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(1928-1983)

AUSTIN K. WOLF
RICHARD L. ALBRECHT
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NATHAN C. ZEZULA
PHILIP C. PIRES
ROBYN H. DRUCKER
RACHEL A. SCHWARTZMAN
JORDAN L. FIELDSTEIN

OF COUNSEL
MARTIN J. ALBERT
PETER A. ARTURI
LEONARD C. BLUM
ANN L. FOWLER-CRUZ
THEMIS KLARIDES
ROSAMOND A. KOETHER
BRUCE L. LEVIN
JACK E. MCGREGOR
JOHN PATRICK C. O'BRIEN
ALLAN J. ROSEN
MARTIN F. WOLF

115 BROAD STREET
P.O. BOX 1821
BRIDGEPORT, CT 06601-1821
TEL: (203) 368-0211
FAX: (203) 394-9901

158 DEER HILL AVENUE
DANBURY, CT 06810
TEL: (203) 792-2771
FAX: (203) 791-8149

320 POST ROAD WEST
WESTPORT, CT 06880
TEL: (203) 222-1034
FAX: (203) 227-1373

657 ORANGE CENTER ROAD
ORANGE, CT 06477
TEL: (203) 298-4066
FAX: (203) 298-4068

PATRICIA C. SULLIVAN
PLEASE REPLY TO Bridgeport
WRITER'S DIRECT DIAL: (203) 337-4124
E-MAIL ADDRESS: psullivan@cohenandwolf.com

LEGAL OPINION

RECEIVED

NOV 01 2013

TOWN OF WESTON
SELECTMAN'S OFFICE

TO: Gayle Weinstein, First Selectman
FROM: Patricia C. Sullivan, Town Counsel *PCS*
RE: Quorum Requirement
DATE: October 31, 2013

Pursuant to your request, here is my written opinion with regard to the questions listed below.

QUESTIONS PRESENTED

1. Does the 1974 Gilson v Weston case, (*Gilson, et als v Town of Weston, et als* (case No. 15 03 45, Superior Court, Fairfield County at Bridgeport) ("*Gilson*") or any other case, bar a Charter provision requiring a quorum at the Weston Annual Town Budget Meeting ("ATBM")?
2. Is there anything that would preclude giving Weston voters a choice on Election Day of voting "yes" or "no" for inclusion of specific wording in the Weston Town Charter?
3. Even if a quorum is legal, what is to be gained by having one?

SHORT ANSWERS

1. The Gilson v Weston case does not bar a Charter provision from requiring a quorum at the ATBM.
2. Under the Connecticut General Statutes, a Charter Commission is appointed to consider recommendations and other changes the Commission deems appropriate. There are no provisions for amending a Town Charter based on a "yes or "no" vote on Election Day.
3. A quorum requirement is legal, whether to require a quorum is not a legal question, but a philosophical and/or political one.

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DISCUSSION

1. Nothing in Gilson prevents a quorum requirement in the Charter. There is no case law or statute that prohibits a town charter from having a quorum requirement.

In Gilson, a group of qualified voters sued the Town. Their claim was that the town budget for 1973 had not been properly adopted. The residents opposed to the budget were not looking to reduce the budget, in general. Their goal was to reduce the appropriation for education. Gilson, pp. 4-5. When their attempt to reduce the education appropriation failed, they voted to reject the budget outright. The Court found that, pursuant to the Charter, a majority of those present and voting could accept or reject the proposed budget. The five percent majority threshold requirement, referenced in Gilson, was only applicable if a vote were taken to reduce an appropriation. All other votes were by simple majority.

Gilson stands for the proposition that if there is a Charter requirement, it must be respected. Gilson does not require or reject quorum provisions or majority thresholds. In Gilson, the court determined that the Charter requirements were applied incorrectly. Approval or rejection of the town budget required the vote of a simple majority of those qualified, present and voting. Reduction of an appropriation required a vote to approve the reduction by at least five percent of those qualified. In 1973, the ATBM treated a rejection of the budget as if it were a reduction of a line item. That is where the Court found a mistake had been made.

The case does not stand for the proposition that a quorum or threshold majority cannot be required, but that a charter requirement must be properly applied.

2. There are distinct provisions, under the Connecticut Statutes, for amending town charters. The statutes are found in Chapter 99 of the Connecticut General Statutes at Sections 7-187 through 7-201. The process is detailed. The statutes set forth the obligations of the Charter Commission. While a popular vote will ultimately be taken, whether to approve or reject proposed changes to the Charter, specific wording in the Town Charter cannot be changed by popular vote.

3. A charter may legally have a quorum provision. Quorum requirements are philosophical and/or political questions, not legal ones.