IN THE SUPREME COURT OF TENNESSEE AT NASHVILLE

LUDYE N. WALLACE,)
Petitioner-Appellant,) No. M2018-00481-SC-RDM-CV
v.)
) Davidson County Chancery) Court No.18-0254-I
METROPOLITAN GOVERNMENT OF)
NASHVILLE AND DAVIDSON)
COUNTY & DAVIDSON COUNTY)
ELECTION COMMISSION,)
	,)
Respondents-Appellees.)

THE METROPOLITAN GOVERNMENT'S BRIEF

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TABLE OF CONTENTS

TABLE OF AUTHORITIESiv
QUESTION PRESENTED1
STATEMENT OF THE FACTS2
STATEMENT OF THE CASE6
ARGUMENT9
I. STANDARD OF REVIEW9
II. THE TRIAL COURT CORRECTLY INTERPRETED THE METROPOLITAN CHARTER TO DETERMINE THAT A GENERAL METROPOLITAN ELECTION IS A GENERAL ELECTION FOR METROPOLITAN OFFICES
A. WISE v. JUDD HELD THAT THE CHARTER'S USE OF THE PHRASE "GENERAL ELECTION" MEANT A "GENERAL METROPOLITAN ELECTION"
B. THERE IS NO BASIS FOR GIVING THE CHARTER A NARROW AND STRAINED READING12
C. THE PHRASE "GENERAL METROPOLITAN ELECTION" IS NOT SUPERFLUOUS – IT IS MEANINGFUL16
D. THE CAPTIONS IN THE METROPOLITAN CHARTER DO NOT BEAR ON THE MEANING OF THE TEXT17
E. THE USE OF AN INDEFINITE ARTICLE SHOWS THAT GENERAL METROPOLITAN ELECTION IS A GENERIC TERM17
F. METROPOLITAN CHARTER § 18.06 CONTROLS REDISTRICTING, NOT WHEN ELECTIONS ARE HELD18

PUBLIC INTEREST, AND THEREFORE, IT WOULD BE UNREASONABLE TO CONSTRUE THE CHARTER	
PROVISION TO REQUIRE IT	20
H. THE CIRCUIT COURT MADE THE SAME INTERPRETATION IN 2016	21
I. THE ATTORNEY GENERAL'S INTERPRETATIONS OF THE PHRASE "GENERAL ELECTION" IN STATE LAW ARE CONSISTENT WITH THE TRIAL COURT'S RULING	22
J. THE 2007 AMENDMENT OF CHARTER § 15.03 DID NOT CHANGE THE SUPREME COURT'S INTERPRETATION OF "GENERAL METROPOLITAN ELECTION"	22
K. THE METROPOLITAN CHARTER DOES NOT PROHIBIT FILLING A VACANCY AT A STATE PRIMARY	24
III. THE ALTERNATIVE, IF THIS COURT HOLDS THAT THE DEFINITION OF GENERAL METROPOLITAN ELECTION IN SECTION 15.03 OF THE METROPOLITAN CHARTER IS LIMITED TO THE ELECTION FOR MAYOR/VICE-MAYOR/COUNCIL EVERY FOUR YEARS, THE COURT SHOULD ONLY GRANT PROSPECTIVE DECLARATORY RELIEF AND ALLOW THE ELECTION TO GO FORWARD ON AUGUST 2, 2018.	26
CONCLUSION	27
CERTIFICATE OF SERVICE	28
APPENDIX	29

{N0197718.1} ii

TABLE OF AUTHORITIES

CASES

Am. Bus Ass'n v. Slater, 231 F.3d 1 (D.C. Cir. 2000)
Amos v. Metro, Gov't of Nashville and Davidson Cnty., 259 S.W.3d 705 (Tenn. 2008)
Atl. Cleaners & Dyers v. United States, 286 U.S. 427 (1932)
Brooks v. Zabka, 168 Colo. 265, 450 P.2d 653 (1969)
Covington Pike Toyota, Inc. v. Cardwell, 829 S.W.2d 132 (Tenn. 1992) 9
Envtl. Def. v. Duke Energy Corp., 549 U.S. 561 (2007)
Gay v. City of Somerville, 878 S.W.2d 124 (Tenn. Ct. App. 1994)
Graham v. Caples, 325 S.W.3d 578 (Tenn. 2010)
Hall v. State, 137 S.W. 500 (Tenn. 1911)20
Hamilton v. Metro. Gov't of Nashville, 2016 WL 6248026 (Tenn. Ct. App. Oct. 25, 2016) 22
Hardy v. Tournament Players Club at Southwind, Inc., 513 S.W.3d 427 (Tenn. 2017)23, 24
Jordan v. Knox County, 213 S.W.3d 751 (Tenn. 2007)
Laborers' Local 265 Pension Fund v. iShares Trust, 769 F.3d 399 (6th Cir. 2014)25
Lee Med., Inc. v. Beecher, 312 S.W.3d 515 (Tenn. 2010)
McFarland v. Pemberton, 530 S.W.3d 76 (Tenn. 2017)
Nashville Mobilphone Co., Inc. v. Atkins, 536 S.W.2d 335 (Tenn. 1976) 9

Renteria-Villegas v. Metro. Gov't of Nashville & Davidson Cnty., 382 S.W.3d 318 (Tenn. 2012)
State ex rel. Wise v. Judd, 655 S.W.2d 952 (Tenn. 1983)
State v. Thompson, 43 S.W.3d 516 (Tenn. Crim. App. 2000)
Tennessean v. Metro. Gov't of Nashville, 485 S.W.3d 857 (Tenn. 2016)
Town of Linden v. Garcia, 2001 WL 856596 (Tenn. Ct. App. July 31, 2001)
Waters v. Farr, 291 S.W.3d 873 (Tenn. 2009)
Womack v. Corr. Corp. of Am., 448 S.W.3d 362, 373 (Tenn. 2014)
STATUTES
1972 Tenn. Pub. Act c. 740, § 1
1980 Tenn. Pub. Act c. 649, § 2
Tenn. Code Ann. § 2-1-104
Tenn. Code Ann. § 2-4-102
Tenn. Code Ann. § 2-5-208
Tenn. Code Ann. § 2-11-2029
Tenn. Code Ann. § 2-14-101
Tenn. Code Ann. § 2-14-102
Tenn. Code Ann. § 2-14-103

OTHER

Metropolitan Charter § 3.02	20
Metropolitan Charter § 5.05	2
Metropolitan Charter § 15.01	3, 10
Metropolitan Charter § 15.03	16, 21, 23
Metropolitan Charter § 18.06	18
Metropolitan Charter § 18.07	17
Metropolitan Charter § 19.01	10
Tenn. Op. Att'y Gen. No. 82 (Apr. 21, 1982)	22
Tenn. Op. Att'y Gen. No. 98 (Aug. 27, 1998)	22
Tenn, Op. Att'v Gen. No. 03 (Sept. 8, 2003)	2.2.

QUESTION PRESENTED

A general election is any election in which all registered voters in the city would be eligible to participate, except for referenda and primary elections. The August 2, 2018 election will be a general election for metropolitan offices, including Register of Deeds, Sheriff, Trustee, Juvenile Court Clerk, Circuit Court Clerk, County Clerk, and Criminal Court Clerk. The Supreme Court ruled that a 1982 election of this type constituted a general metropolitan election when interpreting Metropolitan Charter § 19.01.

Did the Trial Court¹ err in finding that August 2, 2018 is a general metropolitan election as that term is used in § 15.03 of the Metropolitan Charter?

The Honorable Claudia Bonnyman, Chancellor, Part I, Davidson County, Tennessee shall be referred to as "the Trial Court." The technical record shall be cited to as "T.R. ____." The supplemental technical record filed with this Court on April 2, 2018 shall be cited to as "Supp. T.R. ____."

STATEMENT OF THE FACTS

Nashville Mayor Megan Barry resigned on March 6, 2018. Metropolitan Charter § 5.05 states that:

In the event the office of mayor becomes vacant, the vice mayor shall serve as mayor and be compensated as such until the vacancy is filled at a special election or at a general election, as provided in section 15.03 of this Charter.

(T.R. 100). The Metropolitan Clerk immediately sent a letter to the Davidson County Election Commission informing them of the need to fill the vacancy in the office of mayor. (T.R. 42).

Metropolitan Charter § 15.03 provides that special elections shall be held only in limited circumstances – when a "general metropolitan election" is not already scheduled within the next twelve months:²

There shall be held a special metropolitan election to fill a vacancy for the unexpired term in the office of mayor and in the office of district council member whenever such vacancy shall exist more than twelve (12) months prior to the date of the next general metropolitan election.

(T.R.103).

The Election Commission met on March 9, 2018. (T.R. 90). The Commission was advised by their attorney that the phrase "general metropolitan election" had been interpreted in the past to mean any election where metropolitan offices were on the ballot for their general election (as opposed to a primary). This advice was based on this Court's ruling in *State ex rel.* Wise v. Judd, 655 S.W.2d 952, 953 (Tenn. 1983), where the Tennessee Supreme Court interpreted the phrase "general election" in Metropolitan Charter § 19.01 to mean general metropolitan election, and affirmed Chancellor Irvin Kilcrease's treatment of two elections involving metropolitan offices (not just the every-four-year election) as metropolitan general

The county election commission is the entity tasked with setting special elections. TENN. CODE ANN. § 2-14-103.

elections. The advice was also based on a recent trial court level decision by Judge Amanda McClendon, interpreting the phrase "general metropolitan election" in § 15.03 of the Charter: "I think I have to side with Chancellor Kilcrease and follow his rationale, which is that a general election is one in which Metro has an office on the ballot for general election, and it does not – it's not limited to mayor, vice mayor, and the 35 council representatives and the 5 at large." (T.R. 85; Supp. T.R. ____, Circuit Court Bench Ruling, p. 8).

The May 1, 2018 election will be a primary for metropolitan offices, and the August 2, 2018 election will be a general election for metropolitan offices. (T.R. 87-89). The attorney for the Election Commission advised the Commission that the vacancy would not exist more than twelve months prior to the date of the August 2, 2018 election, which met the definition of "general metropolitan election" for the reasons described above. (T.R. 90). A special election was not authorized under these circumstances, and therefore the mayoral vacancy should be filled at the August 2 election, pursuant to Metropolitan Charter § 5.05.

The Election Commission was also advised that the State Election Coordinator concurred in this advice. (T.R. 90).

Petitioner, through his attorney, appeared at the March 9 meeting and argued that Metropolitan Charter § 15.01,³ defines "metropolitan general election" to mean *only* the election held every four years where the mayor, vice-mayor, and all councilmembers are elected. (T.R.

{N0197648.1}

3

Metropolitan Charter § 15.01 states: "For the purpose of electing a mayor, vice-mayor, five (5) councilmen-at-large and thirty-five (35) district councilmen, there shall be held on the first Thursday in April, 1966, and on the first Thursday in August of 1971, and each four (4) years thereafter, a general metropolitan election."

123). By this interpretation, the last general metropolitan election was in 2015 and the next will not be until 2019.⁴

Petitioner therefore argued that state law governing special elections applies. However, state law calls for special elections in strictly limited circumstances. Special elections are <u>only</u> held when a vacancy will not be filled at a general election:

Special elections shall be held when a vacancy in any office is <u>required</u> to be filled by election at other times than those fixed for general elections.

Tenn. Code Ann. § 2-14-101 (emphasis added).

If, and only if, a special election is required, state law provides that it be held "not less than seventy-five (75) days nor more than eighty (80) days after the officer or body charged with calling the election receives notice of the facts requiring the call." Tenn. Code Ann. § 2-14-102(a). The date may be adjusted to coincide with a primary or general election that is already scheduled within thirty days. Tenn. Code Ann. § 2-14-102(b)(1). Petitioner insisted that this special election be set for a date between May 21 and May 26, 2018 (based on the 75-80 day parameter), or adjusted to coincide with the already scheduled May 1, 2018 election (where primaries for several metropolitan offices will appear on the ballot). (T.R. 125).

After hearing these arguments and extensive deliberation on the record, the Election Commission determined that the August 2, 2018 election (where several metropolitan offices will appear on the ballot for their general election) meets the definition of general metropolitan election, and that a special election therefore was not authorized. The Commission set the election to fill the mayoral vacancy at the August 2, 2018 general election (3-2 vote). (T.R. 90).

This vote was consistent with their decision, involving the same Charter provisions, made a few weeks earlier. At its February 2, 2018, meeting, the Election Commission voted

{N0197648.1}

4

⁴ Petitioner asserts that "general metropolitan election" includes only the first Thursday in August 1971, 1975, 1979, 1983, 1987, 1991, 1995, 1999, 2003, 2007, 2011, 2015, and 2019.

unanimously to fill the vacancy in the District 1 Council seat at the August 2, 2018 general election. (T.R. 121).⁵

The March 9 decision by the Election Commission was also consistent with its past decisions to set elections to fill vacancies occurring since the 2007 charter amendment:

- Councilman Loniel Greene. He resigned January 29, 2016, creating a vacancy in Council District 1. The next general metropolitan election after the resignation was to be held six months later, on August 4, 2016. The August 2016 ballot included an election for a metropolitan office (Metro Property Assessor). Because the vacancy would exist less than twelve months prior to the next general metropolitan election, a special election was not held. The vacancy was filled at the next general metropolitan election, on August 4, 2016. (T.R. 89).
- Councilman Keith Durbin. He resigned effective January 5, 2009, creating a vacancy in Council District 18. The next general metropolitan election after the resignation was not until 1 ½ years later, on August 5, 2010. Because the vacancy would have existed more than twelve months prior to the next general metropolitan election, a special election was held on March 26, 2009 and a runoff election on April 30, 2009. *Id.*
- Councilman Darren Jernigan. He resigned in January 2014, creating a vacancy in Council District 11. The next general metropolitan election after the resignation was August 7, 2014. The August 7, 2014 ballot contained elections for general sessions judges, the juvenile court judge, sheriff, county clerk and additional offices. Because the vacancy would exist less than twelve months prior to the next general metropolitan election, a special election was not held. The vacancy was filled at the next general metropolitan election, on August 7, 2014. *Id*.

Although T.R. 121 indicates that he Second Declaration of Jeff Roberts was filed with the Trial Court on March 14, 2018, it appears to be missing from the technical record. Metro intends to supplement the technical record to include this Declaration.

STATEMENT OF THE CASE

Petitioner filed a Petition for Writ of Certiorari and Writ of Mandamus on March 12, 2018. (T.R. 1). The same day, he filed a Motion for Extraordinary Relief and Expedited Hearing. (T.R. 14). The Trial Court immediately granted the motion for an expedited hearing. (T.R. 44). The hearing was set for on 1:30 p.m. on March 14. *Id*.

On March 13, Respondents Election Commission and the Metropolitan Government (hereinafter "Election Commission" or "Commission") filed a Motion to Dismiss. (T.R. 74).

Also on March 13, a second lawsuit on the same issues was filed by Plaintiff David Hiland. This lawsuit was filed as a Complaint for Declaratory and Injunctive Relief and Petition for Writ of Certiorari and/or Mandamus. *Id.* The same day, it was transferred to Chancellor Bonnyman's court.

At a conference call held on the morning of March 14, Mr. Hiland agreed that the ruling in the Petitioner's case would be dispositive of his lawsuit, because the issues of law were identical. (T.R. 114). The parties were in agreement that Mr. Hiland would participate in the 1:30 p.m. hearing. *Id.* Later that morning, the Election Commission filed a Motion to Dismiss and Response to Motion for Injunctive Relief in response to the Hiland case. (T.R. 117). The parties had also agreed that the Election Commission's Motions to Dismiss would serve as the responses to the requests for injunctive relief sought by both parties. (T.R. 115).

At the 1:30 p.m. hearing on March 14, the Trial Court heard extensive arguments from both Petitioners and the Commission. The Trial Court denied the requested injunctive relief and dismissed the cases, finding that:

• The parties agreed that this ruling would serve as the final ruling on the merits, pursuant to Tennessee Rule of Civil Procedure 65.04(7).

• This case require the Court to determine whether there is a "general metropolitan election" scheduled within the next twelve months. Pursuant to Metropolitan Charter § 15.03:

There shall be held a special metropolitan election to fill a vacancy for the unexpired term in the office of mayor and in the office of district council member whenever such vacancy shall exist more than twelve (12) months prior to the date of the next general metropolitan election.

If there is not a "general metropolitan election" scheduled within this time period, a special election must be held.

- A general election is any election in which all registered voters in the city would be eligible to participate except for referenda and primary elections. Op. ATTY. GEN. 82-223.
- A general metropolitan election includes elections where metropolitan government offices are on the ballot and where all registered voters may vote (as opposed to a primary). The definition of general metropolitan election is not limited to the election every four years where the mayor and councilmembers are elected. See State ex rel. Wise v. Judd, 655 S.W.2d 952, 953 (Tenn. 1983), including Chancellor Kilcrease's Order, State ex rel. Hamilton v. Metro. Gov't of Nashville, Judge McClendon Order, (2/26/26).
- Given this definition, the Court finds that there is a general metropolitan election scheduled within 12 months after the March 6, 2018 vacancy in the office of mayor, and, therefore, no special election is required. The August 2, 2018 election, a general election where several metropolitan government offices appear on the ballot, is a metropolitan general election.
- Accordingly, the Election Commission did not err in setting the mayoral election for August 2, 2018.

(T.R. 147-148). The transcript of the Trial Court's bench ruling was incorporated into its Order.

The Trial Court's bench ruling elaborates on the fact that there is no language in the Metropolitan Charter limiting the definition of "general metropolitan election" to the election held every four years where the mayor, vice mayor and councilmembers are elected. (T.R. 175).

Petitioner filed a Notice of Appeal and a motion asking this Court to "reach down" and take this case on March 15, 2018. (T.R. 143). Petitioner Hiland has not joined in the appeal.

(N0197648.1) 7

The Chancellor's final order was entered on March 16, 2018. (T.R. 147). This Court granted the "reach down" motion on March 22, 2018. (T.R. 189).

{N0197648.1}

8

ARGUMENT

I. STANDARD OF REVIEW.

The interpretation of the Metropolitan Charter is a question of law. *Amos v. Metro, Gov't of Nashville and Davidson Cnty.*, 259 S.W.3d 705, 710 (Tenn. 2008). However, the Election Commission was not making new law (it was not acting legislatively). It was applying the facts to its interpretation of the law, which is a quasi-judicial function. *See McFarland v. Pemberton*, 530 S.W.3d 76, 91-105 (Tenn. 2017).

The Election Commission's interpretation of a Charter provision that it is charged with administering and enforcing is entitled to great weight in determining legislative intent. *See Nashville Mobilphone Co., Inc. v. Atkins,* 536 S.W.2d 335, 340 (Tenn. 1976). Its interpretation will be upheld unless the interpretation is inconsistent with the terms of the law. *Gay v. City of Somerville,* 878 S.W.2d 124, 127 (Tenn. Ct. App. 1994); *see also, Covington Pike Toyota, Inc. v. Cardwell,* 829 S.W.2d 132, 134 (Tenn. 1992). These principles of deference also apply to the state election coordinator. *McFarland v. Pemberton,* 530 S.W.3d at 92 ("The Coordinator is also required to '[a]uthoritatively interpret the election laws for all persons administering them,' *id.* § 2-11-202(a)(4)...").

II. THE TRIAL COURT CORRECTLY INTERPRETED THE METROPOLITAN CHARTER TO DETERMINE THAT A GENERAL METROPOLITAN ELECTION IS A GENERAL ELECTION FOR METROPOLITAN OFFICES.

The Trial Court's ruling was based on the Supreme Court's decision in *Wise v. Judd*, the rules of statutory interpretation and plain language of the Metropolitan Charter, the Circuit Court decision in *Hamilton v. DCEC*, and the Attorney General's interpretations of the phrase "general election."

A. WISE V. JUDD HELD THAT THE CHARTER'S USE OF THE PHRASE "GENERAL ELECTION" MEANT A "GENERAL METROPOLITAN ELECTION."

The Trial Court relied upon this Court's 1983 decision, *State ex rel. Wise v. Judd*, 655 S.W.2d 952, 953 (Tenn. 1983). The *Wise v. Judd* Court interpreted Metropolitan Charter § 19.01's use of the phrase "general election." The question for the court was how many signatures were needed to petition for a charter amendment – and § 19.01 requires 10% of the number who voted in the preceding "general election." The Court interpreted the phrase "general election" in Metro Charter § 19.01⁶ to mean a "metropolitan general election," as described in § 15.01, where metropolitan offices are on the ballot; and found that both August 1979 and August 1982 were metropolitan general elections:

The Metropolitan charter, § 19.01, requires that a petition for a referendum on a proposed amendment be signed by "ten (10) percent of the number of the registered voters of Nashville-Davidson County voting in the preceding general election."

The issue is whether this reference is to a preceding Metropolitan general election (regularly held in August) or the previous state general election, which occurred in November, 1982. If the August 1982 or August 1979 Metropolitan elections are meant, facially the petitions contain a sufficient number of signatures. If the reference is to the state general election held in November 1982 (to which no Metropolitan offices were subject), the number is insufficient.

The Chancellor held that since the subject involved is the amendment of the Metropolitan charter, the intent of the Charter Commissioners was to refer to the number of votes cast in a Metropolitan election rather than to the number in a state or national election. We agree. The charter, § 15.01, provides for Metropolitan general elections and refers to them as such. We think that the reference in § 19.01 under consideration here clearly is to municipal elections. The judgment of the Chancellor with respect to that question is affirmed.

(N0197648.1) 10

Metropolitan Charter § 19.01 states: "An amendment or amendments may be proposed (1) by the adoption of a resolution by the council ... or (2) upon petition filed with the metropolitan clerk, signed by ten (10) per cent of the number of the registered voters of Nashville-Davidson County voting in the preceding general election, the verification of the signatures to be made by the Davidson County Election Commission and certified to the metropolitan clerk. ..." (T.R. 107, emphasis added).

State ex rel. Wise v. Judd, 655 S.W.2d 952, 953 (Tenn. 1983) (emphasis added). The Court determined that the petition contained sufficient signatures based on this reasoning.

The Supreme Court affirmed Chancellor Kilcrease's decision in that case, which held that references in the Metropolitan Charter to "general elections" were the equivalent of "general metropolitan elections":

When read in the context of the entire Metropolitan Charter, logic and reason compel the conclusion that the drafters of the Metropolitan Charter, in setting a minimum number of voters needed to file a petition to amend a provision of the Metropolitan Charter, had in mind the preceding general metropolitan election. Section 15.01 of the Metropolitan Charter provides for general metropolitan elections and refers to such elections as general elections.

(T.R. 85; Supp. T.R. ____, Chancery Court Memorandum, p. 3, emphasis added).

His ruling determined that both the August 1979 and August 1982 elections constituted "general metropolitan elections":

The Court is persuaded to conclude that the preceding general election for purposes of § 19.01 of the Metropolitan Charter is the preceding general municipal election, and further holds that the most recent metropolitan general elections are the August, 1982 election and the August, 1979 election, respectively.

Id. The August 1979 election included the offices of mayor, vice-mayor and councilmembers, but the August 1982 election included several metropolitan offices on the ballot (but not the mayor, vice-mayor and council members). *Id.*

Applying *Wise v. Judd*, to this case, the Trial Court found that the August 2, 2018 election will include the general elections for the metropolitan offices of Register of Deeds, Sheriff, Trustee, Juvenile Court Clerk, Circuit Court Clerk, County Clerk, and Criminal Court Clerk, and is therefore a "general metropolitan election." Because there is a general metropolitan election within twelve months, there is no authority for holding a "special metropolitan election" earlier.

B. THERE IS NO BASIS FOR GIVING THE CHARTER A NARROW AND STRAINED READING.

The Trial Court determined that there was no basis to interpret the phrase "general metropolitan election" more narrowly than this Court did in *Wise v. Judd*.

The Metro Charter is interpreted using principles of statutory construction:

We are guided in our interpretation of the Charter by the principles of statutory construction. *Jordan v. Knox Cnty.*, 213 S.W.3d 751, 763 (Tenn.2007). We must give full effect to the intent and purpose of the drafters, *see Waldschmidt v. Reassure Am. Life Ins. Co.*, 271 S.W.3d 173, 176 (Tenn.2008), without unduly broadening or restricting the Charter. *Seals*, 301 S.W.3d at 242. We must look to the language of the Charter, and if the language is "clear and unambiguous, ... we must simply enforce it as written." *Waldschmidt*, 271 S.W.3d at 176. However, if the language is ambiguous, then we may refer to the broader statutory scheme, the history of the Charter, and other sources to discern its meaning.

Renteria-Villegas v. Metro. Gov't of Nashville & Davidson Cnty., 382 S.W.3d 318, 321 (Tenn. 2012).

Applying established rules of statutory construction, the Chancellor recognized that the phrase "general metropolitan election" is not defined in the Charter. When words in statutes are not defined, they must be given their ordinary and natural meaning. *State v. Thompson*, 43 S.W.3d 516, 525 (Tenn. Crim. App. 2000), citing *State v. Williams*, 690 S.W.2d 517, 529 (Tenn.1985).

Recognizing that the Attorney General has opined that a general election is any election in which all registered voters may vote, the Chancellor found that there was no basis in the text of the Charter for reading the phrase "general metropolitan election" to narrowly encompass only the election for mayor every four years:

And then from Tennessee opinion of the Attorney General, Number 82-223: The phrase next general election refers to any election in which all registered voters in the city would be eligible to participate except for referenda and primary elections. ...

(N0197648.1) 12

In reading the provisions of 15.01, the Court does not see a restrictive definition. The term is used -- the terms used are a general metropolitan election, such general election, the Metropolitan elections. There is no narrow definition for a general metropolitan election and the Court cannot find one. Instead, there are two cases that say otherwise on -- otherwise in terms of applying a broader definition to general metropolitan elections. And the Court also looks, of course, at Section 15.03 which also states -- which refers more to a special metropolitan election but does refer to the next general metropolitan election. This Court does not see language or terminology in 15.03 which would narrow the definition of next metropolitan election to a specific year. And the council could have done that and -- or the referendum could have done that, and that was not -- that did not occur. And the Court does not find language narrowing or referring to a narrow definition of general metropolitan election. Instead, it appears to be a broad term, and - and, therefore, I'm going back then, having found that it's broad terminology and defining the general metropolitan election broadly, or more broadly certainly than the plaintiffs – than the petitioners use. The second issue is given how that term, general metropolitan election, is used in the Metro Charter, is there a general metropolitan election scheduled within 12 months after the March 6, 2018 vacancy in the office of mayor or must there be a special election? And the Court finds here that the August 2nd, 2018 election falls within the definition of a general metropolitan election. It is an election in which all persons can vote regardless of party, and in which -- so it is a general election and it is an election in which Metropolitan offices will be filled.

(T.R. 168-176).

Like the Trial Court, the Court of Appeals has declined to narrowly construe an undefined charter term involving elections. *Town of Linden v. Garcia*, No. M2000-01776-COA-R3CV, 2001 WL 856596, at *2 (Tenn. Ct. App. July 31, 2001). In *Town of Linden*, the Town brought a declaratory judgment action requesting an interpretation of the phrase "next regular election" contained in its charter.⁷ The question was whether to fill a vacancy in the position of city alderman on the next regularly scheduled election (August 3, 2000), or at the next regular municipal election (December 1, 2001).

The Linden charter read: "[A]nd provided, that in event of a vacancy in the office of Mayor or Alderman, said Board shall have full power to appoint and elect a successor or successors thereto, who shall hold office until the next regular election and until their successors are duly elected and qualified." (Emphasis added).

The Court of Appeals recognized that there was no definition of the phrase "next regular election." The Linden charter merely referred to the election where the aldermen were ordinarily elected as "an election." Since the plain language of the charter did not limit or narrow the phrase "next regular election" to municipal elections, the *Linden* Court ruled:

There is no definition of "next regular election" in this Act, and the city election is merely referred to as 'an election.' No other information relevant to conducting elections is contained in this Act. Thus, we must rely on the plain language of this Act, which in no way limits the phrase to mean 'the next regular municipal election for the town of Linden.' It appears that the use of the word 'regular' here is for the purpose of specifying that such election should not be held during a primary and that a special election need not be called. However, "next regular election" has no qualifying language to suggest that the Legislature intended to refer to only a town of Linden, municipal election.

The Tennessee Code also provides further guidance for conducting elections since "[a]ll elections for public office, for candidacy for public office, and on questions submitted to the people shall be conducted under this title." Tenn. Code Ann. § 2-1-103 (1994). Several definitions contained therein are relevant to our determination:

"Election" means a general election for which membership in a political party in order to participate therein is not required;

"Primary election" means an election held for a political party for the purpose of allowing members of that party to select a nominee or nominees to appear on the general election ballot

"Regular August election" means the election held on the first Thursday in August of every even-numbered year;

"Regular November election" means the election held on the first Tuesday after the first Monday in November in every even-numbered year.

Tenn. Code Ann. § 2-1-104(a)(7)(19)(24) & (25) (1994). The Code also contains an entire chapter on "special elections," which are to be held "when a vacancy in any office is required to be filled by election at other times than those fixed for general elections." Tenn. Code Ann. § 2-14-101(1994); see generally Tenn. Code Ann. § 2-14-101 to 204.

Therefore, in accordance with the principals of statutory construction and the plain language of the Act, we find that "next regular election" in this case refers to

any next regularly scheduled state, city or county election to be held in the town of Linden and includes the August 3, 2000 election at issue.

Town of Linden v. Garcia at *2–3.

Last year, this Court similarly declined to narrow the definition of a term when there was no textual basis for doing so:

Mr. McFarland claims that he could not have been "aggrieved" until *after* he was defeated in the election by Mr. Pemberton. Thus, he was not an aggrieved party and could not have sought judicial review of the Election Commission's decision under section 27-9-101.

This question requires us to construe section 27-9-101. As we have noted, the role of this Court in statutory interpretation is "to assign a statute the full effect of the legislative intent without restricting or expanding the intended scope of the statute." Metro. Gov't of Nashville, 477 S.W.3d at 756 (citing Lee Med., Inc. v. Beecher, 312 S.W.3d 515, 526 (Tenn. 2010), and Larsen–Ball v. Ball, 301 S.W.3d 228, 232 (Tenn. 2010)). In doing so, we give the words of the statute "their natural and ordinary meaning in the context in which they appear and in light of the statute's general purpose." Id. (quoting Mills v. Fulmarque, Inc., 360 S.W.3d 362, 368 (Tenn. 2012)). ...

On appeal, the *Metro Gov't* Court noted that "Section 101 refers to 'anyone,' " and added that the Court was not "aware of any ... authority limiting the definition of the term 'anyone,' as that word is used in Section 101, to exclude Metro as a potential petitioner." *Id.* at 757. The Court stated: "Section 101 '[e]xtend[s] the authority ... to seek judicial review [of boards of zoning appeals decisions] to all persons who are 'aggrieved' [and] reflects an intention to ease the strict application of the customary standing principles.' "*Id.* at 758 (quoting *City of Brentwood*, 149 S.W.3d at 57); *see also Roten*, 2009 WL 2632778, at *3 (noting that section 27-9-101 should be interpreted broadly). On this basis, the *Metro Gov't* Court held that Metro fell within the scope of the phrase "anyone who may be aggrieved by any final order or judgment of any board or commission functioning under the laws of this state" in section 27-9-101. *Id.* at 757-58.

As in *Metro Gov't*, we are not aware of any authority limiting the definition of the term "anyone" as used in section 27-9-101 to exclude Mr. McFarland. *Id.* at 757. It is undisputed that Mr. McFarland had notice of the Election Commission hearing on Mr. Pemberton's residency, and he is not excluded on the basis that he chose not to participate in it.

McFarland v. Pemberton at 106-107 (emphasis added).

If the drafters of the Charter intended to legislate the policy Petitioner now is seeking to impose, it would have been simple enough – they could have repeated the words "unexpired term" when setting forth the timetable for when a vacancy requires a special election. However, instead of using the words "end of the unexpired term," they used the words "next general metropolitan election." This choice is significant.

Petitioner is not just asking the Court to adopt a narrow meaning of the term "general metropolitan election." Petitioner is asking the Court to define "general metropolitan election" so as to *exclude* the general elections for Metropolitan Nashville Register of Deeds, Trustee, Sheriff, Juvenile Court Clerk, Circuit Court Clerk, County Clerk, and Criminal Court Clerk. This is not simply a narrow interpretation – this is contrary to the plain meaning of the language of the charter.

C. The phrase "general metropolitan election" is not superfluous – it is meaningful.

Petitioner's argument limiting the definition of "general metropolitan election" to the election held every four years for mayor is not only unwarranted, it is contrary to the text of the Charter itself. He argues that a "general metropolitan election" occurs only every four years, at the beginning and end of the mayor's term. If that interpretation were correct, §15.03 would state only that a special election was required "whenever such vacancy shall exist more than twelve (12) months."

Instead, § 15.03 relates the vacancy to the next general election where metropolitan offices will be on the ballot. It clearly provides: "whenever such vacancy shall exist more than twelve (12) months prior to the date of the next general metropolitan election." (emphasis added).

Courts have the duty to avoid construing a statute in such a way that would render any part of it superfluous or insignificant. Womack v. Corr. Corp. of Am., 448 S.W.3d 362, 373

(Tenn. 2014). To read out the relationship of the vacancy to an upcoming election would render that phrase superfluous.

D. THE CAPTIONS IN THE METROPOLITAN CHARTER DO NOT BEAR ON THE MEANING OF THE TEXT.

Petitioner's Brief at page 13 relies on the caption stating "When general metropolitan elections held" as providing evidence of the provision's intent. But the Metropolitan Charter expressly states that titles are <u>not</u> part of the charter and do not have any bearing on the meaning of the Charter:

Titles and subtitles not part of Charter. It is hereby expressly declared and recognized that the titles and subtitles appearing before the articles, chapters and sections of this Charter are not part hereof and are not intended to determine or to restrict the meaning of its provisions. No substantive provision of this Charter shall be construed to be unintended or ineffective because the same has not been suggested or indicated by a title or subtitle. Titles and subtitles have been placed in this Charter merely for the convenience of those who examine or index its provisions.

Metropolitan Charter § 18.07 (certified copy in Appendix, emphasis added).

E. THE USE OF AN INDEFINITE ARTICLE SHOWS THAT GENERAL METROPOLITAN ELECTION IS A GENERIC TERM.

In § 15.03, the election where the mayor is elected every four years is called "a general metropolitan election," not "the metropolitan election." This use of an indefinite article indicates that it is referring to a generic term, not a specific term. *Am. Bus Ass'n v. Slater*, 231 F.3d 1, 4–5 (D.C. Cir. 2000) ("Indeed, '[i]t is a rule of law well established that the definite article 'the' particularizes the subject which it precedes. It is a word of limitation as opposed to the indefinite or generalizing force of 'a' or 'an.' *Brooks v. Zabka*, 168 Colo. 265, 450 P.2d 653, 655 (1969) (en banc); *see also* Black's Law Dictionary 1477 (6th ed. 1990) ("In construing statute, definite article 'the' particularizes the subject which it precedes and is word of limitation as opposed to indefinite or generalizing force 'a' or 'an'.')").

F. METROPOLITAN CHARTER § 18.06 CONTROLS REDISTRICTING, NOT WHEN ELECTIONS ARE HELD.

Petitioner argues in his Brief at page 23 that the Chancellor's interpretation is absurd, relying on a reference to general metropolitan elections in Metropolitan Charter § 18.06, which governs redistricting, not mayoral elections.⁸

To the extent that there are conflicting provisions in a statute that create an apparent ambiguity, the court's goal is to construe the statute "in a way that avoids conflict and facilitates the harmonious operation of the law." *Lee Med., Inc. v. Beecher*, 312 S.W.3d 515, 527 (Tenn.2010). The general does not control the specific – indeed, the specific controls the general. *Graham v. Caples*, 325 S.W.3d 578, 582 (Tenn. 2010) ("Where a conflict is presented between two statutes, a more specific statutory provision takes precedence over a more general provision."); *see also, Tennessean v. Metro. Gov't of Nashville*, 485 S.W.3d 857, 872 (Tenn. 2016).

The United States Supreme Court has held that there is nothing unusual about an undefined term being used differently within a statute – the court's duty is to read the term in the context in which it is used:

Petitioner has failed to factually support his argument based on § 18.06. Metropolitan Charter § 18.06, if it is pertinent at all, is tied to: first, the decennial United States Census; second, the publication date of those portions of the census showing the population of Nashville in certain specific districts; third, the date of the recommendations of the Metropolitan Planning Commission about whether redistricting of councilmanic districts is necessary; fourth, the passage of a redistricting plan by the Metropolitan council; and fifth, the approval of the mayor of the redistricting plan. Once all those events occur, § 18.06 of the Metropolitan Charter provides that "redistricting shall be accomplished and district councilmen shall be elected accordingly at the next general metropolitan election."

Petitioner claims that redistricted races occurred in 1982 following the census for 1980 and in 2002 following the 2000 census. From this, petitioner concludes that something was amiss without considering all the other triggering dates that had to occur before redistricted races would be scheduled. He has failed to supply any factual support for these triggering dates.

In addition, this argument was never made to the Trial Court, and thus has been waived. *Waters* v. Farr, 291 S.W.3d 873, 918 (Tenn. 2009) ("One cardinal principle of appellate practice is that a party who fails to raise an issue in the trial court waives its right to raise that issue on appeal.")

It is not unusual for the same word to be used with different meanings in the same act, and there is no rule of statutory construction which precludes the courts from giving to the word the meaning which the Legislature intended it should have in each instance. Louisville & N. R. Co. v. Gaines (C. C.) 3 F. 266, 277, 278. Thus, for example, the meaning of the word 'Legislature,' used several times in the Federal Constitution, differs according to the connection in which it is employed, depending upon the character of the function which that body in each instance is called upon to exercise.

Atl. Cleaners & Dyers v. United States, 286 U.S. 427, 433–34 (1932) (emphasis added). Even a defined term can be read differently within the same statute, when context requires:

Although we presume that the same term has the same meaning when it occurs here and there in a single statute, the Court of Appeals mischaracterized that presumption as "effectively irrebuttable." 411 F.3d, at 550. We also understand that "[m]ost words have different shades of meaning and consequently may be variously construed, not only when they occur in different statutes, but when used more than once in the same statute or even in the same section." Atlantic Cleaners & Dyers, Inc. v. United States, 286 U.S. 427, 433, 52 S.Ct. 607, 76 L.Ed. 1204 (1932). Thus, the "natural presumption that identical words used in different parts of the same act are intended to have the same meaning ... is not rigid and readily yields whenever there is such variation in the connection in which the words are used as reasonably to warrant the conclusion that they were employed in different parts of the act with different intent." Ibid. A given term in the same statute may take on distinct characters from association with distinct statutory objects calling for different implementation strategies.

The point is the same even when the terms share a common statutory definition, if it is general enough, as we recognized in Robinson v. Shell Oil Co., 519 U.S. 337, 117 S.Ct. 843, 136 L.Ed.2d 808 (1997). There the question was whether the term "employees" in § 704(a) of Title VII of the Civil Rights Act of 1964 covered former employees. Title VII expressly defined the term "employee," 42 U.S.C. § 2000e(f), but the definition was "consistent with either current or past employment," 519 U.S., at 342, 117 S.Ct. 843, and we held that "each section" of Title VII "must be analyzed to determine whether the context gives the term a further meaning that would resolve the issue in dispute," id., at 343–344, 117 S.Ct. 843.

Envtl. Def. v. Duke Energy Corp., 549 U.S. 561, 574 (2007) (emphasis added).

Here, it is apparent that § 18.06 addresses the process for redistricting – it does not control when elections are held or attempt to define the phrase "general metropolitan election."

The obvious import of its reference to the next general metropolitan election is to state that when councilmembers are elected after the decennial census, they are elected according to the new boundaries. This reference does not support redefining the phrase "general metropolitan election" in § 15.01 or altering the four year terms of the councilmembers, which are set by Metropolitan Charter § 3.02 (certified copy in Appendix).

G. A MAY ELECTION WOULD BE PREJUDICIAL TO THE PUBLIC INTEREST, AND THEREFORE, IT WOULD BE UNREASONABLE TO CONSTRUE THE CHARTER PROVISION TO REQUIRE IT.

Statutes must be construed reasonably, to prevent absurdity, hardship, or injustice, and to favor public convenience. *Hall v. State*, 137 S.W. 500, 501 (Tenn. 1911). Further, "[i]t is the duty of the Court to place a construction on a statute that will not be prejudicial to the public interest." *Jordan v. Knox County*, 213 S.W.3d 751, 763 (Tenn. 2007).

Requiring a May election would seriously jeopardize the rights of Nashville voters. A May election would deprive voters of the normal evaluation period to carefully consider the qualifications of the mayoral candidates by significantly reducing the time they traditionally have to convey their message to the public.

Holding a May 1 election would disregard many of the important deadlines established in state statutes to ensure fair and equitable elections. (Response to Emergency Motion to Assume Jurisdiction, Exhibit F, Declaration of Jeff Roberts). The qualifying deadline for candidates, the withdrawal deadline for candidates, the deadline for voters to register to vote, and the deadline to mail absentee ballots to military voters for a May 1 election have all passed. *Id.* Early voting for the May 1 election is mandated to begin on April 11, 2018 – two days after oral argument in this case. *Id.*

A stand-alone election later in May would pose similar challenges to the voting public and the candidates as a result of the condensed timeline. In addition, having early voting for a late May election start just days after the May 1 election would be confusing to the public. *Id.* A stand-alone election in May would cause disruption and hardship for the public because normal activities at voting sites, such as libraries, community centers, and schools would be canceled to accommodate this unplanned election. *Id.*

Because holding a May election would be unreasonable, impractical and against the public interest, the Court should decline to construe the Charter to require such a result.

H. THE CIRCUIT COURT MADE THE SAME INTERPRETATION IN 2016.

This same interpretation of "general metropolitan election" in Metropolitan Charter § 15.03 was at issue in 2016, when a vacancy in Council District 1 was set to be filled at the next general election at which metropolitan offices were on the ballot. That case was ultimately dismissed on standing. However, the Circuit Court made an alternative finding that the Commission's interpretation of when to fill the vacancy was correct:

If the Court were to reach the merits, the Court would rule in favor of the Election Commission's decision to fill the vacant council seat on August 4, 2016, not at a special election in April 2016. Metro Charter §15.03 requires a special election when there is no general metropolitan election scheduled within the next twelve months. A general metropolitan election is one in which Metro has an office on the ballot for general election and is not limited to those elections where the mayor, vice-mayor, thirty-five council representatives and five at-large representatives are elected.

(T.R. 85; Supp. T.R. _____, Order Granting Motion to Dismiss, p. 1). On appeal, the Court of Appeals affirmed the dismissal of the case, based on standing. The interpretation of the charter

was pretermitted. *Hamilton v. Metro. Gov't of Nashville*, No. M2016-00446-COA-R3-CV, 2016 WL 6248026, *4 (Tenn. Ct. App. Oct. 25, 2016).

I. THE ATTORNEY GENERAL'S INTERPRETATIONS OF THE PHRASE "GENERAL ELECTION" IN STATE LAW ARE CONSISTENT WITH THE TRIAL COURT'S RULING.

State law⁹ defines the terms "election" and "primary election":

• "Election" means a general election for which membership in a political party in order to participate therein is not required;

TENN. CODE ANN. § 2-1-104 (7).

• "Primary election" means an election held for a political party for the purpose of allowing members of that party to select a nominee or nominees to appear on the general election ballot;

TENN. CODE ANN. § 2-1-104 (19).

The Attorney General has interpreted Tennessee's state election laws defining the term "general election":

In the context of a requirement to replace an interim appointee by an election, however, we think the term "general election" includes any election in which all registered voters in the city are eligible to participate.

TENN. OP. ATTY. GEN. No. 98-172 (Aug. 27, 1998), 1998 WL 661341 (attached).

The August 2, 2018 election for the Offices of Metropolitan Register of Deeds, Sheriff, Trustee, Public Defender, Juvenile Court Clerk, Circuit Court Clerk, County Clerk, and Criminal Court Clerk is an election where all registered voters in the city are eligible to participate (in other words, it is not a primary). The primary for these offices is being held on May 1, 2018.¹⁰

J. THE 2007 AMENDMENT OF CHARTER § 15.03 DID NOT CHANGE THE SUPREME COURT'S INTERPRETATION OF "GENERAL METROPOLITAN ELECTION".

Metropolitan Charter §15.04 states: "The general election laws of the state shall be applicable to all metropolitan elections, except as otherwise provided in this article." (T.R. 103).

The referendum on whether to approve certain taxes to pay for a transit proposal will also appear on the May 1 ballot. However, a referendum is not usually considered a "general election." TENN. ATTY. GEN. OP. 82-223 (1982 WL 177807); TENN. ATTY. GEN OP. 03-109 (2003 WL 22256610, *2).

The doctrine of legislative inaction was applied recently by this Court in *Hardy v. Tournament Players Club at Southwind, Inc.*, 513 S.W.3d 427 (Tenn. 2017). This judicial principle permits a presumption of legislative acquiescence in a prior judicial interpretation of a statute. *Id.* at 444. This principle is particularly persuasive where a law has been amended since the judicial interpretation, without changing the part that has been construed. *Id.*

Metropolitan Charter § 15.03 was amended in 2007 (albeit by referendum, rather than by legislative action) to change the offices for which a special election could be held. The amendment made no change to the construction of general metropolitan election, as interpreted in *Wise v. Judd*.

The pre-2007 version required a special Metro election only for the mayor, and provided for a special election if there was no general metropolitan election scheduled within 9 months:

There shall be held a special metropolitan election to fill a vacancy for the unexpired term in the office of mayor whenever such vacancy shall exist more than nine (9) months prior to the date of the next general metropolitan election.

(T.R. 110, emphasis added).

The current version of § 15.03 requires a special metropolitan election for the mayor and office of district council member, and provides for a special election only if there is no general metropolitan election scheduled within 12 months:

There shall be held a special metropolitan election to fill a vacancy for the unexpired term in the office of mayor and in the office of district council member whenever such vacancy shall exist more than twelve (12) month prior to the date of the next general metropolitan election.

(T.R.112, emphasis added).

Since this 2007 amendment made no change to the way "general metropolitan election" had been interpreted since 1983, it signals agreement to this Court's interpretation of "general metropolitan election" in *Wise v. Judd. See Hardy v. Tournament Players Club* at 444.

Petitioner relies heavily on the summary of the 2007 amendment (rather than the actual language of the amendment) to argue that the amendment requires a stand-alone special election. For instance, his Statement of the Issue for Review on page viii of his Brief points to the language of the summary, rather than to the actual amendment. But the full amendment in this case is six or seven times the length of the summary. (T.R. 126). The voters could see the full amendment was longer and could read its actual language, which was printed directly below the summary. *Id*.

The summary is a shorthand explanation mandated by state law and is required to be "brief." TENN. CODE ANN. § 2-5-208(f)(2). To override the nuances and additional language would be to ignore the full language of the amendment itself. By repeatedly quoting the summary in his Brief, instead of quoting the actual Charter language, Petitioner is treating the summary as if it constitutes the actual text. But the actual text is what this Court must interpret. Indeed, the actual text does not authorize a stand-alone special election when a general metropolitan election is already scheduled within 12 months.

K. THE METROPOLITAN CHARTER DOES NOT PROHIBIT FILLING A VACANCY AT A STATE PRIMARY.

Petitioner asserts that the Metropolitan Charter must be interpreted so that the vacancy in the office of mayor is not scheduled to coincide with a partisan race. The evidence cited by Petitioner for this interpretation is not the 1963 Metropolitan Charter itself, nor the 2007 Amendment, but rather a 2011 memorializing Resolution from Metro Council that opposed state legislation that would have changed the mayor's term to coincide with November partisan

presidential elections. (T.R. 127). This non-binding resolution is immaterial – it simply expressed the preference of the Metro Council forty-eight years after enactment of the Charter. See Laborers' Local 265 Pension Fund v. iShares Trust, 769 F.3d 399, 409 (6th Cir. 2014) ("[T]he post-enactment legislative history relied upon has little probative value because a post-enactment legislative body has no special insight regarding the intent of a past legislative body."). The Metropolitan Charter was adopted by the voters of Davidson County, and it contains no discussion of or prohibition on holding a metropolitan election at the same time as a partisan race.

Regardless, the August 2, 2018 election is <u>not</u> a partisan presidential election. It fills the metropolitan elected offices of Register of Deeds, Sheriff, Trustee, Juvenile Court Clerk, Circuit Court Clerk, County Clerk, and Criminal Court Clerk and is an election where all registered voters in the city are eligible to participate. It is not a primary for metropolitan offices. The partisan primary for these offices will be earlier – on May 1, 2018. Oddly, this is one of the dates that Petitioner insists must be used to fill the mayoral vacancy.

The harm that Metropolitan Charter § 15.03 actually seeks to prevent is the vice-mayor filling the office of mayor for over twelve months, without he or she being elected mayor. It is contrary to precedent and the natural and ordinary meaning of the words used in § 15.03 to suggest that a general election with metropolitan offices on the ballot is not a general metropolitan election. There is no evidence in the Charter that the goal of § 15.03 is to hold a hurried, duplicative general election when one is already scheduled within a year. The Court should not narrow and distort the undefined term general metropolitan election, in order to create that result.

III. IN THE ALTERNATIVE, IF THIS COURT HOLDS THAT THE DEFINITION OF GENERAL METROPOLITAN ELECTION IN SECTION 15.03 OF THE METROPOLITAN CHARTER IS LIMITED TO THE ELECTION FOR MAYOR/VICE-MAYOR/COUNCIL EVERY FOUR YEARS, THE COURT SHOULD ONLY GRANT PROSPECTIVE DECLARATORY RELIEF AND ALLOW THE ELECTION TO GO FORWARD ON AUGUST 2, 2018.

If this Court disagrees with the Election Commission's and Trial Court's interpretation of Metropolitan Charter § 15.03 and finds that a special election is necessary, TENN. CODE ANN. § 2-14-102(a) requires that it be held "not less than seventy-five (75) days nor more than eighty (80) days after the officer or body charged with calling the election receives notice of the facts requiring the call." The date may be adjusted by the Election Commission to coincide with a primary or general election that is already scheduled within thirty days. TENN. CODE ANN. § 2-14-102(b)(1).

Therefore, depending on when this Court rules, using the 75-80 day timeline and adjusting it appropriately by adding an additional 30 days would still allow an election on August 2, 2018, if the Court were to determine, under the unique circumstances presented in this case, that the date of its decision constitutes "notice of the facts requiring the call." Tenn. Code Ann. § 2-4-102(a). Granting only prospective declaratory relief would allow the residents of Davidson County to have a meaningful election, which as many voters eligible to vote as possible, as well as saving the additional cost of conducting another election. These were also obvious goals of the Tennessee General Assembly in enacting 1972 Tenn. Pub. Act c. 740, § 1, and then in amending it to allow the counties to save money by avoiding the cost of another election if a general election would occur within 30 days of the 75-80 day window. 1980 Tenn. Pub. Act c. 649, § 2. Assuming that Petitioner's desire to avoid a costly mayoral race states a claim under Tennessee law, the public good is more important than Petitioner's likely success as a candidate.

CONCLUSION

Under state law, a general election is any election in which all registered voters in the city

would be eligible to participate, except for referenda and primary elections. The August 2, 2018

election will be a general election for metropolitan offices, including Register of Deeds, Sheriff,

Trustee, Juvenile Court Clerk, Circuit Court Clerk, County Clerk, and Criminal Court Clerk.

The natural and ordinary meaning of "general metropolitan election" is a general election

for metropolitan offices. This is supported by the rules of statutory construction and this Court's

ruling in Wise v. Judd, as well as a series of Tennessee Attorney General opinions, a Circuit

Court decision, the longstanding practice of the Commission, and the opinion of the state

election coordinator. On this basis, the Trial Court did not err in its interpretation; and Election

Commission properly set the election to fill the vacancy in the office of mayor for August 2,

2018.

Even is the Election Commission and Trial Court erred, the Court should only grant the

Petitioner declaratory relief and allow the election to go forward on August 2, 2018.

Respectfully submitted,

THE DEPARTMENT OF LAW OF THE

METROPOLITAN GOVERNMENT OF

NASHVILLE AND DAVIDSON COUNTY

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been forwarded by agreement via email to Jamie R. Hollin, 511 Rosebank Avenue, Nashville, TN 37206 at j.hollin@me.com and Daniel A. Horwitz, 1803 Broadway, Suite #531, Nashville, TN 37203 at daniel.a.horwitz@gmail.com on this 4th day of April, 2018.

Catherine J. Pham

APPENDIX

{N0197723.1} 29

Sec. 3.02. - Terms; compensation; age and residence qualification.

Members of the council shall serve for a term of four (4) years and until their successors are elected and qualified; and shall be compensated at the rate of three hundred (\$300) dollars per month. No person shall be eligible to serve as councilman-at-large or district councilman unless he shall have attained the age of twenty-five (25) at the beginning of his term and unless he shall have been a resident of the area of the metropolitan government for a period of one (1) year and shall continue to reside therein during his period of service. No person shall be eligible to serve as district councilman unless he shall have been a resident of the district for which elected for a period of six (6) months and shall continue to reside therein during his period of service. Members of the council shall hold no other elective or appointive office in the metropolitan government or employment by said government, except as expressly provided in this Charter.

Editor's note—See Metropolitan Charter § 18.05 for changes in salary and compensation through the general pay plan.

CERTIFICATION

I, Elizabeth Waites, being the duly appointed Metropolitan Clerk of The Metropolitan Government of Nashville and Davidson County, do hereby certify that the foregoing is a true and exact copy of Section 3.02 of the Charter of The Metropolitan Government of Nashville and Davidson County, approved in referendum on June 28, 1962, and amended on October 21, 1965; November 8, 1966; August 5, 1971; November 7, 1972; November 5, 1974; November 6, 1976; November 7, 1978; November 4, 1980; August 4, 1983; November 4, 1986; March 8, 1988; August 1, 1991; September 5, 1991; November 3, 1992; November 8, 1994; November 5, 1996; August 7, 2003; November 7, 2006;

WITNESS MY HAND and the Seal of The Metropolitan Government of Nashville and Davidson County, Tennessee, this 3rd day of April, 2018.

Metropolitan Clerk

STATE OF TENNESSEE)
COUNTY OF DAVIDSON)

Sworn to and subscribed before me, by Elizabeth Waites this 3rd day of April, 2018.

Notary Public

My Commission expires: 03/08/2021

Sec. 18.07. - Titles and subtitles not part of Charter.

It is hereby expressly declared and recognized that the titles and subtitles appearing before the articles, chapters and sections of this Charter are not part hereof and are not intended to determine or to restrict the meaning of its provisions. No substantive provision of this Charter shall be construed to be unintended or ineffective because the same has not been suggested or indicated by a title or subtitle. Titles and subtitles have been placed in this Charter merely for the convenience of those who examine or index its provisions.

CERTIFICATION

I, Elizabeth Waites, being the duly appointed Metropolitan Clerk of The Metropolitan
Government of Nashville and Davidson County, do hereby certify that the foregoing is a true and
exact copy of Section 18.07 of the Charter of The Metropolitan Government of Nashville
and Davidson County, approved in referendum on June 28, 1962, and amended on
October 21, 1965; November 8, 1966; August 5, 1971; November 7, 1972; November 5, 1974;
November 6, 1976; November 7, 1978; November 4, 1980; August 4, 1983;
November 4, 1986; March 8, 1988; August 1, 1991; September 5, 1991; November 3, 1992;
November 8, 1994;. November 5, 1996; August 7, 2003; November 7, 2006;

WITNESS MY HAND and the Seal of The Metropolitan Government of Nashville and Davidson County, Tennessee, this 3rd day of April, 2018.

Metropolitan Clerk

STATE OF TENNESSEE)
)
COUNTY OF DAVIDSON)

Sworn to and subscribed before me, by Elizabeth Waites this 3rd day of April, 2018.

Notary Public

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