

*****MEDIA ALERT *****

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**INDIANA COURT OF APPEALS RULES IN FAVOR OF GUENTHER & CHAIRMAN
ELLIS IN PLAN COMMISSION CASE AGAINST CITY OF BLOOMINGTON**

BLOOMINGTON, IN --- Today the Indiana Court of Appeals issued a unanimous ruling in favor of Andrew Guenther & Chairman William Ellis in the case of *City of Bloomington et al., vs. Andrew Guenther et al.* Previously, Guenther & Ellis brought suit against the City of Bloomington, seeking to have Chairman Ellis' appointment of Guenther to the Plan Commission recognized legally after Mayor John Hamilton usurped the authority of Chairman Ellis when he illegally appointed Chris Cockerham instead. Chairman Ellis had utilized Indiana Code 36-1-8-10, which reads, in part: "*(d) Notwithstanding any other law, if the term of an appointed member of a board expires and the appointing authority does not make an appointment to fill the vacancy, both of the following apply: (1) The member may continue to serve on the board for only ninety (90) days after the expiration date of the member's term. (2) The county chair of the political party of the member whose term has expired shall make the appointment.*" Chairman Ellis subsequently used this law to also appoint Doug Horn to the Bloomington Public Transportation Corporation Board of Directors in late 2020.

Soon after the suit was filed in court, the City of Bloomington moved to dismiss the case, which was denied by the trial court. The City then filed an interlocutory appeal, asking the Court of Appeals to review the decision regarding the motion to dismiss. The 3-0 decision by the Court of Appeals clears the way for both parties in the case to proceed with discovery and then trial, putting this case one step closer to being resolved after being filed in June of 2020.

"We are very pleased by the decision made by the Court of Appeals today," said Chairman William Ellis on Tuesday. "It was clear that the Court understood our position, our standing, and our interpretation of Indiana Code. We will continue fighting for what we believe is the correct understanding of law to ensure that minority political parties everywhere, regardless of party, have their lawful, timely representation."

Andrew Guenther, would-be appointee to the Plan Commission, said that he is excited by this progress in the case. "I am encouraged by the Memorandum issued by the Court of Appeals today. It reinforces my belief in the integrity of our case against the City and Mayor Hamilton. Chris Cockerham was not a lawful appointee to the Plan Commission - neither was Nick Kappas. Mayor Hamilton must play by the rules and appoint qualified, legal members to all partisan commissions. Anything less is unacceptable.

"This is not a partisan lawsuit - it's a lawsuit about playing by the rules, ensuring rightful representation in local government, and the Mayor's decision to directly disregard the law. I am confident we will win in the end," Guenther added.

A trial has not yet been scheduled in the trial court. Special Judge Erik Allen of Greene County will preside.

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