



**ORIGINAL
IN THE SUPREME COURT
OF THE STATE OF OKLAHOMA**

FILED
SUPREME COURT
STATE OF OKLAHOMA

APR 15 2026

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- 1) CAEDMON BROOKS
- 2) RICKEY GOWIN,
- 3) DAWN REITAN-BROCKMAN,
- 4) SHELLEY ARROTT
- 5) CARL TESREAU
- 6) LATASHA BROADHEAD,
- 7) SHERRI CHRISTIAN,
- 8) CLAUDIA SWISHER
- 9) TRACI THORPE, and
- 10) ADAM LEAMING,

Protestants/Petitioners,

v.

- 1) MICHAEL D. REYNOLDS,
- 2) REPRESENTATIVE JAY STEAGALL,
and
- 3) SENATOR SHANE JETT,

Respondents.

No. **#123982**

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**BRIEF IN SUPPORT OF APPLICATION AND PETITION TO
ASSUME ORIGINAL JURISDICTION AND REVIEW THE
CONSTITUTIONALITY OF INITIATIVE PETITION NO. 455**

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ATTORNEYS FOR PROTESTANTS/PETITIONERS

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INDEX

I. INTRODUCTION.....1

*Matter of Protest Against the Tax Levy of Ardmore Independent
School No. 19 for Fiscal Year 1997–1998,
1998 OK 43, 959 P.2d 580*.....1, 7

Amend. XIV, U.S. Const.1, 13, 15

Art. V, § 59, Okla. Const.1, 13, 14

Art. X, § 5, Okla. Const.1, 13, 14

Art. X, § 8, Okla. Const.1, 3, 4, 5, 8, 10, 11, 12

Art. X, § 8B, Okla. Const.....1, 5, 12

Art. X, § 8C(A), Okla. Const.....1, 5

Art. X, § 8F, Okla. Const.1

Art. X, § 9(b), Okla. Const.....1, 5, 6, 12

Art. X, § 9(c), Okla. Const.....1, 5, 6, 12

Art. X, § 9C, Okla. Const.....1, 7, 12

Art. X, § 9D, Okla. Const.1, 7, 12

II. BACKGROUND1

Art. X, § 28, Okla. Const.2

III. SUMMARY OF THE RECORD2

34 O.S. § 82

Okla.Sup.Ct.R 1.11(e)(2).....2

Okla.Sup.Ct.R 1.1942

IV. ARGUMENT AND AUTHORITIES3

A. MULTIPLE CONFLICTS WITH OKLAHOMA CONSTITUTION3

Liddell v. Heavener,
2008 OK 6, 180 P.3d 1191.....3, 4, 9

| | |
|---|---------------------------|
| 1. Art. X, § 8 | 3 |
| <i>In re Diehr</i> , | |
| 1935 OK 1015, 50 P.2d 725..... | 4 |
| <i>In re Matter of Assessment for 2003</i> , | |
| 2003 OK CIV APP 147..... | 4 |
| <i>Liddell v. Heavener</i> , | |
| 2008 OK 6, 180 P.3d 1191..... | 3, 4, 9 |
| <i>Save Ad Valorem Funding for Students v. ODEQ</i> , | |
| 2006 OK CIV APP 53, 135 P.3d 823 | 4 |
| Art. X, Okla. Const. | 3, 11 |
| Art. X, § 8, Okla. Const. | 1, 3, 4, 5, 8, 10, 11, 12 |
| 68 O.S. § 2817(l)..... | 3, 4 |
| 2. Art. X, § 8B | 5 |
| Art. X, § 8B, Okla. Const..... | 1, 5, 12 |
| 3. Art. X, § 8C(A) | 5 |
| Art. X, § 8, Okla. Const. | 1, 3, 4, 5, 8, 10, 11, 12 |
| Art. X, § 8C(A), Okla. Const. | 1, 5 |
| 4. Art. X, § 9(b) and 9(c) | 5 |
| <i>Fent v. Fallin</i> , | |
| 2014 OK 105, 345 P.3d 1113..... | 6 |
| <i>IRAP v. ABLE</i> , | |
| 2020 OK 5, 457 P.3d 1050..... | 6, 9 |
| <i>McVickers v. Zerger</i> , | |
| 1964 OK 40, 389 P.2d 977..... | 6, 7 |
| <i>Mid-Continent Petroleum v. Mullen</i> , | |
| 1952 OK 208, 245 P.2d 1142..... | 7 |
| Art. X, § 9, Okla. Const. | 5, 6, 7 |
| Art. X, § 9(b), Okla. Const..... | 1, 5, 6, 12 |
| Art. X, § 9(c), Okla. Const..... | 1, 5, 6, 12 |

| | |
|--|---------------------------|
| Art. X, § 26, Okla. Const. | 7 |
| Art. X, § 35, Okla. Const. | 6, 7 |
| 5. Art. X, § 9C and 9D | 7 |
| <i>Matter of Protest Against the Tax Levy of Ardmore Independent</i> <i>School No. 19 for Fiscal Year 1997–1998,</i> 1998 OK 43, 959 P.2d 580..... | 1, 7 |
| Art. X, § 9(d-1), Okla. Const. | 7 |
| Art. X, § 9A, Okla. Const. | 7 |
| Art. X, § 9B, Okla. Const..... | 7 |
| Art. X, § 9C, Okla. Const..... | 1, 7, 12 |
| Art. X, § 9D, Okla. Const. | 1, 7, 12 |
| Art. X § 10, Okla. Const. | 7 |
| Art. X, § 10A, Okla. Const. | 7 |
| Art. X, § 10B, Okla. Const..... | 7 |
| 6. Conflicts with Constitution | 8 |
| B. IP 455 violates Article V, § 50, Okla. Const. | 8 |
| 1. Introduction | 8 |
| Art. X, § 8, Okla. Const. | 1, 3, 4, 5, 8, 10, 11, 12 |
| Art. XII-A, Okla. Const. | 8, 9, 10, 11, 12, 13 |
| 2. The Plain Language of Art. XII-A | 8 |
| <i>Gentges v. State Election Board,</i> 2014 OK 8, 319 P.3d 674..... | 9 |
| <i>IRAP v. ABLE,</i> 2020 OK 5, 457 P.3d 1050..... | 6, 9 |
| <i>Liddell v. Heavener,</i> 2008 OK 6, 180 P.3d 1191..... | 3, 4, 9 |
| Art. XII-A, Okla. Const. | 8, 9, 10, 11, 12, 13 |

| | |
|--|---------------------------|
| State Question 201, Initiative Petition 138 (1935)..... | 8, 9 |
| 3. Article XII-A was superseded by Art. X, § 8, et seq. | 9 |
| <i>Allen v. Burkhart</i> , 1962 OK 279, 377 P.2d 821..... | 11 |
| <i>Eastern Oklahoma Building Co. v. Pitts</i> , 2003 OK 113, 82 P. 3d 1008..... | 11 |
| <i>In re Init. Pet. 259</i> , 1957 OK 167, 316 P.2d 139..... | 11 |
| <i>IRAP v. ABLE</i> , 2020 OK 5, 457 P.3d 1050..... | 6, 9 |
| Art. X, Okla. Const. | 3, 11 |
| Art. X, § 8, Okla. Const. | 1, 3, 4, 5, 8, 10, 11, 12 |
| Art. X, § 8B, Okla. Const..... | 1, 5, 12 |
| Art. X, § 8C, Okla. Const..... | 12 |
| Art. X, § 8D, Okla. Const. | 12 |
| Art. X, § 8E, Okla. Const..... | 12, 13 |
| Art. X, § 9(b), Okla. Const..... | 1, 5, 6, 12 |
| Art. X, § 9(c), Okla. Const..... | 1, 5, 6, 12 |
| Art. X, § 9C, Okla. Const..... | 1, 7, 12 |
| Art. X, § 9D, Okla. Const. | 1, 7, 12 |
| Art. XII-A, Okla. Const. | 8, 9, 10, 11, 12, 13 |
| State Question 675, HB 2198, Leg. Ref. 305 (1996)..... | 10 |
| State Question 714, SJR 30, Leg. Ref. 337 (2004) | 12 |
| State Question 715, HJR 1044, Leg. Ref. 338, (2004) | 12 |
| State Question 735, HB 1808, Leg. Ref. 343 (2009)..... | 12 |
| State Question 758, HJR 1002, Leg. Ref. 358, (2012) | 12 |

| | |
|---|----------------------|
| 4. Conclusion – Article XII-A | 13 |
| Art. XII-A, Okla. Const. | 8, 9, 10, 11, 12, 13 |
| C. IP 455 VIOLATES CONSTITUTIONAL REQUIREMENTS OF TAX UNIFORMITY | 13 |
| 1. Introduction..... | 13 |
| <i>Appeal of Thompson Bldg. Co.,</i> 1957 OK 204, 316 P.2d 179..... | 13 |
| <i>Suglove v. OTC,</i> 1979 OK 168, 605 P.2d 1315..... | 13 |
| Amend. XIV, U.S. Const. | 1, 13, 15 |
| Art. V, § 59, Okla. Const. | 1, 13, 15 |
| Art. X, § 5, Okla. Const. | 1, 13, 14 |
| 2. Argument and Authority..... | 13 |
| <i>Board of County Commissioners of Canadian County v.</i> <i>State Board of Equalization,</i> 1961 OK 150, 363 P.2d 242..... | 14 |
| <i>Cantrell v. Sanders,</i> 1980 OK 43, 610 P.2d 227..... | 13, 14, 15 |
| <i>Cipriano v. City of Houma,</i> 395 U.S. 701 (1969)..... | 14 |
| <i>City of Phoenix v. Kolodziejski,</i> 399 U.S. 204 (1970)..... | 14, 15 |
| <i>Fair School Finance v. Oklahoma,</i> 1987 OK 114, 746 P.2d 1135..... | 14 |
| <i>State ex rel. Poulos v. Board of Equalization (Poulos I),</i> 1975 OK 60, 552 P.2d 1134..... | 14 |
| <i>State ex rel. Poulos v. Bd. of Equalization (“Poulos II”),</i> 1976 OK 41, 552 P.2d 1138..... | 14 |
| <i>State ex rel. Poulos v. Board of Equalization (Poulos III),</i> 1982 OK 68, 646 P.2d 1269..... | 14 |
| Art. X, § 5, Okla. Const. | 1, 13, 14 |

| | |
|--|------------|
| 68 O.S. § 2803(A)(1) | 14 |
| Okla. Atty. Gen. Opin., 1980 OK AG 252 | 14 |
| 3. Conclusion | 15 |
| <i>Cantrell v. Sanders,</i> 1980 OK 43, 610 P.2d 227..... | 13, 14, 15 |
| Amend. XIV, U.S. Const. | 1, 13, 15 |
| Art. V, § 59, Okla. Const. | 1, 13, 15 |
| IV. CONCLUSION | 15 |

I. INTRODUCTION

Initiative Petition 455/State Question 843 (“IP 455”) (Appx. A) proposes a statute in which every homestead shall be exempt from ad valorem tax in the amount of 33⅓% of the full assessed value in 2027, 66⅔% in 2028, and 100% in 2029 and thereafter. The proposed statute is unconstitutional. First, IP 455 conflicts with several provisions of the Oklahoma Constitution (“Constitution”) which prohibit exempting homesteads from taxation. For example, (i) Article X, § 8 (“Art. X, § 8”) explicitly prohibits assessment of real property for ad valorem taxation at less than 11% of fair cash value. (ii) Similarly, Article X, §§ 8B, 8C(A), and 8F all require that real property shall, sooner or later, be assessed for taxation based on the “fair cash value” of the property. (iii) Art. X, §§ 9(b) and (c) provide that a tax to support schools “shall be levied” on “all the taxable property.” (iv) Article X, §§ 9C and 9D provide that voters “shall be entitled” to vote a tax levy to support emergency medical services or waste management services. This is “grant of power to the voters.” *Matter of Protest Against Tax Levy*, 1998 OK 43, ¶ 8. But IP 455 would deny the voters the right to vote taxes on homestead real property.

A second fatal defect is that by treating owners of residential property more favorably than Oklahomans who do not own their residence and more favorably than owners of other types of real property, IP 455 violates the tax uniformity requirements of Art. X, § 5, Okla. Const., Art. V, § 59, Okla. Const., and the Equal Protection Clause of Amend. XIV, U.S. Const.

II. BACKGROUND

Exempting homesteads from taxation would have a devastating effect on our state. The Oklahoma Tax Commission (“OTC”) estimates that the reduction in revenue from

exempting homesteads would be \$1.52 Billion.¹ IP 455 makes no provision to replace that lost revenue. However, \$1.52 Billion cannot be replaced by merely “tightening our belt.”

There would be significant dislocation and confusion for both the Oklahomans who need government services and for the Oklahomans employed in providing those services. For example, 68% of ad valorem funding goes to schools. Appx. H, p. 8. If 68% of \$1.52 Billion were to disappear, that would reduce school funding in our state by approximately \$1.03 Billion. Further, certain government agencies are particularly reliant on ad valorem funding. To provide just one example, for Oklahoma Career Tech 63% of the General Fund and 88% of the Building Fund comes from ad valorem tax. Appx. B. The Petition and Application includes a chart at ¶ 6, showing the various services that are funded by ad valorem tax revenue. It must also be noted that the cuts in services would not fall evenly. *See* Petition and Application at ¶ 6. Also, a political subdivision is required by Article X, § 28, Okla. Const., to fund payments for interest on debt, principal, and judgments, so revenue cuts would need to fall elsewhere.

III. SUMMARY OF THE RECORD

On January 12, 2026, the Proponents filed IP 455. Appx. A.

Ten Oklahoma citizens, referred to as “Protestants,” bring this case protesting IP 455 as unconstitutional under the Constitutions of Oklahoma and of the United States. This Court, Okla.Sup.Ct.R 1.11(e)(2) and 1.194, and the Legislature, 34 O.S. § 8, have provided for this Court to take up challenges to an initiative petition as an original jurisdiction action. Jurisdiction is further discussed in the Petition and Application.

This case presents an issue of law: IP 455 is unconstitutional by its plain language.

¹ The OTC’s estimate is reproduced in pertinent part at ¶ 5 of the Petition and Application, and is reproduced *in toto* at Appx F.

IV. ARGUMENT AND AUTHORITIES

A. MULTIPLE CONFLICTS WITH OKLAHOMA CONSTITUTION

IP 455 is unconstitutional because it conflicts with multiple provisions in the Constitution. IP 455 is explicit that it proposes to amend a *statute*. “The Constitution is the bulwark to which all statutes must yield.” *Liddell v. Heavener*, 2008 OK 6, 180 P.3d 1191. Any one of these conflicts requires that IP 455 be stricken.

1. Art. X, § 8. Article X, § 8, Okla. Const. provides the procedure for valuation of real property for taxation. First, the fair cash value of the property in its current use is determined. *Id.* Then, “Real property shall not be assessed for ad valorem taxation at a value less than eleven percent (11%) . . . of its fair cash value” *Id.* IP 455 is inconsistent with § 8. Section 8 requires an assessment of “real property” of at least 11%, but IP 455 would require that homestead real property be assessed as though the fair cash value is \$0 starting in 2029. (Another way to think of it would be that the fair cash value would be assessed at 0% if homesteads were 100% exempt.)

Under IP 455, Art. X, § 8 would have to be read as though it had been amended and language added (as shown by the underlining):

“Except as otherwise provided in Article X of this Constitution . . . all property except for homestead real property which may be taxed ad valorem shall be assessed for taxation as follows: *** (2) Real property except for homestead real property shall not be assessed for ad valorem taxation at a value less than eleven percent (11%) . . . of its fair cash value”

The operation of Art. X, § 8 is shown in *Liddell v. Heavener, supra*. The Court examined a statute, 68 O.S. § 2817(1), which would freeze the valuation of a platted lot until a building is constructed on it, and found the statute to violate Art. X, § 8. The Court explained “Oklahoma’s fundamental law mandates that real property be valued based upon its current use value.” *Id.* at ¶ 32. See also *Id.* at ¶ 13. “What [the Legislature] may not

constitutionally do and what it has done in § 2817(l) is to potentially divorce the valuation of platted lots from the fair market value of the underlying tract of land” *Id.* at ¶ 23. Like the statute in *Liddell*, IP 455 would “divorce the valuation” of homestead properties “from the fair market value” of the property.

Similarly, in *Save Ad Valorem Funding for Students v. ODEQ*, 2006 OK CIV APP 53, (approved for publication by Sup.Ct.), the court addressed a statute providing that desulphurization equipment for a refinery would be exempt from ad valorem tax. *Id.* at ¶ 1. The court found the provision to be unconstitutional under Art. X, § 8 explaining, “**This section is ‘a prohibition against undervaluation of property when it is taxed ad valorem.’**” *Id.* at ¶ 9, quoting *In re Diehr*, 1935 OK 1015, 50 P.2d 725, 728 (emphasis added). *See also In re Matter of Assessment for 2003*, 2006 OK CIV APP 147, ¶ 18 (approved for publication by Supreme Court) (emphasis added), “[**T**]he **Constitution prohibits the under valuation of property when it is taxed ad valorem.**” Article X, § 8’s prohibition on under valuation of property is violated by IP 455. In accordance with *Liddell* and *Save Ad Valorem Funding*, this Court should find IP 455 to be unconstitutional under Art. X, § 8.

Liddell v. Heavener, supra, also examined the effect of a freeze in assessed value. The Court found that a provision in 68 O.S. § 2817(l) which would freeze the value of the lot to be unconstitutional. “**Our Constitution mandates annual assessment of real property**” *Id.* (emphasis added) “A freeze at the property’s initial valuation is manifestly inconsistent with our fundamental law’s command.” *Id.* at ¶ 25. Again, the *Liddell* analysis applies directly to IP 455. Art. X, § 8 requires an annual reassessment of the fair cash value

of the real property, but under IP 455, homestead real property would always be assessed for taxation at \$0.

2. Art. X, § 8B. Article X, § 8B provides the assessed value of real property cannot increase more than 5% per year and if the property is transferred, “the property shall be assessed for that year based on the fair cash value as set forth in Section 8 of Article X” IP 455 is incompatible with § 8B which *requires* taxation based on an assessment of fair cash value after a transfer.

3. Art. X, § 8C(A). Article X, § 8C(A) provides the homestead assessment will be frozen if the head of household is over 65 and meets the specified income restriction. However, § 8C(A) specifies that if the homeowner ceases to meet the requirements, the property will be reassessed under the procedure of Art. X, § 8. IP 455’s requirement that homestead property be assessed at zero is inconsistent with the requirements of Art. X, § 8C(A) that (i) the assessed value will be frozen at its *current* value (*i.e.* not \$0) and (ii) upon transfer the property would be reassessed at “fair cash value” under Art. X, § 8.

4. Art. X, § 9(b) and 9(c). Article X, § 9(b) (emphasis added) provides “A tax of four (4) mills on . . . **all taxable property** in the county **shall be levied** . . . for school purposes” Similarly, Art. X, § 9(c) (emphasis added) provides that a tax of up to fifteen (15) mills “**shall be levied**” on “**all the taxable property in the district.**” However, under IP 455 “all taxable property in the county [or district]” would not be subject to the mandatory levies of §§ 9(b) and 9(c). Instead, homestead properties would be exempt from tax.

IP 455 is further inconsistent with Art. X, §§ 9(b) and 9(c) because under IP 455 the county and the school district would receive substantially less revenue than intended by the framers and voters at the time § 9 was approved. “A constitutional provision must be

construed considering its purpose and given a practical interpretation so that the manifest purpose of the framers and the people who adopted it may be carried out.” *Fent v. Fallin*, 2014 OK 105, ¶ 17, 345 P.3d 1113. *Accord*, *IRAP v. ABLE*, 2020 OK 5, 457 P.3d 1050, ¶ 12. The Court should not “turn a blind eye to what the public intended.” *Id.* at ¶ 12.

At the time Article X, § 9 was adopted, ad valorem tax included homesteads. The plain language of § 9(b) that there would be a tax of four (4) mills on “all taxable property in the county” and § 9(c) that there would be a tax of fifteen (15) mills on “all taxable property in the district” would obviously have been understood by the framers and the voters to include homesteads. This Court should interpret §§ 9(b) and 9(c), according to their plain language at the time of adoption.

It is noteworthy that tax on homesteads is a very significant portion of the overall ad valorem tax revenue. The OTC’s analysis estimates tax on homesteads to be 28% of all ad valorem tax. Appx. H. This Court should reject any attempt by the Proponents of IP 455 to now change the meaning of § 9 to significantly decrease the funding levels provided by Article X, §§ 9(b) and 9(c).

In *McVickers v. Zerger*, 1964 OK 40, 389 P.2d 977, the Court analyzed Art. X, § 35, Okla. Const., which allowed voters to adopt a tax of up to five mills for developing industry. First, the Court considered the argument that the provision could not apply to a city since the language referred only to a “town.” The Court interpreted “town” in its “broad sense” to include cities because the voters approving Art. X, § 35 would have understood and intended both towns and cities to be included. *Id.* at ¶ 10. In this case, the Court does not even have to interpret “ad valorem tax” in Article X, § 9 in a “broad sense;” the Court needs only to

interpret it *literally*. When the voters approved Article X, § 9, entitled “Amount of ad valorem tax,” ad valorem tax included a tax on homesteads.

The second issue in *McVickers* was whether the additional five mills in Art. X, § 35 was subject to Article X, § 26 setting the debt limit for public bodies at 5% of assessed value. The Court explained that the intention of the framers and voters was clear that “the five mills were to be devoted to the purposes provided for in Section 35 over and above the restrictions in Section 26” *Id.* at ¶ 12. “[A] Constitutional amendment should be construed in light of its purpose and given a practical interpretation so that the plainly manifest purpose of those who adopted it may be carried out.” *Id.* at ¶ 12, quoting *Mid-Continent Petroleum v. Mullen*, 1952 OK 208, 245 P.2d 1142. The same reasoning applies here. Like the Court in *McVickers*, this Court should honor the voters’ intent as to the level of funding.

5. **Art. X, § 9C and 9D.** Article X, § 9C provides that voters of a district “shall be entitled” to form an emergency medical district and to “authorize a tax levy” for emergency services. Article X, § 9D provides that voters in a county “shall be entitled” to “authorize a tax levy” for waste management services. These provisions are a “grant of power to the voters.” *Matter of Protest Against the Tax Levy*, 1998 OK 43, ¶ 8, 959 P.2d 580. IP 455 is in conflict with §§ 9C and 9D because IP 455 would *deny* voters their constitutional entitlements to vote a tax to provide for an emergency medical services and waste management services.

IP 455 is similarly in conflict with other provisions giving voters the right to vote ad valorem taxes to support services including Article X, § 9A (county health department), § 9B (technology center school district), § 10 (building fund), 10A (public libraries), § 10B (municipal-owned hospitals), and § 9(d-1) (schools). These provisions all grant Oklahoma

voters a constitutional power to vote funding to improve their communities. These constitutional empowerments cannot now be neutralized by the statute proposed in IP 455.

6. **Conclusion—Conflicts with Constitution.** The statute proposed by IP 455 is unconstitutional because it conflicts with constitutional provisions which (i) require that real property be assessed for taxation based on its fair cash value, (ii) require that taxes be levied on all taxable property, (iii) require taxation at a level that includes ad valorem tax on homesteads, and (iv) give Oklahoma voters “a grant of power” to vote taxes to improve their communities.

B. ARTICLE XII-A CANNOT AFFECT THE OUTCOME IN THIS CASE

1. **Introduction.** Any argument from the Proponents that Article XII-A, Okla. Const. (“Art. XII-A”), should be interpreted to authorize IP 455 and to make Art. X, § 8 a nullity, should be rejected. The plain language of Art. XII-A shows that although it purports to provide “the Legislature” with discretion over homestead tax, it does not contain language to grant such discretion to proponents of an initiative petition. Also, the operative language in Art. X, § 8 was adopted 60 years after Art. XII-A. Article X, § 8 and other provisions, all of which were adopted after Art. XII-A, acted to supersede Art. XII-A on the issue of whether IP 455 could constitutionally create an exemption for homesteads.

2. **The Plain Language of Art. XII-A.** By its language Art. XII-A provided some authority to “the Legislature” to authorize exemptions for homesteads. But it provided no such authority to proponents of an initiative petition. Art. XII-A was proposed by an initiative petition, IP 138. Appx. I. If the proponents of IP 138 had intended to include “proponents of initiative petitions” in the language of IP 138, they easily could have. But they chose not to.

The language of Art. XII-A shows it was intended to provide discretion to “the Legislature.” Notably, making law by initiative petition is very different from making law at the Legislature. As recognized in *Gentges v. State Election Board*, 2014 OK 8, ¶ 16, 319 P.3d 674, the initiative petition process “is different from, and in addition to, the exercise of sovereign power granted to the Legislature.” For example, the initiative petition procedure prescribes “a very different role for the Governor” including that the Governor has no veto power over measures proceeding by petition. *Id.* at ¶ 16.

There were powerful reasons for the drafters of Art. XII-A to decline to extend the same discretion to initiative petition proponents. Legislation is subject to a rigorous process of checks and balances before it can become law. Bills are discussed, questioned and frequently amended. In both houses a bill must be approved by democratically elected legislators at the committee level and in the entire house. Then the bill is presented to the Governor. Both houses and the Governor also have legal staffs to review bills. An initiative petition, however, has no such safeguards. IP 455 has been endorsed by only three Oklahomans.

In this case, however, Protestants do not ask this Court to determine why the proponents of IP 138 chose not to include initiative petition proponents along with the Legislature. Instead, Protestants ask this Court to simply apply the plain language of Art. XII-A (IP 138)—that it applies to “the Legislature.” When interpreting the Constitution, “the Court looks first to its language, which if unambiguous, binds the Court.” *IRAP v. ABLE*, 2020 OK 5, ¶ 12, 457 P.3d 1050; *accord, Liddell v. Heavener, supra*, at ¶ 16.

3. **Article XII-A was superseded by multiple provisions.** Even if Article XII-A had contained language including proponents of an initiative petition, Art. XII-A could not

apply because it was later superseded by Art. X, § 8 and multiple other constitutional amendments. Article XII-A was adopted in 1935. Appx. I. The operative language in Art. X, § 8, however was adopted over 60 years later, in 1996. Appx. M.

At the time Art. XII-A was adopted in 1935, the language of Art. X, § 8 was the same as it had been in the original Constitution. Appx. K. However, Art. X, § 8 has been amended multiple times.²

The amendment to Art. X, § 8 important for this case occurred in 1996. Appx. N. That amendment required not only that real property must be considered at its fair cash value, but that it shall not be assessed for ad valorem taxation “at a value less than eleven percent (11%) . . . of its fair cash value.” The changes made to Art. X, § 8 in 1996 were proposed in HB 2198 (Appx. M) and the redline in HB 2198 shows how it is irreconcilably inconsistent with an interpretation of Art. XII-A that it would support IP 455. As discussed in section IV(A)(1) above, the amendments to Art. X § 8 are explicit in preventing an assessment of homesteads at less than 11% of fair cash value.

The 1996 amendment to Art. X, § 8 also reduced the upper limit for assessment from 35% to 13.5%. It is apparent there was a compromise. The lower limit would become 11% of fair cash value but the upper limit would be reduced from 35% to 13.5%. The constitutional compromise in 1996 clearly amended Art. XII-A by implication to the extent Art. XII-A would allow the Legislature to exempt homesteads from 100% of ad valorem tax.

A reading that Art. XII-A permits the exemptions proposed in IP 455 would leave Art. XII-A irrevocably in conflict with Art. X, § 8. Article X, § 8, requires assessment of

² In 1958 Art. X, § 8 was amended to provide that certain property could not be assessed for taxation at more than 35% of its fair cash value. Appx. L. In 1972, Art. X, § 8 was amended to provide that fair cash value for real property would be based on the actual use of the property and not the highest use that could be made of the property. Appx. M.

homesteads at not less than 11% of fair cash value. As between the two constitutional provisions, Art. X, § 8 must prevail. First, the plain language of Art. X, § 8 is that it applies “except as otherwise provided in Article X of this Constitution” This plain language that exceptions could be found in Art. X, should not be interpreted that exceptions could be found in Art. X and in Art. XII-A.

Second, Art. X, § 8 must prevail over Art. XII-A because it is the more recently adopted provision. “[I]f there is a conflict between a constitutional amendment and other, earlier passed, provisions of the Oklahoma Constitution, the more recent amendment prevails.” *IRAP v. ABLE*, *supra*, 2020 OK 5, ¶ 19 (cit. om.). A clause in a constitutional amendment will prevail over inconsistent provisions in the existing constitution. *Eastern Oklahoma Building Co. v. Pitts*, 2003 OK 113, ¶ 10-11, 82 P. 3d 1008. Even if Art. X, § 8 did not contain language expressly stating that any exceptions must be found in Art. X, Art. X, § 8 would control as the more recent provision. An amendment prevails over “any section of the Constitution in conflict therewith whether mentioned or not.” *In re Init. Pet. 259*, 1957 OK 167, ¶ 23, 316 P.2d 139. “There is no provision of law, constitutional, statutory, or otherwise, that requires the text of a proposed amendment to the Constitution to refer to the Constitution or the section thereof, if any, to be amended.” *In re Init. Pet. 259*, 1957 OK 167, ¶ 0, 316 P.2d 139, Syllabus by the Court.

It is apparent the Legislature also interpreted Art. X, § 8 to require that homestead exemptions must occur through constitutional amendments. *See Allen v. Burkhart*, 1962 OK 279, ¶ 43-44, 377 P.2d 821 (Court can consider administrative interpretation and acquiescence in the interpretation when construing a constitutional provision). The language in Art. X, § 8 requiring all real property to be assessed at a minimum of 11% of fair cash

value was adopted in 1996. Since then, the Legislature has repeatedly resorted to the constitutional amendment process to create exemptions. (i) Art. X, § 8B limits increases in fair cash value to 5% per cent per year. It was adopted at the same time as the amendment to Art. X, § 8 in 1996. It was amended in 2012 based on a legislative proposal, HJR 1002, approved by the voters in SQ 758. (ii) Art. X, § 8C providing an exemption for some Oklahomans over the age of 65 was added in 1996 at the same time as the amendment to Art. X, § 8. Section 8B was amended in 2004 based on a legislative proposal, SJR 30, and approved by the voters in SQ 714. (iii) Art. X, § 8D was added providing an exemption for personal property of disabled veterans in 2009 based on a legislative proposal, HB 1808, and approved by the voters in SQ 735. (iv) Art. X, § 8E provided a homestead exemption for disabled veterans. It was based on a legislative proposal, HJR 1044, and approved by the voters in SQ 715.

The conflicts between IP 455 and the Article X, §§ 8B, 8C, 8D, 8E, and 9C and 9D apply equally to the analysis of Art. XII-A. An interpretation of Art. XII-A that it supports the statute in IP 455 would put Art. XII-A in conflict with Article X, §§ 8B, 8C, 8D, 8E, and 9C and 9D, all of which were adopted after XII-A. Further, the commands of Article X, § 9(b) and 9(c) that a tax on **“all taxable property . . . shall be levied”** to support schools superseded any provision in Art. XII-A giving the Legislature authority to grant exemptions. Moreover, the provisions in Article X, §§ 9C and 9D that the voters “shall be entitled” to vote ad valorem tax to support solid waste management or emergency medical services superseded any provision in Art. XII-A giving the Legislature plenary authority to grant exemptions which would deny the right to vote taxes.

4. **Conclusion – Article XII-A.** Article XII-A was never intended to apply to the proponents of an initiative petition and even if it had been, it was later superseded by multiple constitutional provisions.

C. IP 455 VIOLATES CONSTITUTIONAL REQUIREMENTS OF TAX UNIFORMITY

1. **Introduction.** “Taxes shall be uniform upon the same class of subjects.” Art. X, § 5, Okla. Const. IP 455 violates the uniformity requirement by providing that one type of real property – real property used as a homestead and occupied by the owner—would be 100% exempt from ad valorem taxation while other real property would not. *See also* Art. V, § 59 (General laws shall have a uniform operation). Uniformity is also required by the U.S. Constitution. “The Equal Protection Clause . . . is applicable to state exercise of taxing power.” *Suglove v. OTC*, 1979 OK 168, 605 P.2d 1315, ¶ 17; *Appeal of Thompson Bldg. Co.*, 1957 OK 204, ¶ 0 (Syllabus by the Court), 316 P.2d 179, (recognizing that the 14th Amendment applies to taxation). “An invalid classification is that which discriminates between persons or property in like situations, or which is arbitrary, illusory or one that has no fair or substantial relation to the purpose for which it is made.” *Suglove*, ¶ 17.

2. **Argument and Authority.** The seminal case on uniformity for tax on real property is *Cantrell v. Sanders*, 1980 OK 43, 610 P.2d 227. In *Cantrell* the Tulsa County Assessor had applied eight different assessment percentages to property, *id.* at ¶ 2, and the Court held that applying different assessment percentages violated Article X, § 5. *Cantrell* held that all real property was of a single class. “Implicit in the argument of the taxpayers is that in this case the applicable ‘class of subjects’ is all real property.” *Id.* at ¶ 10. The Court agreed. “Thus, real property remains one ‘class of subjects’ and the mandate of article 10, section 5 that taxes be ‘uniform upon the same class of subjects’ is not affected.” *Id.* at ¶ 16.

from non-homeowners cannot succeed. As noted in *City of Phoenix*, 399 U.S. at 209, “differences between the interests of property owners and the interests of non property owners are not sufficiently substantial to justify excluding the latter from the franchise.”

3. **Conclusion.** This Court should continue to follow *Cantrell*. The notion of IP 455 that one type of real property—that used as a homestead and occupied by the owner—can receive more favorable tax treatment than other types of real property cannot stand under the principles of (i) uniformity of taxation, Art. X, § 5, Okla. Const., (ii) uniform operation of laws, Art. V, § 59, Okla. Const., and (iii) equal protection, Fourteenth Amendment, U.S. Const.

V. CONCLUSION

IP 455 is plainly unconstitutional and should be stricken from the ballot.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that on this 15th day of April 2026, a true and correct copy of the above and forgoing was served by first class mail, and email where indicated, as follows:

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