

Schafer, Suzanne K. (Treasury)

From: Vandegrift, Drew (TREASURY)
Sent: Monday, June 15, 2015 11:45 AM
To: Headen, Frederick (Treasury)
Cc: Koryzno, Edward (Treasury); Byrne, Randall (Treasury)
Subject: COA Kincaid v. Flint
Attachments: COA FLINT WATER 6.12.pdf

Hello Fred,

I am reviewing the latest COA opinion for Kincaid v. Flint. I am troubled by the court's holding that no EM actions taken under PA 4 "survive[d] the electors' referendum of that Act" (p8). What about the 19(1)(k) actions taken under PA 4?

Both Flint and Pontiac have enormous OPEB liabilities to honor if the 19(1)(k) actions are no longer effective.

--Drew

STATE OF MICHIGAN
COURT OF APPEALS

WILLIAM SCOTT KINCAID, ERAINA POOLE,
GEORGE POOLE, and MARY BELL,

Plaintiffs-Appellants,

v

CITY OF FLINT,
a municipal corporation.

Defendant-Appellee.

FOR PUBLICATION
June 11, 2015
9:10 a.m.

No. 318906
Genesee Circuit Court
LC No. 12-098490-CZ

Before: DONOFRIO, P.J., and BORRELLO and STEPHENS, JJ.

STEPHENS, J.

Plaintiffs, all residents of the defendant, appeal as of right the order of the circuit court granting defendant's motion for summary disposition and denying plaintiffs' motion to amend their complaint. We reverse and remand.

I. BACKGROUND

On August 15, 2011, the defendant's finance director, Michael Townsend sent a notice of a proposed 3.5% water and sewerage rate increase to be effective September 16, 2011, to the city council and mayor. The increase was proposed to meet a projected fiscal year deficit in the water fund of \$14,789,666 as well as a sewer fund deficit of \$8,078,917. Council adopted the proposal and the mayor signed it.

Shortly thereafter defendant was declared to be in a state of financial emergency.¹ On November 28, 2011, Governor Rick Snyder appointed Michael Brown as the Emergency Manager (EM) of defendant under the Emergency Manager Law, Public Act 4 of 2011.² On

¹ MCL 141.1545, former MCL 141.1214 lists the four instances in which a financial emergency exists.

² Former MCL 141.1501 *et seq.*; At the time, former MCL 141.1515(4) provided the Governor with the authority to appoint an emergency manager: