

1966

E. Paul Thompson v. The City of Centerville, a Municipal Corporation : Petition For Rehearing

Follow this and additional works at: https://digitalcommons.law.byu.edu/uofu_sc2

Original Brief submitted to the Utah Supreme Court; funding for digitization provided by the Institute of Museum and Library Services through the Library Services and Technology Act, administered by the Utah State Library, and sponsored by the S.J. Quinney Law Library; machine-generated OCR, may contain errors. Joseph P. McCarthy, Irene Warr, and Laren D. Bates; Attorneys for Appellant

Recommended Citation

Petition for Rehearing, *Thompson v. Centerville*, No. 10562 (1966).
https://digitalcommons.law.byu.edu/uofu_sc2/3817

This Petition for Rehearing is brought to you for free and open access by BYU Law Digital Commons. It has been accepted for inclusion in Utah Supreme Court Briefs (1965 –) by an authorized administrator of BYU Law Digital Commons. For more information, please contact hunterlawlibrary@byu.edu.

IN THE SUPREME COURT OF THE STATE OF UTAH

E. PAUL THOMPSON,

Plaintiff-Respondent,

vs.

THE CITY OF CENTERVILLE,
a Municipal Corporation,

Defendant-Appellant.

FILED
APR 2 1966
Case No.
10562

PETITION FOR REHEARING

Appeal from a Judgment of the District Court of
Davis County, Utah
Honorable Thornley K. Swan, Presiding

A. M. Ferro
414 Walker Bank Building
Salt Lake City, Utah
Attorney for Defendant-
Appellant

Ned Warnock
414 Walker Bank Building
Attorney for Plaintiff
and Respondent

UNIVERSITY OF UTAH

SEP 30 1966

LAW LIBRARY

INDEX

	Page
Purpose of Petition	1
Point 1 - Decision refers to real property tax- payers.	2
Point 2 - Decision may imply only real property taxpayers may vote.	2
Point 3 - Constitution and statutes do not limit voting power to real property owners	3
Point 4 - Limitation of voting power in bond election was neither at issue nor argued.	3
Conclusion	4

CITATIONS

Constitution of Utah, Article XIV, Section 3	3
Utah Code Annotated, 1953, Section 11-14-5 (Laws of Utah, 1965, Utah Municipal Bond Act, Chapter 4, Section 6)	3

IN THE SUPREME COURT
OF THE STATE OF UTAH

E. PAUL THOMPSON,

Plaintiff-Respondent,

vs.

THE CITY OF CENTERVILLE,
a Municipal Corporation,

Defendant-Appellant.

Case No.
10562

PETITION FOR REHEARING

PURPOSE OF PETITION

TO THE HONORABLE CHIEF JUSTICE
AND TO THE ASSOCIATE JUSTICES OF
THE SUPREME COURT OF THE STATE OF
UTAH:

Petitioner City of Centerville respectfully requests
a rehearing in the above-entitled cause and that the

decision be modified or amplified as hereinafter suggested for the reasons and upon the grounds herein stated:

Point 1

DECISION REFERS TO REAL PROPERTY TAXPAYERS.

In the fifth paragraph of the decision the court states:

“We believe and hold that our Constitution’s language to the effects that those who may vote are “such qualified electors as shall have paid a property tax,” so far as *this* Act is concerned, means and since statement has meant, those who have appeared as legal owners of *real* property, as is reflected on the official assessment and tax rolls, no matter who paid the taxes.”

Point 2

DECISION MAY IMPLY ONLY REAL PROPERTY. TAXPAYERS MAY VOTE.

The above-quoted language of the decision is subject to the possible interpretation that the decision holds that only real property taxpayers may vote in a bond election pursuant to the provisions of the Utah Municipal Bond Act and of the Constitution.

Point 3

CONSTITUTION AND STATUTES DO NOT LIMIT VOTING POWER TO REAL PROPERTY OWNERS.

Close examination of the Constitution of the State of Utah and in particular Article XIV, Section 3, and examination of the statutes of the State of Utah do not disclose any distinction between real and personal property taxpayers and their voting rights. It is probable that the language of the court referred solely to the language appearing in subparagraph (c) of Section 6 of the Utah Municipal Bond Act (11-14-5(c), Utah Code Annotated, 1953, wherein reference is made to the purchaser of any real property pursuant to a contract who, pursuant to the terms of such contract, shall have supplied the money which has been applied to the payment of taxes on the property involved.

Point 4

LIMITATION OF VOTING POWER IN BOND ELECTION WAS NEITHER AT ISSUE NOR ARGUED.

If it was in fact the decision of the court to limit the right to vote at bond elections to "real property taxpayers" then we urge the court to permit the parties to present argument on the matter because it is believed by petitioner that the decision would be in error and was not argued in the proceeding before the court.

Petitioner believes that if such were the intended decision of the court, it would be somewhat inconsistent to hold that personal property taxpayers may not vote inasmuch as such taxpayers would be affected by the increase in the taxes resulting from the bond election, yet they would have no voice in the imposition of the higher taxes thereby authorized to retire the bonded indebtedness.

CONCLUSION

Petitioner respectfully submits that a rehearing should be had and the decision revised.

Respectfully submitted,

A. M. FERRO

Attorney for Appellant

414 Walker Bank Building
Salt Lake City, Utah