



Greater Highland Crossroads Association

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Ken Ulman, Greg Fox, Mary Kay Sigaty, Calvin Ball, Courtney Watson, Jen Terrasa, you were needed at the Court of Special Appeals in Annapolis on Monday, **Where were you?**

Present and in support of the right of referendum were: **Senator Allan Kittleman,** candidate for County Executive; **Alan Schneider,** candidate for Council, District 5; **Wally Carson,** candidate for State Delegate, D9a; **Allen Dyer,** running for the Board of Education; **William Campbell,** candidate for the State office of Comptroller; **James Williams,** running for Delegate in 13th district, **John McMahon** running for Howard County Sheriff.

They helped make up the crowd of about 50 citizens who traveled to Annapolis to support the pro-bono efforts of **Susan Gray and Allen Dyer** to appeal the **Board of**

Elections, (BOE) one-sentence denial of the referendum petition as "not fair and accurate."

I want to share my notes with you in short form so I can get this out quickly --
Dan O'Leary

On the sidewalk on Rowe Boulevard and on the courthouse steps:

- People of all ages and types, most wearing red and carrying signs.
- Sen. Kittelman on the Blvd sidewalk with the demonstrators meeting and encouraging everyone; later stressing the message he gives to school children: "You are my boss, I work for you." And thanking all present for the important work.
- Ron Coleman leading the group singing "The Star Spangled Banner."

Inside the Courthouse:

- An impressive building with public space even on the second floor so large that it cramped the courtroom that provided more than enough space for the judges and the lawyers but only a single row of chairs on the rounded perimeter, and a few seats at desks for citizen spectators, maximum 30 seats
- The Chief Judge astonished when Susan informed him that 40-50 more people were outside and wished to attend -- only a few were admitted.
- The guard on the desk revealing they had only 1 or 2 busy days a year and this was one of them.

The Oral Arguments, main points:

- **Susan Gray** making relevant point after point while never putting a foot wrong:
 - ✓ Court has power to grant relief under MD law
 - ✓ "This is an easy case."
 - ✓ BOE decision was arbitrary and capricious.
 - ✓ BOE response for explanation was over 6 months late

- ✓ Court has power to put referendum on the ballot and to amend and approve the ballot language.
- ✓ Ending her rebuttal with the statement that the BOE and the developers have attempted to deny the most basic of rights, **the vote**; and the question: "will they get away with it?"
- ✓ Decision must expedited - Chief Judge agrees to "timely rule."
- **BOE Attorney Response:**
 - ✓ Gives history saying BOE never gave final approval the petition language.
 - ✓ Has no answer as to why the BOE did not explain the decision and admits it might have been better to do so, but says it has no effect.
 - ✓ Stands mute when judge asked if the BOE positioned itself to "ambush the petition."
 - ✓ Asks Court to examine the Zoning Bill and the petition side-by-side to determine if "fair and accurate." This approach favors the BOE and the developers because the case can and should be decided based on the actions and inactions of the BOE.
- **Sang Oh Response:**
 - ✓ Characterizes the BOE initial approval of the petition -- before the signature drive -- as a "pre-certification" not certification. This is the first airing of this theory. He goes further to say that the petitioners should have taken immediate legal action to force the BOE either to certify or point out any deficiencies. This obscures the fact that the BOE approved the application and the form of the petition while not informing the petitioner that it retained the right to deny certification based on the very language submitted and presumably approved.
 - ✓ Accuses the petitioners of using the Clarksville funeral home to inflame the voters, when he knows the petitioners stated purpose of inclusion was to preserve the legal rights of those appealing the approval of the funeral home.

- ✓ Denies, for legal purposes, that the Zoning Bill had any effect, upon the funeral home property.
- **Bill Erskine Response:**
 - ✓ Asks the Court not to harm his client because of mistakes that the **BOE** made.
 - ✓ Asks the Court to forget (read: ignore) all other issues and compare the Zoning Law with the petition in order to rule it was not "fair and accurate."
- **The Judges' Questions:** As a general impression, the judges questioned the reasons for the delays and the lack of timely action by the BOE, and questioned the reasoning and intent of the BOE and the developers' attorneys. The questions by all three judges to Susan Gray seemed to be in search of legal basis to decide in the petition's favor.