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STATE OF WISCONSIN      WISCONSIN ELECTIONS COMMISSION

EL-20-24 Karen McKim v. City of Madison Clerk’s Office

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Sworn Statement In Reply to Complaint Filed with  
Wisconsin Elections Commission

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STATE OF WISCONSIN)

) ss.

COUNTY OF DANE      )

Being first duly sworn, Maribeth Witzel-Behl, in her capacity as Madison City Clerk, replies to the above- referenced complaint as follows:

1. I am the City Clerk for the City of Madison, Dane County, Wisconsin. I have held this position since 2006.
2. In my capacity as City Clerk, I am charged with administering elections within the City. This includes oversight of the elections process and hiring and training of poll workers and Chief Election Inspectors.

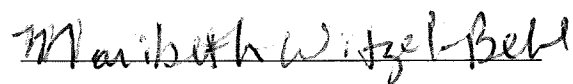
3. I have read the allegations in the above-referenced Complaint of Karen McKim (hereinafter, “the Complainant”).
4. The Complainant alleges that the City of Madison violated Sec. 5.91 (15) Wis. Stats. Sec. 5.91 provides in part that “No ballot, voting device, automatic tabulating equipment, or related equipment and materials to be used in an electronic voting system may be utilized in this state unless it is certified by the commission.” Sec. 5.91(15) Wis. Stats. further provides that the commission may not certify any ballot, device, equipment, or material to be used in an electronic voting system unless it “permits an elector to privately verify the votes selected by the elector before casting his or her ballot.”
5. The Election Systems & Software (hereinafter “ESS”) DS 200 and the ESS ExpressVote, which are used by the City of Madison, are certified by the Wisconsin Elections Commission as meeting the requisite requirements of Sec. 5.91(15) Wis. Stats.
6. The City of Madison may only purchase voting equipment that has been tested and approved by both the U.S. Election Assistance Commission and the Wisconsin Elections Commission. Voting equipment from ESS has been approved for use in Wisconsin. Therefore, the City is not in violation of the

only statute cited by Complainant as long as it is using equipment approved by the WEC.

7. The Complaint is also factually inaccurate. The ESS ExpressVote prints out results which list on the slip inserted into the voting envelope the names of the candidates for whom the elector has voted. In addition to the barcodes referenced by Complainant, the names of those for whom the votes were cast are visible without the need to re-feed the slip into a computer. This clearly “permits an elector to privately verify the votes selected by the elector before casting his or her ballot” as required by the statute.
8. Before every election, the City Clerk’s staff thoroughly tests the programming of the voting equipment by the Dane County Clerk to ensure that ballots and ExpressVote ballot cards will be counted correctly. The City of Madison holds the public test the first day we are legally allowed to do so, the tenth day preceding Election Day. The public test is held on a Saturday, in hopes of making it more accessible to the general public. The City of Madison promotes the public test through local media sources, encouraging members of the public to attend.
9. Post election testing of ballots is also done by Dane County in randomly selected wards when directed to do so by the WEC. This testing is open to the public.

10. Each Chief Election Inspector employed by the City of Madison must complete online or in person baseline training required by the Wisconsin Elections Commission.
11. Each Chief Election Inspector is trained to administer the polling place safely, efficiently, and transparently to encourage public confidence in our voting procedures. The Inspectors are not, however, required to respond to questions or quizzes from individuals, especially during busy polling times. There is also no statutory or WEC training standard requiring election inspectors to maintain in-depth familiarity with the internal workings of voting equipment. The City relies on WEC to test and approve the equipment so that inspectors may focus on facilitating its proper operation and assisting voters with using the equipment.
12. For these reasons I believe I have complied with Wis. Stat. 5.91(15) and I have not abused my discretion in administering that statute or any other election law.

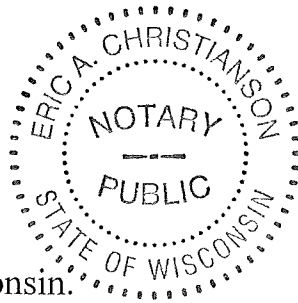
Dated at Madison, Wisconsin this 23rd day of November, 2020.



Maribeth Witzel-Behl, City Clerk

Subscribed and sworn to before me this  
23rd day of November, 2020.





Notary Public, Dane County, Wisconsin.

My Commission expires 3-27-2022.