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INTEREST OF THE *AMICUS*

As a legislative leader and as a member of the Illinois General Assembly, Representative Jay Hoffman has an interest in advocating for legislation that is passed by the Illinois General Assembly and constitutional amendments that are approved by the Illinois General Assembly to be enforced as written and in accordance with their plain meaning. Legislators should be able to have faith that legislation will be enforced as written and not judicially modified based on extratextual considerations.

As a legislator representing a legislative district that includes portions of East St. Louis and the majority of Belleville, which are home rule units of local government, Representative Hoffman has an interest in seeing that home rule units comply with their obligations under the Safe Roads Amendment and do not divert transportation funds to non-transportation purposes.

In this case, Representative Hoffman disagrees with the Circuit Court and the Appellate Court opinions. These courts held that the Safe Roads Amendment and the Transportation Funding Protection Act apply only to funds that are spent under the dictates of a State statute, and not to funds spent under home rule authority. That is not consistent with the intent of the Illinois House of Representatives.

ARGUMENT**A. Safe Roads Amendment**

As House Assistant Majority Leader, Representative Hoffman helped pass HJRCA0036, which placed the Safe Roads Amendment on the ballot in the 2016 General Election. He did so and personally voted to approve HJRCA0036 in the Illinois House of Representatives, based on its plain language.

When he voted for HJRCA0036, Representative Hoffman never thought that it would later be interpreted to exempt transportation funds that are spent under home rule authority because the legislation never placed such a limitation in the plain language of HJRCA0036. Such an exemption would largely defeat the purpose of HJRCA0036.

The intent, as shown by the plain language of what eventually became the Safe Roads Amendment, was to prohibit the diversion of transportation funds to non-transportation purposes by either the State government or by any units of local government. Exempting transportation funds spent by home rule units would be contrary to that purpose.

If the Illinois General Assembly wanted to exempt home rule units, the Illinois General Assembly would have said so in HJRCA0036. It did not.

B. Transportation Funding Protection Act

As House Assistant Majority Leader, Representative Hoffman also helped pass SB1939 in 2019 and personally voted for that legislation based on its plain meaning. SB1939 included Public Act 101-0032, known as the “Transportation Funding Protection Act,” which is now codified at 30 ILCS 178/5-10. The Illinois General Assembly clarified as “declarative of existing law” that “proceeds of the funds described in this Act and all other funds described in Section 11 of Article IX of the Illinois Constitution are dedicated to transportation purposes and shall not, by transfer, offset, or otherwise, be diverted by any local government, including, without limitation, any home rule unit of government, to any purpose other than transportation purposes.” 30 ILCS 178/5-10(b).

One of the purposes of this language was to clarify, in the wake of a contrary ruling by the Circuit Court of Cook County in this litigation, that the Safe Roads Amendment binds home rule units and applies to transportation funds that are spent under home rule

authority—under the Safe Roads Amendment, home rule units must spend those funds on the transportation purposes described in the Amendment.

No preemption language was necessary because the Transportation Funding Protection Act was intended to clarify the meaning of a constitutional amendment that, as of 2019, already existed.

As a legislator who participated in the passage of the Transportation Funding Protection Act, Representative Hoffman knew that the Illinois General Assembly's intent in passing that legislation was to make it absolutely clear that the Safe Roads Amendment does not exempt home rule units, or funds spent under home rule authority, from the Amendment's scope. Like all other units of local government, home rule units must comply with the Amendment and may not divert transportation funds to purposes other than transportation purposes. Any other interpretation would be contrary to what the Illinois General Assembly intended to accomplish in passing the Transportation Funding Protection Act, and in fact would render the Transportation Funding Protection Act a pointless exercise.

CONCLUSION

The Safe Roads Amendment is plain and unambiguous. It does not include an exemption of transportation funds spent under home rule authority because it does not say that.

Dated: June 30, 2021

Respectfully submitted,

REPRESENTATIVE JAY HOFFMAN

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No. 127126

IN THE SUPREME COURT OF ILLINOIS

ILLINOIS ROAD AND TRANSPORTATION)	Appeal from the Illinois Appellate
BUILDERS ASSOCIATION, FEDERATION)	Court, First District, No. 1-19-0396
OF WOMEN CONTRACTORS, ILLINOIS)	
ASSOCIATION OF AGGREGATE)	There heard on appeal from the
PRODUCERS, ASSOCIATED GENERAL)	Circuit Court of Cook County,
CONTRACTORS OF ILLINOIS, ILLINOIS)	County Department, Chancery
ASPHALT PAVEMENT ASSOCIATION,)	Division, No. 2018 CH 02992, Hon.
ILLINOIS READY MIXED CONCRETE)	Peter Flynn, Judge Presiding
ASSOCIATION, GREAT LAKES)	
CONSTRUCTION ASSOCIATION,)	
AMERICAN COUNCIL OF ENGINEERING)	
COMPANIES (ILLINOIS CHAPTER),)	
CHICAGOLAND ASSOCIATED GENERAL)	
CONTRACTORS, UNDERGROUND)	
CONTRACTORS ASSOCIATION OF)	
ILLINOIS, and ILLINOIS CONCRETE PIPE)	
ASSOCIATION,)	
)	
)	
Plaintiffs-Appellants,)	
v.)	
)	
COUNTY OF COOK, a body politic and)	
corporate,)	
)	
Defendant-Appellee.)	
)	

CERTIFICATE OF COMPLIANCE

I certify that this **BRIEF *AMICUS CURIAE* OF REPRESENTATIVE JAY HOFFMAN IN SUPPORT OF PLAINTIFFS-APPELLANTS** conforms to the requirements of Rules 314(a) and (b). The length of this brief, excluding the pages or words contained in the Rule 341(d) cover, the Rule 341(h)(1) table of contents and statement of points and authorities, the Rule 341(c) certificate of compliance, the

Certificate of service, and those matters to be appended to the brief under Rule 342(a), is
4 pages or words.

Dated: June 30, 2021

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