

CASE REPORT

RESIGNATION OF ELECTED OFFICIALS – EFFECTIVE DATE

January 4, 2002

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RESIGNATION OF ELECTED OFFICIALS – EFFECTIVE DATE. The resignation of an elected official becomes effective upon the effective date specified in the resignation and no acceptance is required. **Munroe v. City of Poulsbo**, No. 27002-1-II (Slip Op. January 4, 2002).

I. Facts. Donene Munroe was a member of the Poulsbo City Council. In 1998, the Poulsbo City Council had held a protracted land use hearing on a controversial project known as the Olhava Master Plan, during which Ms. Munroe’s participation was unsuccessfully challenged on appearance of fairness grounds. On February 16, 2000, the City Council’s agenda included a SEPA appeal hearing related to the Olympic College project, which was proposed to be built on land that was part of the Olhava Master Plan. Ms. Munroe’s participation was again challenged on the basis of her association with the appellant. In response to the challenge, Ms. Munroe orally resigned from the Council, stating that because she was going to be asked to recuse herself on anything to do with Olhava, she might as well step down from the Council. She closed her statement by saying, “So, you can take this as my formal resignation from the Council.” When another council member asked, “Form the Council?,” Ms. Munroe responded, “That’s right.” She then left the meeting and the Council finished its business in her absence.

The next morning, Ms. Munroe appeared at City Hall and turned in her keys and code book. But a couple of hours later, she decided that she had made a mistake and called the mayor to say that she wanted to rescind her resignation. She was referred to the City attorney, who told her that because her resignation had been effective immediately, she could not withdraw it. She then sent a letter formalizing her request to withdraw the resignation.

On March 1, 2000, over Ms. Munroe’s objection, the City Council voted to fill her vacant seat and appointed James Henry to do so. Ms. Munroe then sued. Upon cross-motions for summary judgment, the trial court dismissed all of Ms. Munroe’s claims.

II. Applicable Law and Analysis. Ms. Munroe argued that her resignation never became effective because the City Council did not formally accept it prior to her attempted withdrawal. Her argument was based upon the Washington Supreme Court’s decision in State ex rel. Royse v. Superior Court for Kitsap County, 46 Wash. 616, 91 P. 4 (1907), wherein the Supreme Court held that acceptance was required before allowing a public officeholder to throw off the burden of public office. The Court of Appeals rejected this argument, holding that the decision in Royse had been superseded by an amendment to RCW 42.12.010, part of Washington’s uniform procedures for filling vacancies in elective offices. At the time of the Royse decision, the relevant state provided that “[e]very office shall become vacant upon the happening of either of the following events before the expiration of the term of such officers:… 2. His resignation.” The Royse Court held that since this language did not state the method of making a resignation effective, the old common law rule that required acceptance still applied. Today, RCW 42.12.010 provides that “[e]very elective office shall become vacant upon the happening of any

of the following events:... (2) His or her resignation. *A vacancy caused by resignation shall be deemed to occur upon the effective date of the resignation.*” (Emphasis added). The Court of Appeals held that the emphasized language (the amendment) is clear and unambiguous: a vacancy occurs on the resignation’s effective date and no acceptance is required. Since Ms. Munroe’s words and conduct suggested that she intended her resignation to be effective immediately, the Court of Appeals held that the Council did not need to accept it and that her office became vacant immediately.

III. Conclusion. The lesson of this case is that words, even rash ones uttered during an emotionally trying time, can have important legal consequences. When an elected official says they are resigning effective immediately, the resignation will take effect without the need for acceptance.

It should be noted that the statute reviewed by the Court of Appeals relates only officials holding *elective* office. Acceptance would still required for the resignation of appointed officials and employees to become effective. In addition, it should be noted that where a resignation is stated to become effective on a future date, the resignation can be withdrawn any time prior to that future effective date. Nothing in this case alters that rule.