

# BOE nixes Berlin Twp. referendum

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"Berlin Township's referendum will not appear on the May ballot," said Ed Helvey, chairman of the Delaware County Board of Elections, after members of the board voted 3-1 against placing the referendum on the ballot during a protest hearing Thursday.

Joe Miller of Vorys, Sater, Seymour and Pease LLP, attorney for Savko Brothers Properties X LLC, challenged the board of elections to review, examine and certify the validity of the petition as outlined in the Ohio Revised Code.

"This board must make this call," he said. "It is the board of elections duty to determine the legal validity and sufficiency of the content of the petition."

Miller's case was based on the sufficiency of the summary of the petition that was circulated for voter signatures. He argued that those signing the petition were not given equal sides of the issue or the benefits that the development would bring to the community.

On Oct. 9, 2017, Berlin Township trustees, after the approval of the township's Zoning Commission, approved rezoning 24 acres of land along US 36/State Route 37 from Farm Residential

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to Planned Industrial. Savko Brothers Properties proposes developing Savko Commerce Park, an industrial park that includes the construction of a concrete batching facility.

Helvey told both parties Thursday before the vote was taken that there had been a lot of discussions and the board did make some final findings.

"We've given the opportunity for a full hearing and we've allowed pretty liberal leeway in what people could present on both sides," he said. "There have been no disputes in regards to the number of or validity of the signatures that are on the petition. There have been no disputes over the validity of the circulator statement. Both parties agreed that there was no procedural issue to the certification of the issue by the township to the board of election."

Miller said he was pleased that the board chose to uphold a Supreme Court precedent and Ohio Law.

"The board found that without the correct title this did not satisfy the clear requirement of Ohio Law and appropriately is not allowing it to go on to the ballot," he said. "While the citizens have a right to petition their government to penitentially put things on the ballot it has to be done in conformity with Ohio Law otherwise it would

violate my client's private property rights. That's what was at stake here."

If the referendum had been allowed on the ballot, it would have given voters a chance overturn Berlin Township's decision to rezone 24 acres of land along U.S. 36/State Route 37 owned by Savko.

Graeme Quinn, one of the township residents who initiated the petition, said he was very appreciative of the efforts of the collectors and they did a spectacular job.

"I think that the finding of the board does not in any way detract from the huge amount of effort they put in and just want to thank them for that," he said.

Marty Savko, Savko Brothers Properties X LLC, said he can now move forward with the development of the industrial park, but most importantly he can do what he has promised the township.

"We're not going to back down one bit on that or look for any outs," he said. "We're going to go do what we said we were going to do and do more. I'm sure if we're successful we'll turn people's opinions around. The greatest thing about our country is everyone is allowed to have due process. This was a due process."

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