



District Administrative Center

925 16th Avenue, Suite 3
Monroe, WI 53566

"Preparing for the Future, One Child at a Time"

[VIA ELECTRONIC MAIL: luke@will-law.org](mailto:luke@will-law.org)

February 27, 2023

Luke N. Berg
Deputy Counsel
Wisconsin Institute for Law & Liberty
330 E. Kilbourn Avenue, Suite 725
Milwaukee, WI 53202-3141

RE: Monroe School District Referendum

Dear Attorney Berg:

The Monroe School District Board has received your letter dated February 13, 2023, and has had an opportunity to review it with Board counsel to help interpret the legal argument you are making. Your letter makes a number of statements which are inaccurate and appear to be made in an effort to stir up support for opposition to the District's building project. The Board does not intend to respond to each of your claims; however, the District disagrees with your claim the District has acknowledged that the communications about cost were misleading.

None of the information submitted to the public was false information or done with any ill intent.

The District did, however, apologize to the public for any confusion its communications created for some of the voters. There was no attempt to mislead any voters or provide information that would create any confusion. Communications about cost were provided in the same manner that has been used by the School District of Monroe, and many levy authorities across the state, for decades. It is clear now that the standard methodology used does not provide a reasonable predicted range for the individual taxpayer impact in the Monroe School District in times of high and varying equalized value changes across the 11 municipalities it serves. This is a statewide issue, not simply a Monroe issue, disproportionately impacting districts, like Monroe, which spans many municipalities with widely varying changes in equalized value amongst them.

This means that in aggregate our communication of \$1.99 for the cost of the debt, and \$.13 increase to the District mill rate, are factual and accurate. Depending on the individual taxpayer's discrete valuation change in relation to every other taxpayer, across a wide range of possibilities created by the historic single year increase, neither number could be used as predictive for an individual asking to be told the net cost to them. What the District can and did answer with accuracy is; *what is the shared cost to the community.*

The cases cited in your letter are not applicable to the current situation. None of those cases deal with a situation where a referendum was sought to be redone. None of those cases actually find a statement of "fact" concerning a referendum was made that was known to be false.

The District's actions do not meet the standard of knowingly making or publishing a false representation pertaining to a referendum which is intended to or intends to affect voting at an election. In your position you no doubt have a deep understanding of this reality. Regardless, you assert that there is an opportunity to 'set the referendum aside' while knowing that there is no standing for such an action and in doing so are yourself misleading our community.

Your suggestion that the District conduct a "redo" of the referendum is also misleading. There is no such thing as a redo of a referendum. While the District can hold a referendum at any point, your proposed referendum is merely advisory in nature. It cannot undo the November referendum, nor would it provide authority as far as what the District must do with respect to the building project moving forward. The approved November referendum provides the authority, in perpetuity, to bond for the purposes described in the question. Neither the current Board, nor any future Board, could provide an assurance to abide by the non-binding referendum you suggest. Your suggestion otherwise, is again, misleading, a mis-statement of the process, and intended to further divide our community.

The Board's belief is that any additional referendum at this point would just cause confusion. Not only with respect to the process but the binding effect of any such advisory referendum.

Your selection of partial statements and information from various sources concerning the cost of the referendum and from cases that are not on point do nothing to educate voters. Rather, they only add to the confusion.

The November referendum has given the District the legal authority and direction to move forward with the High School building project and the Board is obligated to act on the will of the voters expressed in a certified election. Stopping the process at this point could lead to other litigation by individuals in favor of the project and will certainly only add delay and increase cost. For example, the Baird Consultants have informed us that if we attempted to stop the process at this point, the District would incur approximately \$2,000,000 in costs that could not be recovered. In addition, delaying the project until an advisory referendum could be held would also only increase cost and delay the beginning and completion of the project.

The District worked diligently for more than 5 years in an attempt to gather information from the community and to obtain direction as to what should be done with respect to the High School building needs and other needs in the District. All of the information shared with the voters and community was vetted by advisors and was accurate. There was

certainly, no fraud, illegality, or false statements that were made. Your letter does not claim the District actually made any false statements.

As such, any threatened litigation would, in the District's view, not be successful and would only seek to drag out this process and create a further divide among some residents, and cause harm to the Monroe community.

We agree that protracted litigation is not in anyone's interest, and we seriously hope that the individuals who have expressed opposition to this project moving forward can see the benefits of a new building and will support the referendum which passed by a wide margin in November.

The District has a new site selected for the High School building for which it will seek approval from the electors on March 8, 2023. Prior to that time, the District will be educating the community about the school site and building process and we urge all residents to attend.

Sincerely,

Rich Deprez
President – Board of Education
School District of Monroe