question" may be submitted to the electors when there is a petition to vacate a city's incorporation, and it dictates that the appropriate officials shall hold an election "the same as though the question were upon the annexation of a part of a city to a township" with certain exceptions. This language clearly indicates an intent to treat a referendary petition in the same way as an initiatory petition and treat both types of petitions as "questions." Moreover, we fail to see how a referendum does anything other than pose a question to the voters because it does, by its very nature, ask electors to decide whether an ordinance will be adopted.

Michigan courts have also used the terms "question" and "referendum" synonymously. In 1974, Justice Levin construed the words "initiative" and "referendum" as follows:

> We would hold that the words "initiative" and "referendum" are themselves an implicit limitation on the matters that may properly be the subject of an initiative or referendum, and that the Legislature did not in 1909 intend to confer on the electors of home rule cities the power to vote on *questions* not truly legislative in character. [*West v Portage*, 392 Mich 458, 465-466; 221 NW2d 303 (1974) (emphasis added).]

Although this passage is excerpted from a nonbinding opinion that was only signed by three justices, the Michigan Supreme Court adopted this reasoning and conclusion in *Beach v Saline*, 412 Mich 729, 730-731; 316 NW2d 724 (1982). In *Southeastern Michigan Fair Budget Coalition v Killeen*, 153 Mich App 370, 383; 395 NW2d 325 (1986), and *Citizens Lobby of Port Huron v Port Huron City Clerk*, 132 Mich App 412, 418-419; 347 NW2d 473 (1984), this Court recognized this construction of the words "referendum" and "initiative." Similarly, in *Van Horn v China Twp Clerk*, 195 Mich App 610, 611; 491 NW2d 268 (1992), this Court discussed

petitions that had been circulated and characterized the effort as placing a "question" before the voters and a referendum on the "question" at issue. Therefore, a referendum is a question for purposes of MCL 117.21(5), and the petitions at issue are subject to the requirements of MCL 168.488.

MCL 168.488(2) provides that MCL 168.482(1), (4), (5), and (6) "apply to a petition to place a question on the ballot before the electorate of a political subdivision under a statute that refers to this section, and to the circulation and signing of the petition." MCL 168.482(6) provides that petitions shall comply with the provisions of MCL 168.544c(2), which states:

> The circulator of a petition shall sign and date the certificate of circulator before the petition is filed. A circulator shall not obtain electors' signatures after the circulator has signed and dated the certificate of circulator. A filing official shall not count electors' signatures that were obtained after the date the circulator signed the certificate or that are contained in a petition that the circulator did not sign and date.

Accordingly, the trial court did not err in holding that the Michigan Election Law applies to referendary petitions, and the petitions are required to contain the circulators' signatures and certifications.

Affirmed.

/s/ Michael J. Talbot
/s/ E. Thomas Fitzgerald
/s/ Kirsten Frank Kelly