



FILED
07-24-2024
CLERK OF WISCONSIN
SUPREME COURT

July 24, 2024

Via Electronic Filing

Sameul A. Christensen
Clerk of the Supreme Court and Court of Appeals
110 East Main Street, Suite 215
P.O. Box 1688
Madison, WI 53701-1688

RE: *Evers v. Marklein*, Appeal No. 2023AP002020.

Dear Mr. Christensen,

On October 31, 2023, Governor Tony Evers, et. al., filed a petition for original action seeking the Court's review of three issues. In an order dated February 2, 2024, the Court granted review of the first issue and held issues two and three in abeyance.

Clean Wisconsin filed a non-party brief concerning the first issue, supporting the position that the Joint Committee on Finance's (JCF) legislative vetoes relating to the Knowles-Nelson Stewardship program are constitutionally invalid. We argued that the rationale for this conclusion extends to other legislative vetoes, because they suffer similar legal and practical infirmities. Accordingly, Clean Wisconsin urged the Court to take up all issues from the Petition. We particularly focused on the third issue presented: whether the legislative veto used by the Joint Committee for Review of Administrative Rules (JCRAR) to block a proposed rule to update Wisconsin's Commercial Building Code runs afoul of the constitutional separation of powers. The brief describes the deeply problematic process by which JCRAR blocked that rule and how it exemplifies the dysfunction invited by the strong legislative veto powers the legislature has given to itself, from the unique point of view of an active participant in the process.

The Court issued a decision on July 5, 2024, holding that JCF's legislative veto over certain proposed Knowles-Nelson Stewardship program projects violated the constitutional separation of powers.

The same day, the Court issued an order directing parties to file legal memoranda by July 26, 2024, discussing the extent to which the Court's decision affects the

634 W. Main Street #300, Madison, WI 53703
608-251-7020 | www.cleanwisconsin.org



question of whether the Court should grant review for the second and third issues from the petition for original action.

Clean Wisconsin respectfully submits this correspondence for the narrow purpose of reiterating that our previously filed non-party brief provides valuable context and a unique perspective for the Court to consider as it decides whether to grant review of the third issue presented, JCRAR's blockage of Commercial Building Codes updates. Our non-party brief illustrates why the public would benefit from a clear ruling from the Court on this issue.

Respectfully,

/s/ Evan Feinauer
Staff Attorney

Clean Wisconsin
634 West Main Street
Suite #300
Madison, WI 53703
efeinauer@cleanwisconsin.org
608.251.7020 x321