

STATE OF MICHIGAN
COURT OF APPEALS

ANN ARBOR RESPONSIBLE ENERGY
COALITION,

Plaintiff-Appellant,

v

CITY OF ANN ARBOR CLERK and CITY OF
ANN ARBOR,

Defendants-Appellees.

UNPUBLISHED
September 02, 2026
3:27 PM

No. 382186
Washtenaw Circuit Court
LC No. 26-001618-CZ

Before: ACKERMAN, P.J., and SWARTZLE and LETICA, JJ.

PER CURIAM.

Plaintiff, Ann Arbor Responsible Energy Coalition (AAREC), appeals by right an August 25, 2026 order of the Washtenaw Circuit Court that denied its request for a writ of mandamus and granted summary disposition to defendants, the City of Ann Arbor Clerk (the Clerk) and the City of Ann Arbor. We affirm.

I. SUMMARY OF PROCEEDINGS

Ann Arbor for Public Power (A2P2) is a ballot committee formed to support passage of an amendment to the city charter, by way of initiatory petition, that would create a public power utility governance board to govern a city-owned electric utility. AAREC is a ballot committee formed to oppose the initiatory petition.

On June 22, 2026, A2P2 filed its initiatory petition with the Clerk. On August 4, 2026, the Clerk certified the initiatory petition for placement on the November 2026 ballot. Specifically, the Clerk certified the following:

On June 22, 2026, an initiatory petition for amendment of the Ann Arbor City Charter, to add a new Section 15.11 to create a municipal electric utility governed by the Ann Arbor Municipal Electric Board, was filed with the office of the City Clerk by Mr. Brian Geiringer of the Ann Arbor for Public Power Ballot Committee;

The filing included 614 petition sheets and approximately 5130 signatures, by estimate of City staff. On June 22, the count of registered voters in the City of Ann Arbor was 99,125 voters, requiring 4,957 signatures (5% of registered voters);

Two supplemental filings were received from the petitioner on July 21 (115 sheets) and July 27, 2026 (123 sheets) with an estimated number of additional signatures to be 886 on July 21 and 801 on July 27;

Pursuant to the Home Rule City Act, MCL 117.25 and Michigan Election law, the petition signatures were canvassed, and 5,383 signatures were determined to be valid and qualified on August 3, 2026;

The petition included the following ballot language:

Shall Chapter 15 of the Charter be amended to require the City to establish a municipal electric utility and governance structure therefore?

The petition is hereby certified for placement on the November 3, 2026 General Election ballot, having contained a sufficient number of signatures of qualified and registered electors of the City of Ann Arbor, in accordance with the provisions of PA 279 of 1909, as amended.

AAREC sued defendants. It sought a writ of mandamus ordering the Clerk to disregard the supplemental signatures that were filed on July 21, 2026, and July 27, 2026, and to canvass and certify the sufficiency or insufficiency of the initiatory petition solely on the signatures that were filed on June 22, 2026. It also sought a declaratory judgment that, even if there were sufficient signatures for the initiatory petition, the proposed amendment did not qualify for placement on the ballot for two independent reasons: it was not confined to one subject and it was a revision of the city charter.

Following briefing, the trial court granted summary disposition to defendants. The trial court concluded that the Clerk had no clear legal duty to reject the supplemental signatures. It chose not to grant preelection review to AAREC's arguments that the proposed amendment was not confined to one subject and was a revision of the city charter.

II. ANALYSIS

AAREC argues that the Clerk had a clear legal duty to reject the supplemental petitions. We disagree.

As explained in *Berry v Garrett*, 316 Mich App 37, 41; 890 NW2d 882 (2016):

We review de novo, as questions of law, whether defendants have a clear legal duty to perform and whether plaintiff has a clear legal right to performance of any such duty. *Rental Props Owners Ass'n of Kent Co v Kent Co Treasurer*, 308 Mich App 498, 518; 866 NW2d 817 (2014). Related issues of statutory interpretation are also reviewed de novo. *Beach v Lima Twp*, 489 Mich 99, 105-

106; 802 NW2d 1 (2011). Contrastingly, because mandamus is a “discretionary writ,” *Owen v Detroit*, 259 Mich 176, 177; 242 NW 878 (1932), we review for an abuse of discretion a trial court’s decision regarding whether to grant mandamus relief, *Rental Props*, 308 Mich App at 518.

Mandamus is an extraordinary remedy. *Univ Med Affiliates, PC v Wayne Co Executive*, 142 Mich App 135, 142; 369 NW2d 277 (1985). Thus, the issuance of a writ of mandamus is only proper where (1) the party seeking the writ has a clear legal right to performance of the specific duty sought, (2) the defendant has the clear legal duty to perform the act requested, (3) the act is ministerial, and (4) no other remedy exists, legal or equitable, that might achieve the same result. *Rental Props*, 308 Mich App at 518. “In relation to a request for mandamus, a clear, legal right is one clearly founded in, or granted by, law; a right which is inferable as a matter of law from uncontroverted facts regardless of the difficulty of the legal question to be decided.” *Id.* at 518-519 (quotation marks and citation omitted). “A ministerial act is one in which the law prescribes and defines the duty to be performed with such precision and certainty as to leave nothing to the exercise of discretion or judgment.” *Hillsdale Co Senior Servs, Inc v Hillsdale Co*, 494 Mich 46, 58 n 11; 832 NW2d 728 (2013) (quotation marks and citation omitted). “The burden of showing entitlement to the extraordinary remedy of a writ of mandamus is on the plaintiff.” *White-Bey v Dep’t of Corrections*, 239 Mich App 221, 223; 608 NW2d 833 (1999).

Under the Home Rule City Act, MCL 117.1 *et seq.*, a city charter may be amended by an initiatory petition. MCL 117.21(1). MCL 117.25 provides, in pertinent part:

(1) An initiatory petition authorized by this act shall be addressed to and filed with the city clerk. The petition shall state what body, organization, or person is primarily interested in and responsible for the circulation of the petition and the securing of the amendment. Each sheet of the petition shall be verified by the affidavit of the person who obtained the signatures to the petition. The petition shall be signed by at least 5% of the qualified and registered electors of the municipality. Each signer of the petition shall also write, immediately after his or her signature, the date of signing and his or her street address. A signature obtained more than 1 year before the filing of the petition with the city clerk shall not be counted. The petition is subject to the requirements of [MCL 117.25a.]

* * *

(3) Upon receipt of the petition, the city clerk shall canvass it to ascertain if it is signed by the requisite number of registered electors. For the purpose of determining the validity of the petition, the city clerk may check any doubtful signatures against the registration records of the city. Within 45 days from the date of the filing of the petition, the city clerk shall certify the sufficiency or insufficiency of the petition. If the petition contains the requisite number of signatures of registered electors, the clerk shall submit the proposed amendment to the electors of the city at the next regular municipal or general state election held in the city which shall occur not less than 90 days following the filing of the petition.

Section 25 foresees the filing of one petition. Under § 25(3), upon receipt of “the petition”—and the petition is the signature sheets, MCL 117.25(1)—the clerk “shall canvass it to ascertain if it is signed by the requisite number of” signatures. MCL 117.25(3). The clerk, within 45 days from the date of the filing of “the petition,” shall certify the sufficiency or insufficiency of “the petition.” *Id.* If “the petition” contains the required number of signatures, the clerk shall submit the proposed amendment to the registered electors. *Id.* Section 25 does not contemplate the filing of supplemental signatures, nor does it expressly give the body, organization, or person responsible for the circulation of the petition the right to file supplemental signatures.

At the same time, § 25 does not expressly direct a clerk to reject for filing and canvassing any supplemental signatures. The Legislature knows how to prohibit the filing of supplemental signatures for petitions and like documents. See MCL 168.475(2); MCL 168.961(1).

Section 25 is silent on whether a clerk may accept for filing and canvassing, or must reject, any supplemental signatures that are submitted. Although § 25 does not contemplate or expressly allow the filing and canvassing of supplemental signatures, § 25 also does not expressly prohibit a clerk from accepting and canvassing supplemental signatures. Under these circumstances, AAREC has not pointed to any source of law that prescribes and defines the duty to reject supplemental signatures nor demonstrated its clear legal right to performance of this specific duty. *Kennedy v Secretary of State*, 515 Mich 893, 893-894 (2024); see also *Burton Abstract & Title Co v Martin*, 38 Mich App 178, 180-181; 196 NW2d 23 (1972) (stating that the register of deeds had no clear legal duty to collect fees when the “statute does not say that a fee cannot be charged nor does it make the charging of one mandatory”). The trial court did not abuse its discretion in denying the requested writ of mandamus.

Next, AAREC argues that the initiatory petition, even if there were sufficient signatures, was ineligible for placement on the November 2026 ballot because the proposed amendment concerns more than one subject and constitutes a revision of the city charter. AAREC also argues that the trial court erred by not addressing these arguments before the election.

Because these arguments concerned whether the initiatory petition met statutory requirements for placement on the ballot, the arguments were ripe for judicial review, *Farmington v Farmington Survey Committee*, ___ Mich App ___, ___ n 2; ___ NW3d ___ (2024) (Docket No. 372022); slip op at 3 n 2, and the trial court erred by not addressing AAREC’s argument that the proposed amendment concerned more than one subject. The trial court did not err by declining to address the argument that the proposed amendment constituted a revision of the city charter. The argument in AAREC’s brief filed with the trial court was barely one page long and included one citation to caselaw. AAREC quoted the statement from *Midland v Arbury*, 38 Mich App 771, 774; 197 NW2d 134 (1972), that “[a] change in the form of government of a home rule city may be made only by revision of the city charter, not by amendment,” but it made no attempt to explain what the difference was between a revision and an amendment. AAREC could not expect the trial court to unravel and elaborate its argument. “Trial courts are not the research assistants of the litigants; the parties have a duty to fully present their legal arguments to the court for its resolution of their dispute.” *Walters v Nadell*, 481 Mich 377, 388; 751 NW2d 431 (2008).

AAREC’s argument that the proposed amendment includes more than one related proposition is without merit. MCL 117.21(3) provides:

A proposed charter amendment shall be confined to 1 subject. If the subject of a charter amendment includes more than 1 related proposition, each proposition shall be separately stated to afford an opportunity for an elector to vote for or against each proposition

Proposed amendments that relate to the same subject and are aimed at the same purpose must be treated as one amendment and voted on as such. *Henry v Pontiac*, 363 Mich 302, 305; 109 NW2d 835 (1961).

The proposed amendment would add §§ 15.11(a) and 15.11(b) to the city charter. Proposed § 15.11(a) states that the city council “shall provide by ordinance for the establishment of a municipal electric utility to be governed by the Ann Arbor Municipal Electric Utility Board described in Section 15.11(b).” Proposed § 15.11(b)(1) provides that the board “shall have jurisdiction, control, and management of any municipal electric utility established by the City and all of its operations and facilities.” According to AAREC, other subsections in proposed § 15.11(b), such as whether operational decisions of the board can only be amended or voided by the city council with eight affirmative votes or whether one of the board’s four appointed seats should be reserved for a representative of organized labor, are “related propositions.” Those subsections, however, are fundamentally related to the board, such as the board’s composition, the board’s oversight by the city council, and the board’s management of the municipal electric utility. The amendment is confined to one subject—the establishment and administration or governance of a municipal electric utility.

Affirmed.

/s/ Brock A. Swartzle
/s/ Anica Letica

STATE OF MICHIGAN
COURT OF APPEALS

ANN ARBOR RESPONSIBLE ENERGY
COALITION,

Plaintiff-Appellant,

v

CITY OF ANN ARBOR CLERK and CITY OF
ANN ARBOR,

Defendants-Appellees.

UNPUBLISHED
September 02, 2026
3:27 PM

No. 382186
Washtenaw Circuit Court
LC No. 26-001618-CZ

Before: ACKERMAN, P.J., and SWARTZLE and LETICA, JJ.

ACKERMAN, P.J. (*dissenting*).

The fundamental question presented in this appeal is whether, when a city clerk determines during canvassing that an initiatory petition to amend a city charter lacks the requisite number of signatures, the clerk may accept additional signatures from the proponent. Because I conclude that our statutes do not authorize that procedure, I respectfully dissent.

As the majority opinion explains, Ann Arbor for Public Power (A2P2) is a ballot committee seeking to amend the Ann Arbor city charter to create a publicly owned power utility. It filed its petition with the clerk on June 22, 2026. Plaintiff, Ann Arbor Responsible Energy Coalition (AAREC), alleges that after it did so, the defendant Ann Arbor city clerk advised A2P2 of the signature deficiency. In any event, A2P2 supplemented its petition on July 21 and again on July 27 with additional petition signatures, and after receiving those signatures, defendant city clerk certified the measure for the November 2026 ballot. The threshold question is whether defendant could accept these supplemental signatures after the petition was filed.¹

The Home Rule City Act, MCL 117.1 *et seq.*, lays out the process for citizen-initiated charter amendments. Under MCL 117.25(1), there are a variety of requirements for “[t]he

¹ In light of my position on this issue, I need not reach whether the other issues raised by AAREC provide an additional basis for keeping the proposal off the ballot.

petition,” including that “[e]ach sheet of the petition shall be verified by the affidavit of the person who obtained the signatures to the petition,” and “[t]he petition shall be signed by at least 5% of the qualified and registered electors of the municipality.” In other words, the signature sheets are part of the petition. Under MCL 117.25(3), “[u]pon receipt of the petition, the city clerk shall canvass it to ascertain if it is signed by the requisite number of registered electors.”

As the majority acknowledges, that language “foresees the filing of one petition” and “does not contemplate the filing of supplemental signatures.” Because MCL 117.25(1) makes signature sheets part of a petition, the city clerk is to “canvass *it*”—the single petition, including its signature sheets, that was filed with the clerk—“to ascertain if it is signed by the requisite number of registered electors.” Similarly, the event that triggers the clerk’s duty is “receipt of the petition,” but accepting supplemental signature sheets allows the clerk to canvass materials that were not part of the petition when it was received.

The majority relies on two considerations to reach a different conclusion. First, it notes that MCL 168.475(2) and MCL 168.961(1) expressly prohibit the consideration of additional signature sheets, concluding that “[t]he Legislature knows how to prohibit the filing of supplemental signatures for petitions and like documents.” I disagree that those provisions are probative of the meaning of MCL 117.25. The prohibition on accepting additional initiative or referendum petition signatures in MCL 168.475(2) was added by 1999 PA 219, which was part of a broader package of reforms regarding the direct democracy process. In the absence of a definitive judicial construction that the Secretary of State *did* have the authority to accept supplemental signatures under MCL 168.475, it may well be that such action had been *ultra vires* and that MCL 168.475(2) was therefore superfluous; if so, adding MCL 168.475(2) would not change the meaning of MCL 117.25.² The prohibition on supplemental recall petition signatures in MCL 168.961(1) was added by 1978 PA 533 as part of the deletion of former MCL 168.962, which specifically *authorized* filing additional recall petition signatures. If anything, the Legislature’s creation of this option solely for recall petitions in 1931 PA 114 supports the opposite inference: *only* recall petitions could be supported with supplemental signature sheets, and only for the 47 years between 1931 PA 114 and 1978 PA 533.³

Second, the majority observes that MCL 117.25 “does not expressly prohibit a clerk from accepting and canvassing supplemental signatures.” From this, it concludes that plaintiff has failed to identify any legal authority that “defines the duty to reject supplemental signatures.” In effect, the majority reads MCL 117.25 to establish a default that a clerk may do anything the statute does not forbid. I disagree, because the rule in Michigan is that municipal officers have only those powers expressly granted to them or necessarily implied from what is granted.

² A contrary interpretation would, in effect, punish the Legislature for addressing its dissatisfaction with accepting supplemental signature sheets via the ordinary means available to the legislative branch—legislation—rather than running to the courts.

³ Having offered the option for almost five decades, it is unsurprising that the Legislature specifically disavowed it in 1978 rather than relying on a negative inference from merely deleting it.

The critical case in the election context is *Taylor v Currie*, 277 Mich App 85; 743 NW2d 571 (2007). Under the version of MCL 168.759 then in effect,⁴ a city clerk was directed to “have absent voter ballot application forms available in the office of the clerk at all times and shall furnish an absent voter ballot application form to anyone upon a verbal or written request.” The defendant had sent out unsolicited absent voter ballot applications, and the trial court had enjoined that practice in light of the statutory text. On appeal, we first observed that municipal officers have only the authority expressly conferred on them. See *Taylor*, 277 Mich App at 94-95. We then affirmed the trial court, saying that “the power to mail unsolicited ballot applications to qualified voters is not expressly stated anywhere in this statute,” and that, further, it was not “implicitly authorized by statute” either. *Id.* at 95-96.⁵

This situation is, it appears to me, materially indistinguishable from *Taylor*. Here we have a statute that “foresees the filing of one petition” and “does not contemplate the filing of supplemental signatures,” much as the statute in *Taylor*, 277 Mich App at 95, only expressly provided “that the clerk must have applications for absent voter ballots available in the clerk’s office at all times and that the clerk ‘shall’ provide an application to anyone upon verbal or written request.” I do not think the statute’s failure to specifically prohibit this practice, or any argument relying on unstated authority held by the city clerk, matters any more than it did in *Taylor*. Just as “[t]he mass mailing of unsolicited ballot applications is not essential to the clerk’s either making ballot applications available in the clerk’s office or to providing them upon request,” *id.*, neither is accepting supplemental signature sheets essential to the clerk’s duty to canvass the petition upon receipt.⁶

⁴ The statute has since been amended to abrogate *Taylor*’s construction of MCL 168.759 and broaden a clerk’s authority. 2023 PA 82. The amendment, however, did not change what *Taylor* had to say about the nature of a clerk’s authority under governing statutes, even if it changed the terms of the specific statute at issue in that case.

⁵ That also distinguishes both this situation and *Taylor* from *Kennedy v Secretary of State*, 515 Mich 893 (2024). In *Kennedy*, a presidential candidate wanted to withdraw his name from the ballot after having been nominated. The Court noted that he had failed to identify any legal authority obliging the Secretary of State to perform that duty and denied a writ of mandamus. There, mandamus was denied because it would have compelled the performance of a duty not specified by statute; here, by contrast, mandamus enforces the boundaries provided by MCL 117.25 within which the city clerk must operate.

⁶ This Court attempted to distinguish *Taylor* in *Davis v Secretary of State*, 333 Mich App 588; 963 NW2d 653 (2020). There, the Secretary of State had similarly sent out unsolicited absent-voter ballot applications in advance of the 2020 election during the COVID-19 pandemic. We distinguished *Taylor* by pointing out that the defendant in *Taylor* was a candidate in the election at issue and had mailed unsolicited absent-voter ballot applications to only 150,000 of the city’s 500,000 registered voters, as opposed to *Davis*, where the defendant was not a candidate in the election and had not limited the mailing to a subset of voters. *Id.* at 600-601. As an initial matter, *Davis* involved the Secretary of State, a constitutional officer with different authority than a city clerk. See Const 1963, art 5, §§ 3, 9. Moreover, the distinguishing characteristics cited by *Davis*

It is textually inescapable that MCL 117.25 does not contemplate the filing of supplemental signature sheets. While it does not expressly forbid their consideration, nothing in the history of our election laws suggests that MCL 117.25 should be construed to allow that practice; if anything, the 47-year period during which it was specifically authorized for recall petitions points in the opposite direction. And regardless, under *Taylor*, a local official must operate within the authority conferred by statute and may not infer additional powers from statutory silence. As a result, I conclude that the city clerk lacked the authority to accept supplemental signature sheets, and because there is no dispute that “the petition” as filed contained insufficient signatures, the clerk has a clear duty not to certify the proposal for placement on the ballot. A writ of mandamus should issue to that effect.

/s/ Matthew S. Ackerman

were not part of the reasoning on which *Taylor*’s holding rested. Under MCR 7.215(J)(1), the first published opinion issued after November 1, 1990, is binding, and when a later published opinion does not follow an earlier one that is otherwise binding under the rule, it must be disregarded. See *Marilyn Froling Revocable Living Trust v Bloomfield Hills Country Club*, 283 Mich App 264, 285-286; 769 NW2d 234 (2009). I conclude that *Taylor*’s reasoning still controls.