

**IN THE DISTRICT COURT OF JOHNSON COUNTY, KANSAS
CIVIL COURT DEPARTMENT**

CITY OF PRAIRIE VILLAGE, KANSAS)	
a municipal corporation,)	
)	
Plaintiff,)	Case No. 23CV04487
)	Chapter 60; Division 4
v.)	
)	
)	
PV UNITED, INC., and,)	
REX SHARP,)	
Defendants.)	

MEMORANDUM DECISION

Now on this 6th day of September the Court takes up for consideration Plaintiff’s Petition for Declaratory Judgment requesting Defendants’ three initiative Petitions be declared legally insufficient for failing to comply with state statutes and therefore excluded from any ballot to vote. The Defendant filed an answer to the Petition. The Defendants and Plaintiff filed briefs in support of their positions. Oral arguments were heard in person on August 30th and 31st, 2023. Plaintiff appeared by and through its counsel, Joseph Hatley and David E. Waters. Defendants appear by and through its counsel, Rex Sharp. The court will rule on the Declaratory Judgment pursuant to K.S.A. 60-1701.

The Court submits a condensed Memorandum Decision to comply with K.S.A 25-3601(e) and the election office deadlines. A detailed decision will be rendered within 7 days. After reviewing the briefs and considering the oral arguments, the Court finds that the Plaintiff’s Petition for Declaratory Judgment is GRANTED in part and DENIED in part.

I. Rezoning Petition

The court finds the Rezoning Petition substantially complies with relevant law. However, based on the guidelines set out in *McAlister v. City of Fairway*, 289 Kan. 391 (2009), the Petition is administrative in nature and therefore not eligible to be submitted for a vote before the electors of Prairie Village, Kansas pursuant to K.S.A. 12-3013.

II. Abandonment Petition

After further review, the Court amends its oral order and finds the Abandonment Petition does not substantially comply with relevant law because it fails to “establish the membership and terms of office of the governing body as required by K.S.A. 12-1039(b)”. Further, K.S.A. 12-1041 states that “If a majority of votes cast upon the proposition shall be in favor of abandoning the commission-manager, mayor-council manager or council manager form of city government, then the city shall operate under the alternative form of government established in the resolution or Petition.” Here, the defendants failed to establish an alternative form of government in their Petition, rendering it legally insufficient. As a result, the Abandonment Petition is not eligible to be submitted to a vote before the electors of Prairie Village, Kansas.

III. Adoption Petition

After further review, the Court amends its oral order and finds that the Adoption Petition substantially complies with relevant law in both procedure and substance. In alignment with the *City of Wichita v. Peterjohn*, 62 Kan. App. 2d 750 (2022), any technical deficiencies found in the Petition are not significant enough to prevent its placement on the ballot. The Adoption Petition can be submitted to a vote before the electors of Prairie Village, Kansas.

IV. Conclusion

For the above reasons, the Court finds that the Rezoning and Abandonment Petitions are not eligible to be called for election, and the Adoption Petition is eligible to be submitted to a vote before the electors of Prairie Village, Kansas.

IT IS SO ORDERED.

9/6/2023

/s/ Rhonda K. Mason
RHONDA K. MASON
District Court Judge, Div. 4

NOTICE OF ELECTRONIC SERVICE

Pursuant to K.S.A. 60-258, as amended, copies of the above and foregoing ruling of the court have been delivered by the Justice Information Management System (JIMS) automatic notification electronically generated upon filing of the same by the Clerk of the District Court to the e-mail addresses provided by counsel of record in this case. Counsel for the parties so served shall determine whether all parties have received appropriate notice, complete service on all parties who have not yet been served and file a certificate of service for any additional service made.

/s/ Rhonda K. Mason