



## UA ballot issue on trash thrown out

Voters can't repeal a contract, Ohio's high court rules

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The Ohio Supreme Court has thrown out an Upper Arlington citizen initiative that sought to reverse the City Council's decision to hire a private trash hauler.

The court ruled 6-0 yesterday that because Issue 52 on the Nov. 4 ballot sought to overturn a contract, not legislation, it "constituted an administrative action" and is "not the proper subject of initiative or referendum."

The court also said the Franklin County Board of Elections, which twice confirmed the issue's place on the ballot, after protests by the city, "abused its discretion and clearly disregarded applicable law."

Voters in Upper Arlington will still see the issue on the ballot, but votes on that issue will not be counted, said Ben Piscitelli, an elections board spokesman. Notices will be placed at the polls and in absentee ballots sent out from now on, he said.

Issue 52 supporters, who collected more than 1,350 signatures to put the issue on the ballot, said the city ignored a task force's recommendations when it disbanded the Solid-Waste Division.

City officials countered that costs for supplying the service have exceeded revenue in recent years and 18 months of analysis and community input showed privatization would save money.

The Ohio Municipal League filed a brief with the Supreme Court in support of the city, saying that allowing the vote would threaten cities' ability to make contracts.

Opponents have 10 days to file a motion for reconsideration, court spokesman Bret Crow said.

City Manager Virginia Barney and council President Don Leach said it would have cost the city \$8 million to re-create the Solid-Waste Division, which was disbanded in April and replaced by a private hauler, Texas-based Inland Service Corp.

In addition, the court's ruling saves the city from damages the city might have had to pay Inland for breach of contract, Barney and Leach said.

Issue 52 organizer Michael Schadek, a resident and a lawyer, previously said the city was trying to scare residents into voting against the issue. He said the old trash system could be returned within a month.

Issue 52 backers said Inland's standard of service is far below what city workers supplied. But city officials said that Inland now provides comparable service and complaint calls are similar to when city workers collected trash, recycling and yard waste.

Issue backers also accused the city of spending time and money to subvert residents' right to vote.

The city agreed to pay the Paul Werth public-relations firm up to \$15,000 to campaign against Issue 52. It also hired election lawyer Don McTigue for up to \$15,000 to help fight the issue in court.

Both John Mahoney of the Ohio Municipal League and Catherine Turcer of Ohio Citizen Action said such hires are not unusual. Turcer also called them "unfortunate."

"It's one thing to inform citizens of Upper Arlington that these are the consequences," she said. "It's very different to take a position and ram it down people's throats."

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