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STATE OF MICHIGAN
IN THE COURT OF APPEALS

DESMOND M. WHITE, and
Plaintiff-Appellant,
CITIZENS UNITED AGAINST
CORRUPT GOVERNMENT,
a Michigan Nonprofit Corporation,
Plaintiff,

v

HIGHLAND PARK ELECTION COMMISSION, and
BRENDA GREEN, in her official capacity as the
Highland Park City Clerk,
Defendants-Appellees,
and
HIGHLAND PARK CITY COUNCIL,
Defendant.

Court of Appeals No. _____
Lower Ct No. 15-010104-AW
Wayne County 3rd Judicial Circuit
Chief Judge Robert J. Colombo, Jr.

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PLAINTIFFS-APPELLANTS DESMOND M. WHITE'S SUPPLEMENTAL BRIEF

NOW COMES APPELLANT DESMOND M. WHITE ("Appellant"), by and through
her counsel, ANDREW A. PATERSON, for her Supplemental Brief, states:

APPELLANT HAS STANDING

The Trial Court clearly erred by denying Appellant's emergency motion for writ of
mandamus with respect to Count IV of Appellant's complaint. The trial court erred by finding

that Appellant lacked standing to bring her action as to Count IV. The trial court's erroneous interpretation of MCL §168.674(3) of Michigan Election Law led it to such error. As noted in Appellant's brief on appeal, this Court, in *Helkamp v Livonia City Council*, 160 Mich App 442; 408 NW2d 470 (1987), makes it clear that "*in the absence of a statute to the contrary, ... a private person as relator may enforce by mandamus a public right or duty relating to elections without showing a special interest distinct from the interest of the public.*" There is no statute to the contrary. Appellant sought the issuance of a writ of mandamus seeking to compel the Appellee Election Commission follow the law and to appoint at least 1 election inspector from each of the major political parties in accordance with MCL §168.674(2) of Michigan Election Law. Appellant's civil action did not challenge the appointment of any election inspector based upon their qualifications or party affiliation or otherwise. Rather, Appellant's action simply sought to compel the Appellee Election Commission to comply with the clear and unambiguous wording of MCL §168.674(2) of Michigan Election Law.

The Trial Court mistakenly and erroneously applied and relied upon the unpublished opinion this Court issued in the election-related matter of *Loud v Lee Township Election Commission*, Docket Nos. 295836, 298811, September 15, 2011. The facts of Appellant's case and this appeal are clearly distinguishable from the facts of *Loud v Lee Township Election Commission, supra*. In *Loud v Lee Township Election Commission*, the plaintiff challenged the qualifications of a particular election inspector Lee Township Election Commission had appointed. Ms. Loud did so challenge on the basis that the particular election inspector lacked the qualifications necessary to serve as an election inspector. Citing MCL §168.674(3), this Court opined that that plaintiff lacked standing to challenge the appointment and qualifications of the particular election inspector because MCL §168.674(3)

only permits the county chair of a major political party to so challenge the appoint of a particular election inspector. MCL §168.674(3) does state in pertinent part: "The county chair of a major political party may challenge the appointment of an election inspector based upon the qualifications of the election inspector, the legitimacy of the election inspector's political party affiliation, or whether there is a properly completed declaration of political party affiliation in the application for that election inspector on file in the clerk's office." But, unlike the plaintiff in *Loud v Lee Township Election Commission*, the Appellant does not challenge the appointment of any particular election inspector "based upon the qualifications of the election inspector, the legitimacy of the election inspector's political party affiliation, or whether there is a properly completed declaration of political party affiliation in the application for that election inspector on file" in the Appellee City Clerk's office.

Therefore, it is apparent that the facts of Appellant's case and this appeal are substantively distinguishable, and thus, this Court's holding, in *Loud v Lee Township Election Commission* cannot be considered binding precedent or even persuasive precedent. Accordingly, MCL §168.674(3) is simply not applicable and the trial court erred in determining otherwise. The clear and unambiguous wording of MCL §168.674(3), which grants standing to the county chair of a major political party, *is only applicable* if there is a challenge to the appointment of a particular election inspector for the three (3) enumerated reasons. As noted, Appellant's case and appeal does not challenge the appointment of any particular election inspector based upon those three (3) enumerated reasons. The maxim "expressio unius est exclusio alterius," must apply to the considerations herein. The express mention of one thing in a statute implies the exclusion of other similar things, *Alcona Co v*

Wolverine Environmental Pro, Inc, 233 Mich App 238, 247; 590 NW2d 586 (1998). Thus, contrary to the trial court's holding, MCL §168.674(3) is not applicable to the present case. Appellant does not seek to challenge the appointment of any election inspector based upon his or her qualifications or the lack thereof enumerated in MCL §168.674(3). Accordingly, pursuant to this Court's holding in *Helkamp v City of Livonia*, *supra*, Appellant does have standing necessary to seek the issuance of a writ of mandamus against the Appellees compelling their compliance with MCL §168.674(1).

CONCLUSION

WHEREFORE, for the foregoing reasons, and for the reasons set forth in Appellant's brief on appeal filed with the Court on September 22, 2015, Appellant prays that this Honorable Court REVERSE and VACATE the trial court's order and REMAND the matter directing the trial court to enter an order granting Appellant's motion for writ of mandamus with respect to Count IV of the complaint, compelling the Appellee Election Commission to appoint at least 1 election inspector from each major political party in accordance with MCL §168.674(2) of Michigan Election Law. Additionally, Appellant prays that this Honorable Court orders its opinion and/or order issued in this matter to take immediate effect.

September 28, 2015

Respectfully submitted,
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