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*The Court of Appeals  
of the  
State of Washington  
Division III*



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March 24, 2025

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CASE # 410510  
Yakima Citizens for Civic Engagement, et al v. City of Yakima, et al  
YAKIMA COUNTY SUPERIOR COURT No. 2420133039

Counsel:

Enclosed is your copy of the Commissioner's Ruling, which was filed by this Court today.

If objections to the ruling are to be considered (RAP 17.7), they must be made by way of a Motion to Modify filed in this Court within 30 days from the date of this ruling, **April 23, 2025**. The answer, if any, to a Motion to Modify will be due **10 days** after the motion is served on the answering party. The moving party may submit a written reply to the answer to the motion to modify no later than **3 days** (excludes Saturdays, Sundays, and legal holidays) after the answer is served on the moving party. RAP 17.4(e).

Please file the original; serve a copy upon the opposing attorney and file proof of such service with this office.

Sincerely,

A handwritten signature in black ink, appearing to read "Tristen Worthen".

Tristen Worthen  
Clerk/Administrator

TLW:bar

**The Court of Appeals**  
of the  
**State of Washington**  
**Division 111**

**FILED**  
**Mar 24, 2025**  
**COURT OF APPEALS**  
**DIVISION III**  
**STATE OF WASHINGTON**

**YAKIMA CITIZENS FOR CIVIC  
ENGAGEMENT, et al.,**

**Respondents,**

**v.**

**CITY OF YAKIMA, et al.,**

**Petitioners.**

**No. 41051-0-III**

**COMMISSIONER'S RULING**

Petitioner Defendants City of Yakima, Patricia Byers (Mayor), Dave Zbell (City Manager), and Rosalinda Ibarra (City Clerk) (collectively, "the City") ask the court to accelerate review of its motion to stay enforcement of a partial summary judgment decision that suspended three City of Yakima ordinances the Yakima City Council adopted in March 2024. The City requests that this court issue a stay no later than March 24, 2025, that lasts until this court decides its motion for discretionary review to avoid the harm of having to re-establish committees that were dissolved by the now-suspended ordinances. Respondents Yakima Citizens for Civic Engagement, Natalie McClendon, Spencer Shannon Hatton, Leslie C. Benoit, Coleen Louise Anderson, and Dorinda L. Baker (collectively, YCCE) oppose the City's motions.

FACTS

In March 2024, the Yakima City Council adopted three ordinances that eliminated two advisory committees and restructured others as subcommittees that report to the Planning Commission. Specifically, Ordinance No. 2024-004 repealed chapter 1.34 of the Yakima Municipal Code (YMC), which had established the Community Integration Committee. That committee consisted of volunteers from the community who advised the city council on integration, diversity, and inclusion matters. Ordinance No. 2024-005 repealed chapter 1.40 YMC, which had established the Sustainable Yakima Committee. This committee was composed of community volunteers who advised the city council on environmental and climate change issues. The City Council concluded that these committees could be effectively operated and run by the community or a community-based organization rather than the City. Finally, Ordinance No. 2024-006 amended YMC chapters concerning the planning commission, the bicycle and pedestrian advisory committee, the historic preservation commission, and the tree board to “create a structure where the Historic Preservation Commission, Bicycle and Pedestrian Advisory Committee and Tree Board report to, and are considered sub-committees of, the Planning Commission.” App. at 167.

YCCE filed three timely petitions protesting the enactment of these three ordinances with the Yakima City Clerk. According to Article IV, § 3 of the Yakima City Charter, an ordinance “shall be suspended from taking effect” if a timely petition protesting it is filed with the City Clerk and “signed by qualified electors equal in number to ten per centum of the entire vote cast at the last preceding general city election.” App. at 294. The Charter requires the City Clerk to “certify

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the number of votes cast at the last general City election and the number of signers of such petition[.]” App. at 293.

When collecting signatures on these petitions, YCCE relied upon Yakima County Auditor’s March 3, 2024, certification that, “For the purposes of City of Yakima Charter Article IV Legislation by the People, Section 3, ten per centum of the entire vote cast at the last preceding general election is 804.” App. at 79. Each petition filed by YCCE contains more than 804 signatures.

The City Clerk certified that 10 percent of the entire vote cast at the last general city election was 1,258. App. at 185, 189, 193, 207. The clerk derived this figure from Yakima County Auditor’s April 8, 2024, certification that 12,589 “is a true and accurate reporting of the number of voters who resided in the City of Yakima and who cast a ballot at the 2023 General Election.” App. at 186, 190, 194. The City Clerk further certified that each petition filed by YCCE contained fewer than 1,258 signatures. Mot., App. at 185. Based on the City Clerk’s certifications, the City Council took no action on YCCE’s petitions because none of them contained 1,258 qualified signatures.

In response to the City Clerk’s determination, YCCE sued the City and its officials in superior court for declaratory relief. YCCE asked the superior court to declare, in relevant part, that the ordinances should be suspended due to sufficient signatures on the petitions, as per the Yakima City Charter.

The court granted YCCE’s motion for partial summary judgment, determining that its petitions had enough signatures to suspend the ordinances. It based its decision on the City Clerk’s duty to certify the number of votes cast at the last general city election and facts showing the City

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Clerk relied on the County Auditor's information but ultimately certified a different number than what was provided by the Auditor. The County Auditor's office provided conflicting numbers regarding the votes cast, leading to confusion over the correct threshold for petition signatures.

On March 7, 2025, Yakima County Superior Court entered an order granting partial summary judgment, which suspends City of Yakima Ordinances 2024-004, 2024-005, and 2024-006 pursuant to the Yakima City Charter. Over the next 12 days, the City filed a notice for discretionary review of the partial summary judgment order, the present motions for stay and for accelerated review, and their motion for discretionary review. YCCE has filed a response and declaration in opposition to the City's motion for stay and accelerated review.

The parties agree that the order suspending Ordinances 2024-004, 2024-005, and 2024-006 effectively reinstates the Community Integration and Sustainable Yakima Committees, which were disbanded by the suspended ordinances. The City "anticipates advertising the open positions for the Community Integration Committee, as well as current vacancies and upcoming term expirations on other City boards, committees, and commissions, the week of March 24, 2025." Decl. of Coleen Louise Anderson, Ex. 3 at 1 (Mar. 21, 2025).

#### ANALYSIS

##### A. Motion for Accelerated Review

The City moves for accelerated review of its motion to stay enforcement of the order granting partial summary judgment and a ruling on it no later than March 24, 2025.

A commissioner may decide an emergency motion only if satisfied (1) that adequate relief cannot be given if the motion is considered in the normal course, and (2) the movant has taken

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reasonable steps under the circumstances to give notice to persons who would be affected by the ruling sought. RAP 17.4(b).

The City provided notice of its motion to YCCE's counsel on March 14, 2025, by electronic service. This was reasonable. YCCE responded in opposition to the City's motion on March 21, 2025.

The City requests a stay of enforcement of the superior court's partial summary judgment order until this court decides the City's motion for discretionary review. This relief can be provided if the motion is considered in the normal course, except to the extent the City acts in compliance with the superior court's partial summary judgment (e.g., advertising open committee positions) while the motion for stay is pending. Nevertheless, because YCCE has responded to the City's motion for stay, the court will accelerate ruling on the motion to stay the partial summary judgment decision.

**B. Motion to Stay the Order Granting Partial Summary Judgment**

This court "has authority, before or after acceptance of review, to stay enforcement of the trial court decision[.]" RAP 8.1(b)(3); *see also* RAP 8.3. The standards for deciding whether to stay enforcement of a trial court decision under RAP 8.1(b)(3) and RAP 8.3 are similar. Under RAP 8.1(b)(3), the court evaluates whether the moving party can demonstrate a debatable issue and compares the injury suffered if a stay is imposed or not imposed:

In evaluating whether to stay enforcement of such a decision, the appellate court will (i) consider whether the moving party can demonstrate that debatable issues are presented on appeal and (ii) compare the injury that would be suffered by the moving party if a stay were not imposed with the injury that would be suffered by the nonmoving party if a stay were imposed.

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RAP 8.1(b)(3). Under RAP 8.3, we may stay a trial court order pending review if the moving party can demonstrate (1) a debatable question is presented on review, and (2) a stay is necessary to preserve the fruits of appellate review for the movant, after considering the equities of the situation. *Confederated Tribes of Chehalis Reservation v. Johnson*, 135 Wn.2d 734, 759, 958 P.2d 260 (1998); *Shamley v. City of Olympia*, 47 Wn.2d 124, 126, 286 P.2d 702 (1955).

When considering whether a debatable question is presented, the court probes the merits of the pending matter “only to the extent necessary to determine whether it presents a justiciable issue.” *Shamley*, 47 Wn.2d at 127. Relief should be granted if the moving party demonstrates a debatable issue exists and the fruit of a successful appeal would be destroyed while the appeal is pending. *See id.* at 126-27 (analyzing debatability and relative harm to parties).

#### Debatable Issue

The City contends its motion for discretionary review raises debatable issues.

It argues that the trial court probably erred by granting partial summary judgment to YCCE because YCCE’s petitions challenging the subject ordinances exceed the scope of the people’s power to legislate directly. The City maintains that the suspended ordinances are not subject to referenda because they are administrative and not legislative and because the City Charter grants authority to only the City Council (as opposed to the people) to appoint advisory boards and committees as it deems necessary. YCCE argues, without citation to any binding authority, that the ordinances are legislative and that the case law upon which the City relies is inapposite because the cases do not involve referenda or the First Class Charter Cities.

The court concludes that this issue is debatable in light of the two cases upon which the City bases its argument: *City of Port Angeles v. Our Water-Our Choice!*, which recognizes that

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the people's constitutional and statutory power to legislate does not "encompass[] the power to administer the law, and administrative matters, particularly local administrative matters, are not subject to initiative or referendum." 170 Wn.2d 1, 8, 239 P.3d 589 (2010). And *Glob. Neighborhood v. Respect Washington*, which expressly states that it applies restrictions on citizen rights the same regardless of whether a referendum or initiative is at issue and discusses the distinction between administrative and legislative measures. 7 Wn. App. 2d 354, 392-97, 434 P.3d 1024 (2019).

The City further contends the superior court probably erred by relying upon the County Auditor's certification of votes cast because Article IV, § 3 of the Yakima City Charter authorizes the City Clerk (not the County Auditor) to certify "the entire vote cast at the last preceding general city election." YCCE argues that this issue is not debatable because, to the extent the Yakima City Charter empowers the City Clerk to certify votes cast, it conflicts with RCW 29A.04.216, RCW 29A.08.105, and Title 29A RCW generally. YCCE contends these statutes establish that the County Auditor is the exclusive authority for certifying votes cast at the last preceding general city election. RCW 29A.04.216 obligates the county auditor to supervise all elections, to provide places for holding such elections, to provide materials and supplies necessary for the conduct of elections, to publish and post notices of calling such elections, and to apportion the expense of such elections. RCW 29A.08.105(2) states that "the county auditor shall be the chief registrar" (that is, the keeper of records) "of voters for every precinct within the county." These two statutes say nothing about the county authority being a certifier of the number of votes cast. Title 29 RCW consists of 22 chapters and numerous sections. If YCCE is unable to pinpoint a specific statute that establishes the County Auditor is the exclusive certifier of votes cast in a general election, this

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court is not going to search all of Title 29 RCW to locate it. The court concludes that the issue raised by the City is debatable.

Balance of Harms

The City asserts that the balance of harm weighs in favor of granting a stay because the superior court's suspension of the three subject ordinances effectively reinstates repealed ordinances, which require the City to re-establish Community Integration and Sustainable Yakima committees against its wishes, leading to potential waste of resources (e.g., tax dollars and staff time) and public frustration with government. The City claims that YCCE will suffer no meaningful harm from a temporary stay, as it merely maintains the status quo as it existed before the superior court entered its order.

YCCE contends that, if a stay is not imposed, city government operations will experience minor impacts, such as scheduling meetings and advertising for new committee members. YCCE says advertising takes little time and resources, and meetings have already been scheduled. YCCE insists Yakima's citizens will suffer significant injury if a stay is granted because canceling the scheduled committee meetings would be unfair to the volunteer committee members and current city staff lacks the capacity and specialized expertise to provide (at no cost to the city) proposed policies and actions to the City Council that address climate change, community integration, and environmental justice. YCCE further suggests that a stay would discontinue work on one-year, five-year, and ten-year Climate Action Plans, causing multiple injuries, which the court assumes involves failing to address the impacts of climate change and failing to build resilience to it.

The court concludes that not staying the superior court's order requires the City to expend public resources, including tax dollars and staff time, while staying the superior court's order for

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the relatively short period of time it takes for this court to decide the City's motion for discretionary review will not cause the significant injury the YCCE contends will result. A stay does not require volunteers to stop working on proposed Climate Action Plans independently of their committee service and presenting those proposals at city council meetings. And committee meetings can be rescheduled if discretionary review is denied. The balance of harms, therefore, weighs in favor of a stay.

Accordingly, IT IS ORDERED, the City's motion for accelerated review of its motion to stay the superior court's partial summary judgment order is granted; the City's motion to stay the superior court's partial summary judgment order is also granted. The March 7, 2025, Order Granting Plaintiffs' Motion for Partial Summary Judgment is stayed pending this court's decision on the City's motion for discretionary review.



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Hailey L. Landrus  
COMMISSIONER