

## Trash system opponents will end their fight

*\* Ohio Supreme Court judges agree with city leaders that Issue 52 should not be in front of voters.*

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The man behind the fight to stop Upper Arlington from privatizing its solid-waste collections said the fight is finished.

The Ohio Supreme Court announced Thursday, Oct. 2, that Issue 52 should not be on the Nov. 4 ballot for Upper Arlington residents.

The initiative sought to end the city's solid-waste contract with Inland Services Corp. Residents opposing City Council's December 2007 decision gathered signatures to place the question before voters.

Resident and Issue 52 petition organizer Mike Schadek reiterated that there would be no motion to reconsider filed by petition organizers.

"Well, obviously we're extremely disappointed in the Ohio Supreme Court ruling," said Schadek. "But we're also extremely proud of the community involvement.

"It was truly an incredible experience to be involved with so many people in Upper Arlington."

The court ruled on several of the city administration's challenges, according to a written release. Those include:

\* Residents were attempting to reverse an administrative decision -- by City Manager Virginia Barney and backed by City Council. State law allows referendum questions relating to legislative decisions, not administrative;

\* On a related note, passage of Issue 52 would have been administrative in nature as it tried to capture voters' opinions. According to the court's ruling, "Moreover, insofar as the proposed ordinance included precatory language without legal effect that appeared to express the public opinion of the city's electors -- that the city residents "do not desire" privatization of trash collection services, "want" to continue the pre-existing trash-collection method, and "don't want" the city to enter into a contract with Inland Service Corp. - its enactment also would not constitute a proper legislative action.

\* The court did not address questions about the number of signatures on petitions, as that was made moot by the other decisions.

"From the beginning of this issue, the city has felt the initiative and its intent has been outside the purview of the initiative process," said Barney.

"The city is committed to conducting its business within the legal processes and parameters of the city's charter and state law. So when faced with an issue that pushes the city outside these boundaries, we take the necessary steps to protect the systems that are in place to allow for effective governance and exceptional service to our community."

One of the organizers, Vickie Kerman, said she thought residents put up a good fight, but this would be the end of the line.

"Thank you to all," she said in an e-mail. "Your support is what kept us going. We did the best we could!"

UA began utilizing the private trash collection service in April, with Barney signing a three-year contract with Inland.

The move was made to save residents' money, said City Council President Don Leach, while also maintaining a level of service and recycling that is expected in UA.

"Issue 52 could have set a bad precedent for how all cities across Ohio conduct their business," Barney added.

"This was why the Ohio Municipal League filed a brief in support of the city's position with the Ohio Supreme Court."

To see the complete opinion, visit the Web site, [sconet.state.oh.us/rod/docs/pdf/0/2008/2008-Ohio-5093.pdf](http://sconet.state.oh.us/rod/docs/pdf/0/2008/2008-Ohio-5093.pdf).

--with reports from Cliff Wiltshire