



OFFICE OF THE ATTORNEY GENERAL  
STATE OF OKLAHOMA

February 13, 2025

Representative Erick Harris  
Oklahoma House of Representatives  
2300 N. Lincoln Blvd., Room 453  
Oklahoma City, Oklahoma 73105  
[erick.harris@okhouse.gov](mailto:erick.harris@okhouse.gov)

**Re: Attorney General Opinion Request – Internal Tracking No. AGO24-54**

Dear Representative Harris:

This office has received your request for an official Attorney General Opinion in which you ask, the following:

**Is the provision of Article II, section 9 of The Charter for the City of Edmond which requires an eligible candidate to be a “freeholder” lawful?**

I am answering your request by letter of counsel instead of an official Attorney General opinion because the United States Supreme Court has addressed this issue several times. For the reasons below, a reviewing court would likely find such requirement unconstitutional, unenforceable, and invalid.

Article II, section 9 of the City Charter of Edmond, Oklahoma, states:

No person shall be eligible to be mayor, or councilman unless he be a citizen of the United States and of the State of Oklahoma, a freeholder in the City of Edmond, at least twenty-five years of age, a resident of said City at least one year next prior to his election, and a qualified voter of said City and Ward from which he seeks election . . . .

Freeholder requirements refer to land ownership.<sup>1</sup> In other words, the provision attempted to require the candidates to own real property within Edmond’s city limits.

Starting in 1970, the United States Supreme Court has found in three cases that a freeholder qualification for public office violates the Equal Protection Clause and is invidiously

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<sup>1</sup> A “freeholder” generally refers to an individual who holds a freehold estate in land, which is an interest in real property that is either for life or has the possibility of enduring perpetually. *In the Matter of Assessment for the Year 2000*, 2001 OK 116, ¶16, 38 P.3d 900, 905.

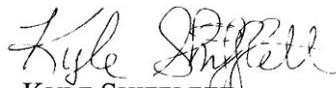
discriminatory.<sup>2</sup> The Court first invalidated a freeholder qualification in 1970. *Turner v. Fouche*, 396 U.S. 346 (1970). There, the case concerned a Georgia constitutional requirement that members of the board of education be freeholders. The Court held that the Georgia requirement was irrelevant to the achievement of a valid state objective. Requiring an otherwise qualified citizen to own real property, regardless of whether they were a parent with children in school, paid taxes as a lessee, or paid any portion of federal or state taxes that went to the board of education, served no purpose. *Turner*, 396 U.S. at 364. The lack of real property ownership does not equate to a lack of attachment to the community or its educational values. *Id.* Thus, the Court struck down the freeholder qualification. *Id.*

The United States summarily reaffirmed its holding in *Turner* when striking down a freeholder qualification to sit on the Greater Baton Rouge Airport Commission. *Chappelle v. Greater Baton Rouge Airport District*, 431 U.S. 159 (1977). Twelve years later, the Court invalidated a Missouri constitutional provision requiring a person to own real property to qualify for appointment to a government board. *Quinn v. Millsap*, 491 U.S. 95 (1989).

The Court's precedent is clear and consistent. If challenged, a reviewing court would likely hold Edmond's freeholder qualification provision to be unconstitutional, unenforceable, and invalid. As a housekeeping matter, city leaders may wish to amend the City Charter to omit the freeholder qualification in the next election. Such decision falls within their sound discretion.

Finally, the views and analysis set forth in this letter are my own. And since this is a letter of counsel, it should not be construed as an official Attorney General Opinion and is thus advisory only. If you have any follow-up questions or concerns, please contact me by email at [Kyle.Shifflett@oag.ok.gov](mailto:Kyle.Shifflett@oag.ok.gov) or by phone at 405-522-6223.

Sincerely,



KYLE SHIFFLETT

*Deputy General Counsel*

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<sup>2</sup> The Fourteenth Amendment's Equal Protection Clause mandates that no state "deny to any person within its jurisdiction the equal protection of the laws. U.S. CONST. amend. XIV, § 1. When called upon to analyze a case on equal protection grounds, a court will apply one of three standards of review: (a) rational basis, (b) heightened (intermediate) scrutiny, or (c) strict scrutiny. If the classification does not implicate a suspect class or abridge a fundamental right, the rational-basis test is used. *City of Cleburne, Tex. v. Cleburne Living Center*, 473 U.S. 432, 440–42 (1985).