

Appellate court rules Warren city council president can complete term

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The Michigan Court of Appeals ruled yesterday in a published decision that Warren City Council President Patrick Green can complete his third term in office, and in doing so, he is not in violation of term limits established by the city's electorate.

The case, *Boike v Green*, Docket No. 365681, was brought by Warren resident Gary Boike, the third highest vote getter in city's 2019 at-large city council election. Relying on a legal opinion issued by the Warren city attorney, Boike argued that Green had been term-limited out.

In issuing its ruling yesterday, the appellate court affirmed the circuit court's decision that the plain and unambiguous language of the Warren Charter allows Green to complete his third term. Green was represented in the circuit court by Plunkett Cooney partner Jeffrey Schroder, who said "We are pleased the Court of Appeals once again upheld the will of the people and the plain language of the Warren City Charter. Our efforts prevented the unlawful ouster of the council president from his position, which would have undermined the will of the voters."

In issuing its ruling, the appellate court rejected Boike's argument that Green was ineligible to complete his current term because he had already served 12 years on city council. The court based its ruling on an analysis of sections 4.3(d) and 4.4(d) of the Warren Charter, which limits a councilmember's term in office to "no more than the greater of three (3) complete terms or twelve (12) years" in office.

The appellate court pointed to the charter language to conclude that "the phrase 'the greater of' contemplates a councilmember may serve longer than 12 years if he or she has previously served a partial term." Because Green "has not yet served three complete terms, he is eligible to complete his

third full term in office.”

“We are delighted that the Court of Appeals agreed the charter language unambiguously allows a councilmember to serve three full terms, even if that means he is in office for more than 12 years,” said Plunkett Cooney partner Mary Massaron, who represented Green in the appeal.

This is the fourth published decision issued against Warren Mayor Jim Fouts and his supporters, including Boike, and in favor of the city council since 2022. The Michigan Supreme Court also recently declined an appeal by Fouts after the appellate court ruled he is term limited from seeking re-election later this year. The other published decisions include:

- *Warren City Council v Sonja Buffa and Election Commission*, Court of Appeals Case No. 365488, April 21, 2023 (Unanimous published decision in favor of City Council, removing James Fouts from ballot due to incumbent mayor exceeding three complete terms in office). The Michigan Supreme Court declined to hear Fouts’ appeal of the lower appellate court’s ruling.
- *Warren City Council v James R. Fouts*, Court of Appeals Case No. 361288, Dec. 29, 2022 (Unanimous published decision in favor of City Council that Mayor cannot authorize expenditure of funds that are not appropriated by council in city budget)
- *Warren City Council v Sonja Buffa*, Court of Appeals Case No. 354663, Sept. 2, 2020 (Unanimous published decision in favor of City Council, placing term limits question on ballot that was illegally left of ballot by City Clerk).

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For more information about the Michigan Court of Appeals’ ruling on behalf of the Warren City Council, contact the firm’s Director of Marketing and Business Development, John Cornwell, at (248) 901-4008; jcornwell@plunkettcooney.com.

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