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July 15, 2019

Oregon City Commission
625 Center St.
Oregon City OR 97045

RE: *John F. Williams, Jr. and Thomas J. O'Brien v. Kattie Riggs, City of Oregon City, and Urban Renewal Commission of the City of Oregon City*
Clackamas County Circuit Court Case No. 16CV01310
Court of Appeals Case No. A166328

Mayor Holladay and Commissioners:

This letter is in response to your attorney's letter to me dated July 8th regarding potential settlement of this matter. I write directly to you, instead of through your attorney, to ensure that you understand my clients' position clearly.

First of all, thank you for your willingness to come to the table and negotiate a potential settlement in good faith. Both Mr. Williams and Mr. O'Brien appreciate that approach, and will continue to reciprocate. It appears that we are making progress towards a resolution. However, as explained below, although we have not quite arrived at that resolution, we are very close to it.

As you know, on June 21st I sent a settlement counteroffer to you in the amount of \$40,533.85 (inclusive of interest through that date). On July 8th I received a responsive letter from your attorney (a copy of which is attached), purporting *both* to accept my clients' settlement offer *and* simultaneously inserting new settlement terms that constitute a counteroffer, not an acceptance. Even more additional proposed terms were included in a draft release that your attorney recently prepared and provided to me (a copy of which is attached). Under Oregon law, the inclusion of additional terms in a purported "acceptance" constitutes a counteroffer, not an acceptance. Therefore, because your attorney provided my clients with a counteroffer, and not an acceptance, we still have not arrived at a meeting of the minds and there is not currently a binding settlement agreement.¹

¹ Also, as stated in your attorney's letter to me, your attorney does not consider any agreement to be final and binding until both the City and URC approve the settlement agreement in open session. Therefore, there cannot be a true acceptance until both the City and URC approve the settlement agreement in writing.

On Friday July 12th (the same day that your attorney provided me with his proposed settlement release document) the Oregon Court of Appeals granted Mr. Williams' Motion to Dismiss the City's and the URC's appeals in this case. A copy of that opinion letter is attached. As a result of that recent decision, Mr. Williams has now prevailed in court, and the City's and URC's appeals in the pre-election case will not move forward. In other words, the City's and URC's challenges to Judge Wetzel's attorney fee awards have been denied.

As I wrote in my June 21st settlement letter to you, "should [Mr. Williams] prevail on appeal, he would be entitled to his *full* costs and attorney fees incurred on appeal." That is now the situation; as the prevailing party on appeal, Mr. Williams is now entitled to seek and recover from the City and URC the full amount of attorney fees he has incurred in defending against the now-dismissed appeals (in addition to the amounts that Judge Wetzel has previously awarded). That total entitlement is much more than the \$40,533.85 previously offered by my clients as settlement. However, after discussing the matter with my clients, they wish to honor the terms of their June 21st settlement offer to you (i.e. payment of Judge Wetzel's judgments, plus interest through the date of payment, and \$10,000 for appeal fees and costs). My clients recognize that the City and URC are attempting to negotiate in good faith, and they both wish to honor that intent by settling this matter on terms which the parties nearly had agreement on before the Court of Appeals issued its dismissal opinion on Friday.

Your attorney has proposed that payment be made three business days after the City and URC formally approve the settlement, which is currently scheduled for this Wednesday, July 17th. Three business days after that is Monday, July 22nd. The total principal and interest on Judge Wetzel's judgments through July 22nd is \$30,747.50. Combined with the \$10,000 for fees and costs on appeal, the total due on July 22nd is \$40,747.50. I've modified your attorney's proposed release to reflect this simple settlement, and provided it to him for review and processing. Hopefully it will be met with approval and we can resolve this case now.

I look forward to seeing you at the public meetings this Wednesday, July 17th.

Thank you.

Sincerely,



Jesse A. Buss, OSB No. 122919
Attorney for Mr. Williams and Mr. O'Brien

cc: John F. Williams, Jr.
Thomas J. O'Brien

July 8, 2019

Jesse Buss
Attorney at Law
411 Fifth Street
Oregon City, OR 97045-2224

Re: *Williams and O'Brien v. Kattie Riggs, City of Oregon City and the Urban Renewal Commission of the City of Oregon City*
Clackamas County Circuit Court Case No. 16CV01310
Court of Appeals Case No. A166328

Dear Mr. Buss:

This letter is in response to your letter dated June 21, 2019, regarding the potential settlement of the above-referenced case. Defendants Kattie Riggs and the City of Oregon, as well as Intervenor-Defendant Urban Renewal Commission of the City of Oregon City, (collectively, the "Governmental Parties") hereby accept your counter-offer to settle this case. This acceptance is based on the following understanding of the terms of your counter-offer:

(1) The Governmental Parties will pay to your clients the sum of \$40,533.85. A check in that amount will be forwarded to your office within three days of the settlement becoming final, as described below.

(2) The governmental parties must make the final decision to settle this case in open session. Therefore, we have been instructed to negotiate a settlement agreement to be presented to the Oregon City Commission and the Urban Renewal Commission at their next meeting, which is anticipated to be on July 17, 2019. This settlement will become final upon approval of the settlement agreement by the governing bodies of both entities.

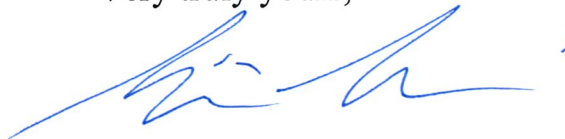
Jesse Buss
July 8, 2019
Page 2

(3) Within three days after the settlement agreement becomes final, all parties will dismiss any appeal, cross-appeal, or other matter pending before the Court of Appeals. This will occur regardless of any court action that occurs during the negotiation and final adoption of the settlement agreement by the governmental parties.

(4) All parties agree that the settlement of this case will not affect any issues currently pending in the related case of the Urban Renewal Commission of the City of Oregon City v. John F. Williams, Jr., Clackamas Circuit Court Case No. 16CV42887, Court of Appeals Case No. A16758. In particular, no party will argue that the constitutionality of the urban renewal measure is moot or that the court is otherwise precluded by the settlement of this case.

Upon receiving acknowledgement from you regarding this acceptance of your counter-offer, I will prepare a settlement agreement for your review.

Very truly yours,



Bill Kabeiseman

BK:kms
cc: Gabe Weaver
Tony Konkol
Kattie Riggs

SETTLEMENT AGREEMENT

1. Parties

The Parties to this Settlement Agreement (“Settlement Agreement”) are: (1) JOHN F. WILLIAMS, JR. and THOMAS J. O’BRIEN (collectively “Plaintiffs”) and (2) KATTIE RIGGS, in capacity as Elections Officer for the City of Oregon City (“Riggs”), the CITY OF OREGON CITY (“City”) and the URBAN RENEWAL COMMISSION OF THE CITY OF OREGON CITY (“URCOC”) (collectively, the “Governmental Parties”). The term “Parties” shall mean all parties to this Settlement Agreement.

2. Background and Purpose

2.1 **Background.** This settlement resolves certain elements of the litigation between Plaintiffs and the Governmental Parties.

2.1.1. Plaintiffs filed a complaint against Riggs and the City, in which the URCOC intervened, which was numbered Clackamas Circuit Court Case No. 16CV01310. The Clackamas County Circuit Court resolved the matter and that resolution was appealed to the Oregon Court of Appeals, numbered Court of Appeals A166328. This litigation is known as the “Pre-Election Case.”

2.1.2 As part of the resolution of the Pre-Election Case, the Clackamas County Circuit Court awarded Plaintiffs a portion of their attorney’s fees in the amount of \$27,950 (\$17,675 as part of the general judgment and \$10,275 as part of a supplemental judgment). In addition, Plaintiff Williams has incurred substantial additional attorney’s fees as part of the appeals process in the Pre-Election Case.

2.1.3 URCOC filed a separate, but related, case against the City and Williams, which was numbered Clackamas Circuit Court Case No. 16CV42887. Neither Riggs or O’Brien were involved in this case. The Clackamas County Circuit Court resolved the matter and that resolution was appealed to the Oregon Court of Appeals, numbered Court of Appeals A167583. This litigation is known as the “Post-Election Case.”

2.2 **Purpose.** The purpose of this Settlement Agreement is to settle, and this Settlement Agreement hereby does settle, fully and finally, the Pre-Election Case. This Settlement Agreement is not intended to, and does not, settle any matter still pending in the Post-Election Case.

3. Scope of Agreement

The provisions of this Settlement Agreement shall be deemed to obligate, extend to and inure to the benefit of the Parties, their affiliates, assumed names, members, successors, predecessors, assigns, directors, board members, commissioners, councilors, officers, attorneys, agents, shareholders, employees, insurers, transferees, grantees, legatees, husbands, wives, representatives and heirs, including those who may assume any and all of

the above-described capacities subsequent to the execution and effective date of this Settlement Agreement. This Settlement Agreement does not extend to any matters still at issue in the Post-Election Case and none of the parties shall assert that this Settlement Agreement has any impact or effect on that case.

4. Nonassignment of Claims. All parties represent and warrant that they have not assigned, transferred or liened, or purported to assign, transfer or suffered a lien, voluntarily or involuntarily to any person or entity all or any part of any right, claim, debt, liability, obligation, or counteraction that is addressed in this Settlement Agreement.

5. Consideration for Settlement

5.1 Consideration for Settlement. In consideration for this settlement, the Governmental Parties agree to pay Plaintiffs \$40,533.85 in full satisfaction of all claims against the Governmental Parties related to the Pre-Election Case.

5.2 Method of Payment. The Governmental Parties shall provide a check to the attorney representing the Plaintiffs within three days of final approval of this Settlement Agreement by the Oregon City Commission and the Urban Renewal Commission of Oregon City.

5.3 Dismissal of Appeals. All Parties shall dismiss all appeals, cross-appeals, and any other pending action related to the Pre-Election Case within three days of final approval of this Settlement Agreement by the Oregon City Commission and the Urban Renewal Commission of Oregon City. The appeal and cross-appeal of the Post-Election Case are not subject to this requirement.

6. Covenant Not to Sue.

Plaintiffs represent and agree that they will not at any time hereafter commence, prosecute or maintain any legal actions, lawsuits, administrative proceedings or other legal charges, claims or proceedings against the Governmental Parties with respect to any matter that could have been asserted or that arises out of the Pre-Election Case.

7. Settlement Made With Advice of Counsel

The Parties acknowledge and agree that they have been, or have had the opportunity to be, represented and advised by independent counsel of their own choice throughout all negotiations that preceded the execution of this Settlement Agreement, and with respect to the execution of the same. Plaintiffs expressly acknowledge that they sought the advice of attorney in making this Settlement Agreement.

8. No Other Representations

The Parties acknowledge that no other party, nor agent, nor attorney of any other party, has made any promise, representation or warranty, express or implied, not contained in this Settlement Agreement concerning the subject matter of this Settlement Agreement to induce a party to enter into the Settlement Agreement, and the Parties acknowledge that they have not executed this Settlement Agreement in reliance upon any such promise, representation or warranty not contained herein, and that there are no other agreements between or among the Parties concerning or related to the subject matter of this Settlement Agreement.

9. Counterparts

This Agreement may be executed in one or more counterparts, each of which shall be regarded as an original instrument, and all of which together shall constitute one and the same Agreement.

10. Severability

If any term or provision of this Settlement Agreement shall to any extent be invalid or unenforceable, the remainder of this Settlement Agreement shall not be affected thereby. Each term and provision of this Settlement Agreement shall be valid and be enforced as written to the fullest extent permitted by law.

11. Applicable Law

This Settlement Agreement shall be construed in accordance with and governed by the laws of the State of Oregon. Any disputes arising in connection with the execution and operation of this Settlement Agreement shall be governed and determined by the applicable laws of the State of Oregon.

12. Enforcement

To the extent that it becomes necessary to enforce this agreement the prevailing party shall be entitled to recover reasonable attorney's fees together with court costs and expenses. Venue shall be in the Circuit Court, Clackamas County.

By: _____ JOHN F. WILLIAMS, JR.	By: _____ THOMAS J. O'BRIEN
STATE OF OREGON)) ss.	STATE OF OREGON)) ss.
COUNTY OF _____)	COUNTY OF _____)

Notary Public

Notary Public

Notary Public

Notary Public

By: _____
FRANK O'DONNELL
Chair, Urban Renewal Commission of
Oregon City

Personally appeared before
me the above named Frank O'Donnell and
acknowledged the foregoing instrument to
be her voluntary act and deed on
_____, 2019.

Notary Public

IN THE COURT OF APPEALS OF THE STATE OF OREGON

JOHN F. WILLIAMS, JR.,
Plaintiff-Respondent
Cross-Appellant,

and

THOMAS J. O'BRIEN,
Plaintiff,

v.

KATTIE RIGGS, in her capacity as City Elections Officer for the City of Oregon City and
CITY OF OREGON CITY, a municipal corporation of the State of Oregon,
Defendants-Appellants
Cross-Respondents,

and

URBAN RENEWAL COMMISSION OF THE CITY OF OREGON CITY,
Intervenor-Appellant
Cross-Respondent.

Clackamas County Circuit Court No. 16CV01310

Court of Appeals No. A166328

**ORDER DISMISSING APPEAL; DENYING MOTION TO REINSTATE; AMENDING
CASE TITLE; AND DIRECTING CASE TO PROCEED AS TO CROSS-APPEAL**

Defendants below, Kattie Riggs, the Elections Officer for the City of Oregon City, and the City of Oregon City ("the city officials"), and intervenor below, Urban Renewal Commission, (collectively, "appellants") appeal from an amended general judgment which, among other things, (1) dismissed the Urban Renewal Commission's (URC's) cross-claim against the city officials, and (2) awarded attorney fees to plaintiffs under *Deras v. Myers*, 272 Or 47, 535 P2d 541 (1975), payable by appellants. Appellants also appeal a supplemental judgment awarding additional attorney fees. Plaintiff below, John Williams, Jr., moves to dismiss the appeals from those judgments on the ground that there is no effective relief that this court may grant on appeal. Williams bases his argument on the nature of the assignments of error raised in the appellants' opening brief combined with the fact that plaintiff below, Thomas O'Brien, is not a party to the appeal. Appellants oppose the motion to dismiss and also move to reinstate their appeals as to O'Brien. The motion to dismiss is granted; the motion to reinstate is denied.

**ORDER DISMISSING APPEAL; DENYING MOTION TO REINSTATE; AMENDING CASE TITLE;
AND DIRECTING CASE TO PROCEED AS TO CROSS-APPEAL**

REPLIES SHOULD BE DIRECTED TO: State Court Administrator, Records Section,
Supreme Court Building, 1163 State Street, Salem, OR 97301-2563

Background

Williams and O'Brien filed a petition with Kattie Riggs, the City of Oregon City Elections Officer, to initiate a ballot measure that, if adopted by the voters, would bar the URC from using tax increment financing revenue to purchase land or to fund new urban renewal projects, and to limit use of the revenue to retire existing URC debt. Riggs assigned the measure number 3-514, and approved the measure for circulation. Williams and O'Brien, as measure sponsors, began gathering signatures. Eight months later, Riggs issued a letter rescinding approval of the measure on the ground that the City Attorney had determined that the measure was not "municipal legislation" within the meaning of Article IV, Section 1(5), of the Oregon Constitution because it was "administrative" rather than "legislative" in nature.

Williams and O'Brien (collectively, "plaintiffs"), represented by attorney Jesse Buss, filed a pre-election action asserting four claims, the first of which sought a determination that Riggs lacked authority to rescind approval of the ballot measure. In the alternative, plaintiffs sought a determination that the measure was "legislative" in nature and, therefore, the City Election Officer erred in purporting to rescind approval of the measure for signature-gathering on that ground. The URC moved to intervene, which the trial court allowed, and the URC filed a cross-claim against the city officials asking the trial court to "declare the prospective petition unconstitutional" and "[declare] the proposed ballot title and any action by the city elections officer to approve the petition or certify the ballot title invalid" because the proposed measure was "administrative" in nature. The trial court determined that the City Elections Officer lacked authority to rescind her prior approval of the measure and, accordingly, entered a limited judgment granting plaintiffs' first claim for relief, allowing the measure to continue to be circulated for signatures.

Plaintiffs, as measure sponsors, eventually gathered enough signatures to qualify the measure for the city ballot, and the measure ultimately passed and became Section 59E of the City of Oregon City charter.

The URC prepared a post-election complaint seeking a determination that the restriction on use of tax increment financing revenue in Section 59E of the city charter was invalid for two reasons: First, because it was adopted by a ballot measure that was not "municipal legislation" within the meaning of Article IV, Section 1(5) of the Oregon Constitution in that the substance of the measure was "administrative" in nature. And, second, because the substance of the measure conflicted with ORS chapter 457, which authorizes urban renewal agencies to use tax increment financing revenue for new development projects and purchase of land. The URC's attorney provided a courtesy copy of the complaint, which named Williams and O'Brien as defendants, to Buss, and asked him to accept service of the complaint on their behalf. Buss responded that he would accept service of the complaint, but also represented that O'Brien did not want to be part of the new case and asked that O'Brien be "dropped from this new litigation."

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The URC's attorney sought assurance that, if O'Brien was dismissed as a defendant, Buss would not argue that the URC was not entitled to relief for failure to join O'Brien as an indispensable party. Buss so assured him. By that time, the URC had filed its complaint in which it identified O'Brien as a defendant; but the URC never effected service on O'Brien and, in any event, the URC filed notice of dismissal as to O'Brien. Nothing was filed, however, in the pre-election case dismissing O'Brien from that case or otherwise indicating that he was no longer a party to it.

The trial court ultimately consolidated the pre-election and post-election cases for hearing and trial and, on cross-motions for summary judgment, determined that Section 59E was legislative in nature, but nevertheless was invalid because it was inconsistent with ORS chapter 457, which authorizes urban renewal agencies to use tax increment revenue to purchase land and to pay for new development.¹ In the meantime, plaintiffs sought attorney fees in the pre-election case for prevailing on their first claim for relief. See *Deras*, 272 Or 47. The trial court determined that plaintiffs were entitled to an award of attorney fees.

In October 2017, in the pre-election case, the trial court entered a general judgment dismissing as moot plaintiffs' second, third, and fourth claims (which included a claim in which plaintiffs sought a determination from the trial court that the measure was "legislative" in nature), dismissing the URC's cross-claim, and awarding plaintiffs' attorney fees payable by the city officials and the URC. The city officials timely appealed from that judgment.

The city officials also moved to vacate the general judgment and to await re-entry of the judgment until the trial court concluded the post-election case. The trial court granted that motion and, in March 2018, entered an amended general judgment.

The city officials filed an amended notice of appeal from the amended general judgment. In addition, the URC appealed and Williams cross-appealed the amended general judgment. Williams also appealed the order granting relief from the original general judgment. Thereafter, the trial court entered a supplemental judgment awarding plaintiffs' attorney fees for prosecuting their original petition for attorney fees. The city officials and the URC filed amended notices of appeal to include the supplemental judgment.

When the city officials and the URC filed their respective notices of appeal from the general judgment and supplemental judgment in the pre-election case, the caption of each notice of appeal identified O'Brien as a respondent on appeal, as did Part 2 of

¹ In due course, the trial court entered a general judgment disposing of the post-election case, from which both Williams and the city officials have appealed (Court of Appeals No. A167583). In December 2018, the Chief Judge denied a motion to consolidate the appeals in the consolidated pre- and post- election cases.

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each notice, which identified the parties to the appeal and their attorneys. However, the last paragraph of each notice of appeal stated:

"The certificate of the filing and service attached to this notice of appeal shows filing and service of the notice of appeal consistent with the requirements of ORS 19.260. *Defendant Thomas J. O'Brien is not a party to this appeal and is not listed on the service page because he is no longer a part of this action.*"

(Emphasis added.) Consistent with that statement, appellants' Certificates of Service stated that they had served Buss only in his capacity as attorney for Williams.

The city officials filed at least two amended or corrected notices of appeal. Like their other notices of appeal, the amended notices purported to both identify O'Brien as a party to appeal and to disavow him as a party to the appeal, and omitted proof of service on Buss as O'Brien's attorney.

Well after 30 days had passed from the dates the amended general and supplemental judgments were entered, the URC belatedly filed a corrected notice of appeal from the amended general judgment and the supplemental judgment that included proof of service on Buss in his capacity as attorney for both Williams and O'Brien.

The court issued a case title correction notice that proposed to "split" the case title, the top half showing the parties to the original complaint and the bottom part showing the parties to the cross-complaint. Consistent with the case title part of the notice of appeal, the proposed case title showed both Williams and O'Brien as respondents on appeal. By letter, Buss objected on Williams' behalf to the proposed case title, primarily as to the "split" case title, but also noting that the city officials had stated in their notice of appeal that O'Brien was not a party to the appeal. The URC joined in the objection. By order dated May 25, 2018, the court sustained the objection to the "split" case title. The order, in a footnote, stated:

"The notices of appeal filed by the City of Oregon City and Kattie Riggs named Thomas J. O'Brien as a respondent. A motion to dismiss the appeal as to Thomas J. O'Brien will need to be filed if he is not a party."

On October 4, 2018, the attorney for the city officials, the attorney for the URC, and Buss as attorney for Williams and O'Brien filed a stipulated motion to dismiss the appeal as to Thomas O'Brien. The court granted that motion and the case title was modified to show Thomas J. O'Brien as a plaintiff, but not as a respondent on appeal.

In due course, appellants filed a joint opening brief, in which they raise two assignments of error. In the first assignment of error, appellants take issue with the trial court's decision that "that Oregon City Charter Section 59E constituted municipal

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legislation within the meaning of Article IV, Section 1(5) of the Oregon Constitution." In their second assignment of error, appellants challenge the trial court's award of attorney fees to plaintiffs in the general and supplemental judgments.

Motion to Dismiss and Motion to Reinstate

Williams moves to dismiss appellants' appeals on the ground that the appeals are not justiciable. According to Williams, there is no relief the court may grant respecting either of appellants' assignments of error.

The court begins with appellants' second assignment of error, in which appellants challenge the trial court's award of attorney fees to plaintiffs. As to that assignment, Williams asserts that the assignment is not justiciable because O'Brien is not a party to the appeals. Williams argues that the general judgment identifies both Williams and O'Brien as judgment creditors and, because only Williams is a party to the city officials' and URC's appeals, even if the court reversed the award of attorney fees, the court could reverse only as to Williams, which would leave the judgment intact as to O'Brien.² In response, appellants, in addition to opposing the motion to dismiss as to the second assignment of error, move to "reinstate" their appeals as to O'Brien, characterizing the footnote in the May 25, 2019, order (described above) as determining that the notices of appeal made O'Brien a party to the appeal.

The court agrees with Williams. The notices of appeal filed by the city officials and the URC do not show proof of service of copies of the notices of appeal on Buss in his capacity as O'Brien's attorney within the time allowed under ORS 19.255(1). Regardless of what the footnote in the court's May 25, 2018, order may have implied, O'Brien was never a party to the appeals because appellants did not timely effect service of notice of appeal on him. See ORS 19.270(2)(a) (timely service under ORS 19.255 is jurisdictional and cannot be waived or extended). Thus, even if appellants obtained a reversal of the award of attorney fees as to Williams, the award of attorney fees would remain in effect as to O'Brien. Therefore, there is no effective relief the court can grant on appeal respecting appellants' second assignment of error.

Furthermore, because O'Brien was never a party to the appeal, the court cannot now reinstate him to party status. On that basis, appellants' motion to reinstate O'Brien as a party to the appeal is also denied.

Turning back to appellants' first assignment of error: In that assignment, appellants argue that the trial court erred in holding that Oregon City Charter 59E constituted "municipal legislation" within the meaning of Article IV, Section 1(5) of the Oregon Constitution. In their view, the court should have instead held that Section 59E was administrative in nature and, therefore, not an appropriate subject for an initiative measure. Williams asserts that that issue is not properly before the court in the pre-

² Indeed, Williams states that O'Brien is actively attempting to enforce the award of attorney fees against appellants.

ORDER DISMISSING APPEAL; DENYING MOTION TO REINSTATE; AMENDING CASE TITLE; AND DIRECTING CASE TO PROCEED AS TO CROSS-APPEAL

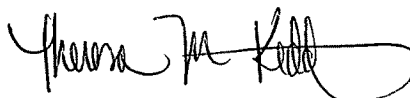
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election case. In particular, according to Williams, the "'legislative v. administrative' constitutional question is relevant *only* in the related post-election case (A167583; it is irrelevant in this pre-election case, which has only to do with Mr. Williams' entitlement to attorney fees." Williams further points out that appellants do not challenge on appeal the trial court's dismissal of URC's cross-claim.

In the pre-election case, URC, in its cross-claim, sought to have the trial court hold, under ORS 246.910, that the proposed initiative petition was invalid and should not be placed on the ballot. See ORS 246.910(1) (a person adversely affected by any act of a city elections officer may appeal therefrom to the circuit court in the county in which the act occurred). In the post-election case, the URC sought and obtained a declaration that the substance of the ballot measure, by that time adopted and codified as Section 59E of the Oregon City Charter, was invalid. As noted, in this appeal pertaining to the pre-election case, in their first assignment of error, appellants assert that the trial court incorrectly concluded that Section 59E is legislative as opposed to administrative. They do not, however, challenge the trial court's dismissal of their request for relief under ORS 246.910. See ORAP 5.45(3) ("Each assignment of error must identify precisely the legal, procedural, factual, or other ruling that is being challenged.").³ Because appellants' first assignment of error does not seek reversal of the trial court's disposition of any motion or claim in this pre-election case, there is no relief that the court can grant respecting that assignment of error.

Because there is no relief that this court may grant respecting the relief the city officials seek in their brief, the appeals of the city officials and the URC are dismissed. Williams' cross-appeal remains in effect; therefore, the title of the case on appeal is modified as shown in the accompanying page, and the cross-appeal is directed to proceed, now as the only appeal in the case.

Appellant's opening brief is due 49 days from the date of this order.



THERESA M. KIDD
APPELLATE COMMISSIONER
7/12/2019 2:13 PM

c: William K Kabeiseman
Gabriel Matthew Weaver
Jesse A Buss

Ej

³ Although it is possible that, in this pre-election case, the URC could have assigned error to the dismissal of its cross-claim as noted, the URC has not assigned error to that ruling. Furthermore, the court notes that it appears that the city officials could not, themselves, assign error to the dismissal of the cross-claim because that claim was brought only by the URC.

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IN THE COURT OF APPEALS OF THE STATE OF OREGON

JOHN F. WILLIAMS, JR.,
Plaintiff-Appellant,

and

THOMAS J. O'BRIEN,
Plaintiff,

v.

KATTIE RIGGS, in her capacity as City Elections Officer for the City of Oregon City and
CITY OF OREGON CITY, a municipal corporation of the State of Oregon,
Defendants-Respondents,

and

URBAN RENEWAL COMMISSION OF THE CITY OF OREGON CITY,
Intervenor-Respondent.

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