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SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION—MERCER COUNTY

Civil Action

IN RE PETITION FOR REFERENDUM ON )  
CITY OF TRENTON ORDINANCE 09-02 )

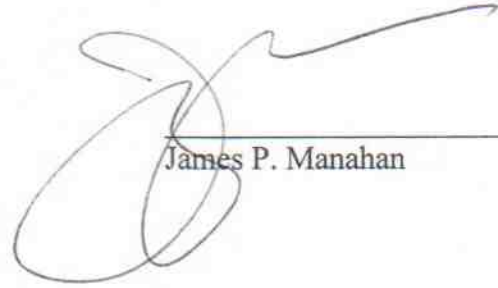
DOCKET NO. MER-L-548-09

CERTIFICATION OF JAMES P.  
MANAHAN, ESQUIRE

I, James P. Manahan, of full age, do hereby certify as follows:

1. I am an attorney at law of the State of New Jersey and a member of Bernstein & Manahan, LLC attorneys for Defendants/Counterclaimants, Committee of Petitioners, Michael McGrath, Karen McGrath, Hibbert Duncan, Noreen Duncan and Algernon Ward. I have personal knowledge of the following which I represent to be true.
2. I attach as Exhibit A a true copy of this Court's Opinion and Order each dated March 16, 2009.
3. I attach as Exhibit B a true copy of the transcript of the proceedings before this Court which took place on March 16, 2009 and which are the subject of this Motion for Reconsideration.

4. I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.



James P. Manahan

Dated: April 6, 2009

# EXHIBIT A

SUPERIOR COURT OF NEW JERSEY  
MERCER VICINAGE

LINDA R. FEINBERG  
ASSIGNMENT JUDGE



MERCER COUNTY COURTHOUSE  
P.O. BOX 8068  
TRENTON, NJ 08650  
609-571-4499

March 17, 2009

William W. Northgrave, Esquire  
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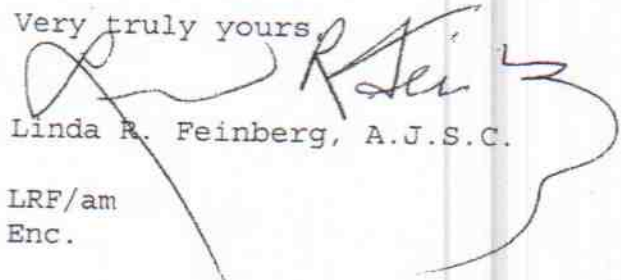
Re: In Re Petition for Referendum on City of Trenton  
Ordinance 09-02  
MER-L-548-09

Dear Counsel:

Enclosed please find my opinion and Order with regard to  
the above-referenced matter.

If you require any additional information, please feel free  
to contact my office.

Very truly yours

  
Linda R. Feinberg, A.J.S.C.

LRF/am  
Enc.

NOT FOR PUBLICATION WITHOUT THE APPROVAL OF THE  
COMMITTEE ON OPINIONS

In Re Petition for Referendum  
on City of Trenton  
Ordinance 09-02

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION-MERCER COUNTY

DOCKET No.:MER-L-548-09

CIVIL ACTION

OPINION

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Decided: March 16, 2009

William W. Northgrave, attorney for the plaintiff City of Trenton (McManimon & Scotland, attorneys; Mr. Northgrave, on the brief).

Douglas W. Frankenthaler and Ira G. Megdal, attorneys for the plaintiff New Jersey-American Water Company, Inc. (Cozen O'Connor, attorneys; Mr. Frankenthaler and Mr. Megdal, on the brief).

James P. Manahan, attorney for the defendants Michael McGrath, Karen McGrath, Hibbert Duncan, Noreen Duncan and Algernon Ward (Bernstein & Manahan, attorneys; Mr. Manahan, on the brief).

FEINBERG, A.J.S.C.

FEINBERG, A.J.S.C.

On March 4, 2009, the City of Trenton filed a complaint in lieu of prerogative writs and order to show cause as to why the petition filed by Michael and Karen McGrath, Hibbert and Noreen Duncan and Algernon Ward ("collectively referred to as the "Committee on Petitioners" or the "Committee") on February 25, 2009 should not be dismissed as null and void. Through their petition, the Committee on Petitioners seeks to either repeal Ordinance No. 09-02, or in the alternative, have the question submitted to the voters of the City of Trenton ("the City").

The City is a municipality in the State of New Jersey operating under the optional Municipal Charter Law (the "Faulkner Act") pursuant to N.J.S.A. 40:69A-1 et seq. The City represents: (1) it currently operates a water utility comprised of two systems; to wit, the Inside Water Utility System ("IWUS") and the Outside Water Utility System; (2) the IWUS serves businesses and residents within the City while OWUS serves those in the Townships of Ewing, Hamilton, Hopewell and Lawrence (the "Townships"); and (3)

each system provides potable water to its respective area of service. Despite these representations, the Committee asserts there is only one water utility system and that IWUS and OWUS are merely two portions of that whole. To support this position, the Committee argues OWUS is "not a system in the full meaning of that word, because it has no inherent source of potable water, being fully dependent upon the Trenton Water Works ("TWW")." Com. Br. at 2.

In 2000, Killam Associates prepared a study for the City (the "Killam Report") to determine whether OWUS and IWUS could feasibly operate as separate entities. At the time, the City took no action regarding this report. In September 2005, the City undertook a re-examination and initiated an investigation to determine: (1) whether it would benefit both the City and the Townships to physically separate the two systems; and (2) whether it would serve the City and Townships' interests to sell OWUS to a private utility.

Given the absence of any new study since for five years, the City commissioned MWH, an outside technical engineering consulting firm, to prepare a comprehensive report to update and supplement the Killam report.

Based on its investigation, the City concluded that separating OWUS and IWUS would promote public health and

