

**MICHAEL P. LOGRASSO**  
**Director of Law**  
**City of South Euclid**  
**1349 South Green Road**  
**South Euclid, Ohio 44121**  
**216-381-0400**  
**Mlograsso@seuclid.com**

March 2, 2015

To: Charter Review Commission

From: Michael Lograsso

Re: Legal Opinion of Montgomery, Rennie & Johnson regarding the South Euclid Municipal Court.

---

I have been asked by the Charter Review Commission to render an opinion regarding the January 20, 2015 opinion letter from the law firm of Montgomery, Rennie & Johnson in regards to proposed charter amendment #34. This amendment would require City Council to sponsor a Resolution to the Ohio Legislature to merge the South Euclid Municipal Court with the Lyndhurst Municipal Court.

Question #1 was, "do I agree with the opinion of Montgomery, Rennie & Johnson (hereinafter referred to as "Montgomery"). My response is no I do not.

In my opinion a clear reading of the Montgomery letter shows they missed the point of what the Charter Review Commission is proposing in draft amendment #34, as revised on 2-16-15. The proposed charter amendment if approved by the voters would then require Council to sponsor a Resolution requesting the state legislature take action to abolish the South Euclid Municipal Court and merge it with the Lyndhurst Municipal Court. This is not an action by Council or through the charter to eliminate the court as municipal courts are created and/or abolished by the state legislature.

Ohio Constitution Article IV, Section 15, does not limit the power of the general assembly to abolish municipal courts. Geisinger v. Cook, (Ohio 1977) 52 Ohio 2d 51, 369 N.E. 2d 477. It appears that it takes a two-thirds vote of each house in the legislature to abolish a municipal court.

On April 9, 1951 the Council of the City of South Euclid passed Resolution 2840 "Urging the Legislature of Ohio to Create a Municipal Court in the City of South Euclid, Ohio." This Resolution mirrors what the Charter Review Commission is attempting to do only this time to "abolish and/or merge" instead of "create".

Then in July of 1951 Council passed ordinance 2091 "Providing for the Establishment, In Conformity with the Provisions of Amended Senate Bill No. 14, of a Municipal Court in

the City of South Euclid Ohio, Creating the Office Judge and fixing the Salary for the Office of Judge.” Again, the General Assembly created the South Euclid Municipal Court.

Then in 1997 the Council of the City of South Euclid passed Resolution 63-97 “Requesting the Creation of a Full-Time Judicial Position for the South Euclid Municipal Court.” This Resolution was sent to the state legislature which voted to approve this change.

It is clear that the Legislature of the State Of Ohio has the authority to create and/or abolish a municipal court.

Next, is the question of the election procedure for the position of the South Euclid Municipal Court Judge. Montgomery stated that Ohio law states judicial elections are outside of the authority of city charter. However, a clear reading of ORC 1901.07 “Term of Officer of Judge; Nominations” paragraph (B) states, “...all candidates shall be nominated in the same manner provided in the charter for the office of municipal court judge or, if no specific provision are made in the charter for the office of municipal court judge, in the same manner as the charter prescribes for the nomination and election of the legislative authority of the municipal corporation.”

Based on this, if the Charter Review Commission wants to change the way the Judge is elected in South Euclid, they need to and have the authority to amend the Charter with the specific provisions for that procedure.

Therefore, based on the above I disagree in total with Montgomery. I believe it is legal for the Charter Review Commission to pass proposal #34. I also believe the Commission can change the provisions in the Charter on how the position of Judge is elected as provided in ORC 1901.07.

This completes my response to the Montgomery opinion.

Very Truly Yours,

A handwritten signature in black ink, appearing to read 'M P Lograsso', written in a cursive style.

Michael P. Lograsso