



# OLR RESEARCH REPORT

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## MORNINGSIDE ASSOCIATION

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You asked (1) for background information about an ongoing legal dispute between the Morningside Association's board of directors and a group of the association's residents and (2) whether the residents' claims have any legal basis.

The Office of Legislative Research is not authorized to provide legal opinions and this report should not be considered one.

### SUMMARY

The legal dispute between the Morningside Association's board of directors and a group of the association's residents arose in 2009 after the association revised its home rule charter. The association is a special taxing district that was originally formed under a 1921 special act, but has operated under a home rule charter since 1972. After the association revised its charter in 2009, a group of residents filed suit claiming that the association (1) did not follow the statutory procedure for amending the charter and (2) made changes to the charter's voting and candidacy requirements that violate the equal protection clauses of the federal and state constitutions.

The residents allege that the board violated the charter revision statutes by initiating the charter revision process a year before it actually appointed a charter revision commission. They base this claim on CGS § [7-190](#), which requires appointing authorities to appoint a charter

revision commission within 30 days after voting to start the revision process.

The residents also allege that the association's amended charter violates the equal protection clauses of the federal and state constitutions, a claim which they back by citing two U.S. Supreme Court decisions regarding voting restrictions in local government units. In one case, the court struck down a New York state law limiting voter eligibility in school district elections because it did not meet the state's statutory goal of limiting voting to people "primarily interested" in school affairs (*Kramer v. Union Free School District No. 15*, 395 U.S. 621 (1969)). In the other case, the court upheld a water district's voter eligibility restrictions because it is a special purpose government, like, arguably, the Morningside Association, whose actions disproportionately affect landowners. The residents cited this case nonetheless, specifically arguing that the association is not a special purpose government like the water district.

The case is [pending](#) in Milford Superior Court. We obtained a copy of the [complaint](#), dated February 17, 2012, from the association's website. According to court records, the complaint was later amended on April 23, 2012. Please let us know if you would like us to obtain a copy of the most recent amended complaint.

## **BACKGROUND**

The Morningside Association is a special taxing district that was formed under a 1921 special act, which constituted the association's charter. In that respect, it is different from many special taxing districts that were formed under a statutory procedure. Special act districts cannot amend their charters without the legislature's approval or following a statutory procedure under which they can convert their special act charters into home rule charters, a decision that also allows them to amend their charter the same way municipalities can amend theirs.

In 1972, the association converted its special act charter into a home rule charter by following this procedure (CGS § [7-328a](#)). In 2007, the district appointed a commission to revise the 1972 charter. The [revised charter](#) was effective January 1, 2009.

In June 2009, a group of association residents filed suit claiming, among other things, that the (1) district board violated the charter revision statutes by failing to appoint a charter revision commission within the statutory timeframe and (2) revised charter's voting and

candidacy rights provision constitutes an equal protection violation because it disenfranchises certain association residents.

### **ALLEGED CHARTER REVISION STATUTES VIOLATION**

The [residents' complaint](#) alleges that the board violated the charter revision statutes by initiating the charter revision process in September 2006, but waiting until September 2007 to appoint a charter revision commission. They base this claim on CGS § [7-190](#), which governs the appointment and membership of charter revision commissions. Specifically, the statute requires the appointing authority (in this case, the board of directors) to appoint a commission within 30 days after it votes to start the revision process. As such, they have asked the court to void the commission's appointment and the subsequently revised charter.

### **ALLEGED EQUAL PROTECTION VIOLATION**

#### ***Claim***

The complaint also alleges that article four of the association's amended charter violates the equal protection clauses of the federal and state constitutions. Article four restricts those who can vote on district matters to those that:

1. own at least 50% of a parcel of land or freehold interest in land within the limits of the association;
2. are at least 18 years old; and
3. do not owe more than one year's taxes to the association.

The charter allows one vote per association tax bill, regardless of how many people actually own the property. Thus, if a particular parcel is owned by more than one person, the owners have only one vote. On the other hand, individuals who own more than one property in the district are entitled to more than one vote.

The charter also restricts those who can be elected to the association's board to individuals who (1) meet the voter qualifications described above, (2) are current full-time association residents, and (3) have been full-time residents for at least one year prior to their election as a board member. In the case of an individual who co-owns a parcel of land in the association, only one of the co-owners may be a board member at a time.

The association's voting restrictions differ from those that apply to special taxing districts organized under the statutes. Under the special district statutes, a person may vote on district matters if he or she is a (1) town elector and (2) U.S. citizen age 18 or older who is liable for taxes to the district for property whose assessment is at least \$1,000 (CGS § [7-6](#)). These restrictions apply unless the district's special act imposes others.

With one exception, the residents bringing the complaint are either part owners of properties within the district, part-time district residents, or the beneficiaries of trusts that own property in the district. They contend that the charter's voting and candidacy restrictions deny them and others "participation in political affairs and in the selection of public officials and the pool of possible candidates and even the opportunity to run for office, and therefore undermines the legitimacy of representative government."

### ***Kramer v. Union Free School District No. 15***

The residents back their claims by citing two U.S. Supreme Court decisions. In the complaint, the residents cite *Kramer v. Union Free School District No. 15* (395 U.S. 621 (1969)) in which the court struck down a New York state law that restricted eligible voters in certain school district elections to citizens owning or leasing taxable real property and parents of children enrolled in public schools. The state argued that the voting restrictions were "necessary to limit the franchise to those 'primarily interested' in school affairs" because the school systems' complexity made it difficult for residents to fully understand its operations.

Although the court struck down the statute, it did so without reaching the issue of whether or not a state may in some circumstances limit voting rights to those primarily affected by a local governmental unit (like a school district). Instead, the court held that the New York law's exclusions were not precise enough to meet the state's articulated goal of limiting voting rights to those "primarily interested" in school affairs.

### ***Sayler Land Co. v. Tulare Lake Basin Water Storage District***

In a motion for partial summary judgment (which the judge denied on November 8, 2011), the residents also cited *Sayler Land Co. v. Tulare Lake Basin Water Storage District* (410 U.S. 719 (1973)), in which the court ruled that property ownership was a valid voter qualification requirement in a water storage district "by reason of its special limited purpose and of the disproportionate effect of its activities on landowners

as a group”). Arguably, this case could be used to refute the residents’ claim. But the residents maintain that the Morningside Association is not a “special purpose government unit” similar to a water district because its scope of services is broader. They base their argument on the association’s purpose, which is to “provide for the care and improvement of the Association-owned lands in said district and for the health, comfort, protection and convenience of persons living therein” (Morningside Association charter, Article 1).

The residents further contend that even if the association is a considered a special purpose government unit similar to a water storage district, “it falls on the association to prove that the property ownership requirement for voting bears a reasonable relationship to the purposes of the association.”

### **HYPERLINKS**

Morningside Association charter,  
<http://morningsidemilford.com/charter.html>, last visited July 23, 2012.

*Leonard L’Anson et al v. Morningside Association Clerk et al*,  
<http://morningsidemilford.com/lawsuit.html>, last visited July 23, 2012.

State of Connecticut Judicial Branch, Case Look-up,  
<http://civilinquiry.jud.ct.gov/CaseDetail/PublicCaseDetail.aspx?DocketNo=AANCV094011742S>, last visited July 23, 2012.

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