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FILED IN OFFICE
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February 25, 2010

COPY

Honorable Susan R. Sexton
Probate Court of Elbert County
Elbert County Government Complex
45 Forest Avenue
Elberton, Georgia 30635

Re: Petition for Special Election

Dear Judge Sexton:

Our law firm has been engaged to represent the Elbert County Board of Commissioners. We have been instructed to write to you regarding the Petition now pending before you from electors in the County. It is our understanding that the Petition seeks to amend or modify an Elbert County ordinance. You are vested with the authority to determine the validity of the Petition by Article IX, Section II, Paragraph I(b)(2) of the Georgia Constitution. I am writing because the Commissioners believe that the Petition is not legally valid and cannot be certified for the reasons outlined herein. Specifically, Article IX, Section II, Paragraph I(b)(2) of the Georgia Constitution provides that the petition for special election process is available to amend or repeal local acts. By definition and according to the case law enclosed with this letter, this process is not available to modify, amend, or repeal a local ordinance.

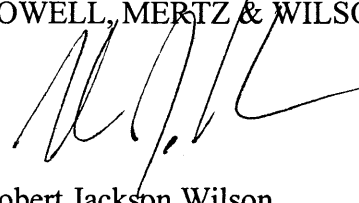
Enclosed for your review is a copy of Kemp v. City of Claxton, 269 Ga. 173 (1998). In that case, the Georgia Supreme Court considered a request for special election for the City of Claxton to overturn certain City Council actions. The Court held that the special election procedure in O.C.G.A. § 36-35-3 is available only to amend or repeal local acts like charters, not a local government ordinance. Since the language of Article IX, Section II, Paragraph I(b) of the Constitution is identical to the language of O.C.G.A. § 36-35-3, we respectfully submit that the same result is required for the Petition before you. Copies of the Supreme Court decision and the constitutional and statutory provisions cited above are enclosed for your review. We respectfully submit that the Petition for Special Election is not valid and should not proceed for the reasons outlined

herein. We appreciate your attention to these matters. If you have any questions or need any additional information, please do not hesitate to call me.

With best regards, I am

Very truly yours,

WEBB, TANNER,
POWELL, MERTZ & WILSON, LLP

A handwritten signature in black ink, appearing to read 'R. J. Wilson', written over the printed name.

Robert Jackson Wilson

RJW/ms

Enclosures

cc: Chairman Lyon and Members of the Board
Mr. Bob Thomas, County Administrator