

June 17, 2009

**To:** Ohio Elections Commission  
21 West Broad St., Suite 600  
Columbus, Ohio 43215

**Re:** Complaint of False Statement

**Person Filing Complaint:**

Michael C. Bock  
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**Person Against Whom  
Allegations Are Being Made:**

Dr. Robert Mengerink  
Superintendent of Kettering Schools  
3750 Far Hills Avenue  
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**Background and Summary of Complaint:**

Kettering voters in 2004 approved a 6.9 mill levy for the purpose of raising \$8.2 million each year for Kettering City Schools. This Spring, Kettering Schools asked voters to approve a five year renewal of this levy by ballot on May 5.

Previously, in an expanding economy, the renewal of a school levy could be counted on to result in a zero increase in the effective rate of tax required to pay for the levy. In fact, in good economic times, the effective rate for a levy decreases every year. But now, in our contracting economy, a reversal of this trend has been established. Last year the effective tax rate for this levy was **6.13 mills** and this year it is **6.16 mills**. According to the county auditor's office, this rate is expected to rise again next year.

We say taxes have increased when the effective rate of taxation increases. In order to fund this levy, the effective rate increased this year. It is accurate to say, since the effective rate of taxation needed to fund this renewal will increase next year, approval of the renewal will cause an "Increase In Taxes."

Regardless that it is certain that next year the effective rate for this renewal will increase, The Kettering Levy Committee, in the levy campaign, made advertisements urging a “Yes” vote for the renewal that ignored the rising effective tax rate. The Committee distributed literature and posted signs promising that, if the renewal was approved, the result would be **“ZERO Increase In Taxes.”**

Voters approved Kettering’s 6.9 mill renewal levy on May 5, with only 18% of registered voters participating. This result appears as a victory for public education in Kettering, but, I fear the “Yes” vote is a short term gain that will ultimately result in long term erosion of public support for the Kettering Schools. When it becomes clear to voters that, regardless of the promise of “ZERO Increase in Taxes,” that approval of the levy caused the tax obligation on individual properties instead to increase, many in the public will be offended.

One defense offered, for the advertisements using the phrase “ZERO Increase In Taxes,” is that the phrase is correct when the word, “Taxes,” is defined as “Total Revenue To The School,” or “Total tax amount collected from this levy.” Taxpayers who eventually will notice an increase in their individual property taxes, stemming from an increase in the effective tax rate needed to fund this renewal levy, however, will see this unexpected qualification of the word “taxes” as an unacceptable defense.

Many of the sincere parents working to promote the renewal levy, I’m sure, really didn’t understand that the slogan “ZERO Increase In Taxes” communicated misinformation. But, the Kettering Superintendent of Schools, Robert Mengerink, an acknowledged school expert, the CEO of the school district, certainly knew better. I feel Dr. Mengerink is the person who ultimately must be held responsible for promulgating misinformation and not correcting misinformation distributed about the levy by subordinates for whom he is responsible.

This complaint to The Ohio Elections Commission centers on one specific quotation from Dr. Mengerink, made in the official school publication, “The Blue Ribbon Report.” Spring, 2009 edition. This quotation gave the weight of Dr. Mengerink’s authority as acknowledged school expert and the weight of his official approbation as respected school district CEO, to the levy committee’s campaign slogan of “ZERO Increase In Taxes.”

### **Statement of Alleged Violation:**

The Spring, 2009 edition of “The Blue Ribbon Report,” (enclosed) the official school publication of Kettering Schools, came to my home in late April, addressed to “Resident,” and on the front page was a headline, “Renewal Issue on May 5 Ballot Means ZERO Increase in Taxes for Kettering voters.” The second paragraph of “The Blue Ribbon Report” gives the direct quote from Dr. Mengerink that is the focus of this Complaint. Dr. Mengerink is quoted as saying, “... **there will be absolutely no increase in taxes as a result of this Renewal Issue.**”

“Absolutely” is a powerful word. The whole point of using the word, “absolutely,” is to indicate that there is no wiggle room, there is no hedge, that there can be no misunderstanding. The meaning of the word, “absolutely,” is “having no exception.” As Superintendent of Schools, Dr. Mengerink is responsible for the content of “The Blue Ribbon Report,” and this report is distributed to all households in Kettering.

I am asking the Election Commission to evaluate Dr. Mengerink’s comment printed in “The Blue Ribbon Report,” -- **“There will be absolutely no increase in taxes as a result of this Renewal Issue”** -- that, in my judgment, is a false statement made by Dr. Mengerink, a statement he knew to be false and that was used to promote the passage of the renewal levy.

### **The basis for this Complaint is Ohio Revised Code Section 3517.22, Part B, Section 2, which says:**

(B) No person, during the course of any campaign in advocacy of or in opposition to the adoption of any ballot proposition or issue, by means of campaign material, including sample ballots, an advertisement on radio or television or in a newspaper or periodical, a public speech, a press release, or otherwise, shall knowingly and with intent to affect the outcome of such campaign do any of the following:

(2) Post, publish, circulate, distribute, or otherwise disseminate, a false statement, either knowing the same to be false or acting with reckless disregard of whether it was false or not, that is designed to promote the adoption or defeat of any ballot proposition or issue.

### **Explanation:**

Dr. Mengerink, in his role as superintendent, is responsible for publishing the official school district publication, “The Blue Ribbon Report.” As an acknowledged school expert, Dr. Mengerink knew that his statement -- **“There will be absolutely no increase in taxes as a result of this Renewal Issue”** -- quoted in the Spring, 2009 edition of “The Blue Ribbon Report,” contradicted the reality that the effective rate needed to fund the renewal levy is expected to increase next year. Dr. Mengerink knew that the degradation of the economy, that caused the effective tax rate for this renewal levy to increase from **6.13 mills** last year to **6.16 mills** this year, 3 cents per \$1000 of taxable property, is ongoing. A phone call to the Montgomery County Auditor’s Office connected me to a senior person there named Marty Moore who told me that the well known fact that GM is pulling out of the Kettering School District has only begun to impact the Kettering School District’s total tax base. Certainly, testimony would establish that Dr. Mengerink heard, from the auditor’s office or from the Kettering School Treasurer, direct information concerning the continuing degradation of Kettering’s tax base.

I am certain that under oath, Dr. Mengerink would agree that he approved the content of the Spring, 2009 edition of "The Blue Ribbon Report," and oversaw its distribution to all Kettering households two weeks before the levy vote. I am certain that Dr. Mengerink, under oath, would agree that when he approved the content of "The Blue Ribbon Report," that he had complete knowledge of the history of this 6.9 mill levy, that he knew its effective rate had increased this year from **6.13 mills to 6.16 mills**, that he knew that the value of the overall property tax base in Kettering was continuing to decline, that he knew approval of the renewal would cause an increase in the effective tax rate for this levy this next tax year, and that he knew that homeowners, with properties whose taxable values remained unchanged, would, nevertheless, be required to pay additional taxes.

Regardless of knowing all this information, Dr. Mengerink made an "absolute" promise. I am contending that the statement approved by Dr. Mengerink and distributed to all Kettering households in an official school publication -- "**Absolutely no increase in taxes as a result of this Renewal Issue**" -- has no defense. There is no defense of this statement via insisting an alternative meaning of the word "taxes" be applied. The statement -- "**Absolutely no increase in taxes as a result of this Renewal Issue**" -- is a false statement because the use of the word "absolutely" in the phrase, "absolutely no increase in taxes," precludes the defense of qualifying the meaning of the word, "taxes," because the word "absolutely" means "without exception, without qualification." The meaning of the word "absolutely" requires Dr. Mengerink's statement to be read like this: "Without exception, without qualification, absolutely, there will be no increase in taxes as a result of this Renewal Issue."

Having used the word "absolutely" -- without exception, without qualification -- it is impossible for Dr. Mengerink to qualify the meaning of the word "taxes," and maintain that the word, "taxes," **ONLY** means, "total revenue to the District," because, in fact, a common meaning of the word "taxes," as applied to the phrase "no increase in taxes," is "effective tax rate." The use of the word "absolutely" prohibits qualification of the word, "taxes," since the word "absolutely" clearly communicates, and was intended to communicate, "without exception, without qualification."

The impact of Dr. Mengerink's powerful promise of "absolutely no increase in taxes" on school employees is seen in a letter prepared by school leaders of one of Kettering's elementary buildings, Oakview School. One parent, whose signature appears on the letter, told me he signed the letter at the request of the Oakview school principal, and that, at the time, he took the words of the letter at their face value. He told me that he was shocked to learn that the approval of the renewal would cause the effective tax rate levied on his property to increase.

The Oakview letter appeared after publication of "The Blue Ribbon Report" and I believe that testimony would reveal that its author used Dr. Mengerink's assurance of "absolutely no increase in taxes," that appeared in "The Blue Ribbon Report," as the basis for its inaccurate and over the top promise. The Oakview letter said, "**Remember, this issue won't cost any of us one cent more in taxes ....**" Obviously, whoever wrote this letter had confidence in the fact that the renewal would cause "absolutely no increase in taxes."

I received a copy of The Oakview letter from the Superintendent's office after the election, when I requested to see all campaign literature. I believe that testimony would show that Dr. Mengerink approved this Oakview letter and made no effort to correct its misinformation. By approving the letter, Dr. Mengerink defined "absolutely no increase in taxes" to mean that "this issue won't cost any of us one cent more in taxes." But this year, this renewal already cost all Kettering property owners 3 cents more per \$1000 of taxable property, and, I believe testimony would establish that Dr. Mengerink was given advice that a bigger increase in the renewal's effective rate will be required next year.

I am a retired public school teacher and a long time supporter of public education. My motive in making this official complaint to The Ohio Election Commission is to help improve our system of public education. By appearing deceptive and manipulative in campaigns seeking public support for school funding, levy committees and school superintendents throughout the state risk dangerous erosion of long term public support of public education. The economic downturn has created a new reality concerning renewal levies. For the long term health of public education, the temptation to push voters into support for renewals, by making false claims, must be curbed. Action concerning this issue by the Election Commission is needed.

Dr. Mengerink, I'm sure, is a well meaning person, but, in his zeal to get voter approval for renewal of the 6.9 mill levy, he went too far. Dr. Mengerink promulgated a false statement, a statement he knew to be false, "knowingly and with intent to affect the outcome" of the renewal levy campaign, and, by so doing, Dr. Mengerink violated Ohio's Revised Code (**Section 3517.22, Part B, Section 2**).

I am requesting that The Ohio Election Commission review the enclosed copy of the Spring, 2009 edition of "The Blue Ribbon Report," and the April 22, 2009 letter to Oakview parents, and arrange a formal hearing concerning my accusation that Dr. Robert Mengerink, Superintendent of Kettering Schools, in Kettering's recent levy campaign, violated **Section 3517.22, Part B, Section 2** of Ohio's revised code.

Sincerely,

Michael C. Bock

**Signed and Sworn Before a Notary Public**

**Two Enclosures:**

1. "The Blue Ribbon Report," Spring, 2009
2. Letter To Oakview Parents, April 22, 2009

