2017 IL App (2d) 160563-U
No. 2-16-0563
Order filed June 27, 2017

IN THE

APPELLATE COURT OF ILLINOIS

SECOND DISTRICT

NAPERVILLE TOWNSHIP ROAD DISTRICT and STAN WOJTASIAK, in His Official Capacity as the Naperville Township Highway Commissioner, Plaintiffs-Appellants, v. RACHEL M. OSSYRA, in her Official Capacity as the Supervisor of Naperville Township, JANICE M. ANDERSON and KERRY MALM, in their Official Capacities as Naperville Township Trustees, and NAPERVILLE TOWNSHIP, Defendants-Appellees.	)	Appeal from the Circuit Court of Du Page County. No. 16-CH-769 Honorable Bonnie M. Wheaton, Judge, Presiding.

JUSTICE ZENOFF delivered the judgment of the court.
Justice Birkett concurred in the judgment.
Justice Hutchinson dissented.

ORDER

¶ 1 *Held*: Appeal was dismissed as moot where no actual rights or interests of the parties remained and no exception to the mootness doctrine applied.

¶ 2 Plaintiffs, Naperville Township Road District and Stan Wojtasiak, in his official capacity as the Naperville Township Highway Commissioner, appeal from the trial court's order dismissing their verified complaint for injunctive relief, *mandamus*, and declaratory judgment. For the reasons that follow, we dismiss the appeal as moot.

¶ 3 I. BACKGROUND

¶ 4 Plaintiffs are the Naperville Township Road District (Road District), which was created pursuant to and operates under the Illinois Highway Code (605 ILCS 5/6-101 *et seq.* (West 2014)) and Wojtasiak, the elected Naperville Township Highway Commissioner (Highway Commissioner). Pursuant to section 6-501(c) of the Highway Code (605 ILCS 5/6-501(c) (West 2014)), each year the Highway Commissioner is required to prepare a tentative budget and appropriation ordinance (tentative budget) for the Road District, which he then submits to the township board of trustees for approval. Here, the Highway Commissioner prepared the 2016-17 tentative budget in February 2016, with appropriations totaling $2,619,330.00.

¶ 5 Defendants are Naperville Township, which was created pursuant to and operates under the Illinois Township Code (60 ILCS 1/1-1 *et seq.* (West 2014)); Rachel Ossyra, the elected Naperville Township Supervisor (Township Supervisor); and Janice Anderson and Kerry Malm, elected Naperville Township Trustees (Township Trustees). Pursuant to section 6-501(c) of the Highway Code, the Naperville Township Board of Trustees is required to hold a public hearing at which it "shall adopt the tentative budget and appropriation ordinance, or any part as the board of trustees deem necessary." Here, after two public hearings on April 6 and May 10, 2016, the Board of Trustees voted to approve a modified version of the Highway Commissioner's tentative budget, in which it approved certain line-items, reduced amounts for other line-items totaling approximately $550,000, and included dollar amounts, placed in brackets and marked with an

asterisk, next to certain line-items. The asterisks next to the bracketed dollar amounts referenced a handwritten notation at the bottom of the page, which stated "City of Naperville IGA [intergovernmental agreement]." The budget approved by the Naperville Township Board of Trustees included appropriations for the Road District totaling $2,075,005.00.

¶ 6 On May 17, 2016, plaintiffs filed a three-count verified complaint for a preliminary injunction, *mandamus*, and declaratory judgment. Plaintiffs alleged in all counts that the Naperville Township Board of Trustees was limited by section 6-501(c) to accepting the budget or the parts it deemed necessary, and that it did not have the statutory authority to make line-item changes or add items to the budget. Plaintiffs also asserted that defendants did not have the authority to force the Highway Commissioner to enter into an intergovernmental agreement with the City of Naperville, which the Highway Commissioner previously refused to do. Plaintiffs alleged that defendants added the intergovernmental agreement to the budget, as evidenced by the bracketed dollar amounts and asterisks next to certain line-items, which referenced "City of Naperville IGA." In count I, plaintiffs sought injunctive relief to prevent the implementation of the budget approved by defendants. In count II, plaintiffs sought a writ of *mandamus* compelling defendants to approve the tentative budget prepared by the Highway Commissioner. Count III sought declarations that defendants exceeded their statutory authority by changing, adding to, and revising the tentative budget, and that the approved budget was null and void. Plaintiffs also sought declarations ordering defendants to approve the Highway Commissioner's tentative budget and allowing the Highway Commissioner to spend funds "in accordance" with the tentative budget, pending approval of that budget. Both the Highway Commissioner's tentative budget and the approved budget were attached to the complaint as exhibits.

¶ 7 On May 26, 2016, defendants filed a combined motion to dismiss under section 2-619.1 of the Code of Civil Procedure (Code) (735 ILCS 5/2-619.1 (West 2014)). Defendants argued that plaintiffs' claim for injunctive relief was simply an attempt to force Naperville Township to adopt the Highway Commissioner's tentative budget, which was in derogation of the political-question doctrine and section 6-501(c) of the Highway Code. Defendants also argued that the political-question doctrine precluded *mandamus* relief and that count II failed to state a cause of action. As to count III for declaratory judgment, defendants argued that the requested relief was barred by the political-question doctrine, and declaratory judgment was improper because plaintiffs sought relief for "past conduct." Finally, defendants argued that plaintiff failed to state a claim that the Board of Trustees' actions were "wrong or invalid."

¶ 8 Defendants attached an affidavit from the Township Supervisor to the motion to dismiss. She averred as follows. The Township Supervisor was the chairman of the Naperville Township Board of Trustees. On May 10, 2016, the Board of Trustees approved "portions" of the Highway Commissioner's 2016-17 tentative budget. Where a line-item in the tentative budget contained an amount not deemed necessary, the listed amount was "overstricken" and the amount that was deemed necessary was written in the margin. The budget that was approved by the Board of Trustees contained the exact same line-items that were set forth in the tentative budget, and no new line-items were added. All line-item amounts in the approved budget were less than or equal to the corresponding line-item amount set forth in the Highway Commissioner's tentative budget. The transcripts from the two-day public hearing on the Road District's budget set forth the "legislative and political rationale" supporting the Board of Trustees' decision to approve the budget, as modified. The transcripts from the public hearings were also attached to the motion to dismiss.

¶ 9 In their response to defendants' motion to dismiss, plaintiffs argued that the Road District was a separate governmental entity with statutorily protected "rights and obligations;" the political-question doctrine did not preclude judicial review of defendants' actions in approving the budget under section 6-501(c); and the verified complaint properly stated claims for *mandamus* and declaratory judgment.

¶ 10 Defendants replied that section 6-501(c) gave the Board of Trustees sole authority to approve the tentative budget and discretionary power to "nullify" parts that it deemed unnecessary; the Board of Trustees' decisions as to what it deemed "necessary" were political questions not subject to judicial review; plaintiffs' claim that defendants added items to the approved budget was false, as evidenced by the Township Supervisor's unrebutted affidavit; and plaintiffs had an adequate remedy at law in that the Highway Commissioner had access to funds budgeted in other places that could be used to address his concerns about personnel and safety issues.

¶ 11 On July 8, 2016, after hearing the parties' arguments, the trial court granted defendants' motion to dismiss. The court analogized the situation to circuit courts in Illinois submitting their budgets to their respective county boards, which had the discretion to grant or reduce the requested amount. Similarly, the trial court found that section 6-501(c) of the Highway Code gave the Board of Trustees discretion as to the amount of funds that it could appropriate to the Road District. The trial court further found that the Road District's approved budget, which contained 79 percent of the Highway Commissioner's tentative budget, was not an "abuse of discretion." As to count II for *mandamus*, the court found that the requested relief was "beyond the jurisdiction" of the court because it did not pertain to a ministerial act. The court dismissed count III under the political-question doctrine.

¶ 12 Plaintiffs timely appealed. With leave of this court, the Township Officials of Illinois filed an *amicus curiae* brief in support of plaintiffs. Also with leave of this court, the Township Highway Commissioners of Illinois, Northern Illinois Highway Commissioners Association, Du Page County Township Highway Commissioners, Lake County Township Highway Commissioners Association, McHenry County Township Highway Commissioners Association, and the Lisle Township Road District jointly filed an *amicus curiae* brief in support of plaintiffs.

¶ 13 II. ANALYSIS

¶ 14 Plaintiffs argue that the trial court erred in dismissing the verified complaint. We must first determine whether the appeal is moot.

¶ 15 Reviewing courts generally will not consider moot or abstract questions or otherwise render advisory opinions. *PACE, Suburban Bus Division of Regional Transportation Authority v. Regional Transportation Authority*, 346 Ill. App. 3d 125, 132 (2003). An appeal is moot where the resolution of a question of law cannot affect the result of the case or where issues that were presented to the trial court no longer exist because intervening events have rendered it impossible for the reviewing court to grant the complaining party relief. *PACE*, 346 Ill. App. 3d at 132. This limitation is not a mere technicality; the existence of a real controversy is a "prerequisite to the exercise of our jurisdiction." *In re Adoption of Walgreen*, 186 Ill. 2d 362, 365 (1999).

¶ 16 Here, plaintiffs argued in their opening brief that the court erred in dismissing count II for *mandamus* and count III for declaratory judgment, and they requested that we remand the matter to the trial court for further proceedings. They also acknowledged in their brief that, due to the passage of time and subsequent events, count I for injunctive relief was moot. At oral argument, however, plaintiffs' attorney conceded that count II for *mandamus* was also moot, because the

fiscal year in question ended and all of the elected officials who were named in the complaint, both as plaintiffs and defendants, were out of office as of April 2017. He further advised this court that the new Township Board approved the new Highway Commissioner's 2017-18 tentative budget and that the approved budget contained all of the money and line-items requested by the Highway Commissioner. Also at oral argument, defendants' counsel confirmed that the officials named in the complaint were all out of office as of April 2017 and that the new Township Board approved the 2017-18 budget.

¶ 17 On the other hand, plaintiffs' attorney claimed at oral argument that the declaratory judgment claim was still "ripe." While he suggested that there was no need to remand the claim to the trial court and that it "should be dismissed," he maintained that townships throughout Illinois were "looking for guidance" from this court to establish standards or criteria under section 6-501(c) of the Highway Code. Plaintiffs' attorney also asked this court to render an opinion holding that (1) the Township Board's actions here were "reviewable" and not subject to the political-question doctrine, and (2) the Township Board "abused its discretion" by failing to approve enough funds to allow the Highway Commissioner and Road District to perform their functions. Defendants' counsel replied at oral argument that all counts were moot and that the appeal should be dismissed.

¶ 18 Having been advised of the change in circumstances by the attorneys for both parties at oral argument, we hold that the appeal is moot. No actual rights or interests of the parties remain. The 2016-17 fiscal year is over, having ended on March 31, 2017, and all of the elected officials involved in this appeal were out of office as of April 2017. See *PACE*, 346 Ill. App. 3d at 133 ("Courts have declined to address budgetary issues where the budget year in question had already passed."); see also *Illinois News Broadcasters Ass'n v. City of Springfield*, 22 Ill. App.

3d 226, 228 (1974) (appeal over budgetary issue was moot where "the executive director is long gone and the salary changes for fiscal year 1972-73 are merely part of the city's budget history and are of no consequence today."). We are thus unable to grant effectual relief to any party. Indeed, plaintiffs' attorney told us that the matter "should be dismissed" and it should not be remanded to the trial court. Also, the Naperville Township Board already approved the Road District's entire 2017-18 tentative budget. Furthermore, we cannot grant counsel's request that we issue an advisory opinion to establish a precedent under section 6-501(c). See *West Side Organization Health Services Corp. v. Thompson*, 79 Ill. 2d 503, 507 (1980) ("[W]here no actual rights or interests of the parties remain or where events occur which render it impossible for the reviewing court to grant effectual relief to either party, the issues raised by the litigation should not be resolved merely to establish a precedent or to govern potential future cases."); see also *People ex rel. Sklodowski v. State*, 162 Ill. 2d 117, 133-34 (1994) ("[W]e decline to render what can only be an advisory opinion, in light of the fact that the transfer of funds authorized by Public Act 87-838 has occurred and can no longer be enjoined.").

¶ 19 There are, however, two possible exceptions to the mootness doctrine here. The first provides that reviewing courts may consider a moot issue that is capable of repetition yet evades review. *PACE*, 346 Ill. App. 3d at 133. For this exception to apply, the duration of the challenged action must be too short to be fully litigated before its cessation, and there must be a reasonable expectation that the "same complaining party would be subjected to the same action again." *PACE*, 346 Ill. App. 3d at 133. The second exception, known as the "public interest" exception, allows courts to consider a moot issue when (1) the question presented is of a public nature; (2) there is a need for an authoritative determination for the future guidance of public officers; and (3) there is a likelihood of future recurrence of the question. *In re Alfred H.H.*, 233

Ill. 2d 345, 355 (2009). Both exceptions must be construed narrowly and require a clear showing of each criterion. *PACE*, 346 Ill. App. 3d at 133.

¶ 20 Neither exception to the mootness doctrine applies. Because the elected officials involved in the present appeal were out of office as of April 2017, there can be no reasonable expectation that the same complaining parties will again face the same budgetary issue. Thus, the capable of repetition yet evading review exception is inapplicable.

¶ 21 The dissent posits that the public interest exception applies and that the *amicus curiae* briefs filed in support of plaintiffs are "obvious indicator[s]" that the three criteria of the exception are satisfied. *Infra* ¶ 35. The dissent, however, does not analyze any of the three criteria that must be clearly shown by the party seeking to apply the public interest exception. Moreover, plaintiffs' attorney did not argue the public interest exception applied. Thus, to apply the public interest exception would require this court to make the arguments on plaintiffs' behalf. See *People v. Rodriguez*, 336 Ill. App. 3d 1, 14 (2002) ("While a reviewing court has the power to raise unbriefed issues pursuant to Supreme Court Rule 366(a)(5), we must refrain from doing so when it would have the effect of transforming this court's role from that of jurist to advocate.").

¶ 22 Apart from the issue of transforming this court's role, an analysis of the three criteria clearly shows that the public interest exception is inapplicable here. The dissent proposes to apply the exception to the issue of whether defendants violated section 6-501(c) of the Highway Code when they made line-item changes to the Highway Commissioner's tentative budget. While plaintiffs' complaint requested a declaration that defendants exceeded their statutory authority when they changed, added to, and revised the tentative budget, at oral argument plaintiffs' attorney conceded that defendants had the statutory authority to make line-item

changes and revisions to the tentative budget. The dissent nevertheless claims that it is "unclear" whether counsel actually made such a concession. We disagree. This court explicitly asked counsel whether defendants, under section 6-501(c) of the Highway Code, had the statutory authority to make "line-item revisions?" Plaintiffs' attorney responded that, pursuant to section 6-501(c), defendants had the statutory authority to "reduce any line" of the tentative budget. (See minute 15:00 of oral argument audio). Counsel further argued that, while they had the statutory authority to reduce any line-item, defendants could not reduce the budget to the extent that they "shut down" the Road District. (See minute 15:17 of oral argument audio). Also, in response to a question asking what relief plaintiffs sought from this court, plaintiffs' attorney asked that we issue an order holding that defendants "abused their discretion" in approving the reduced amounts here. (See minute 41:38 of oral argument audio). As evidenced by counsel's own statements at oral argument, plaintiffs no longer sought judicial review of the issue of whether defendants had the statutory authority to make line-item changes to section 6-501(c) of the Highway Code. Instead, plaintiff's attorney clarified that plaintiffs sought judicial review of the purely factual and case-specific issue concerning the actual numbers and items approved in the 2016-17 budget. Accordingly, the first criterion of the public interest exception is not satisfied. See *Alfred H.H.*, 233 Ill. 2d at 356-57 ("Sufficiency of the evidence claims are inherently case-specific reviews that do not present the kinds of broad public interest issues" that satisfy the first criterion of public interest exception.).

¶ 23 Additionally, the fact that plaintiffs' attorney stated that defendants did not have the statutory authority to "add anything to the budget or to move lines around" does not create ambiguity in the otherwise clear point that plaintiffs now seek judicial review of purely factual issues. Indeed, even defense counsel referenced plaintiffs' concession at oral argument that

defendants had the statutory authority to reduce any line-item. (See minute 34:50 of oral argument audio). Moreover, defendants do not dispute that, under section 6-501(c), they could not add line-items to a tentative budget. Defendants consistently argued that no line-items were added to the 2016-17 budget, as evidenced by the Township Supervisor's affidavit and a simple review of the approved budget. That being said, plaintiffs did not meaningfully dispute the Township Supervisor's averments that no new line-items were added to the tentative budget. Instead, plaintiffs asked this court to "interpret" the approved 2016-17 budget to ascertain the meaning of the handwritten changes next to existing line-items that referenced the "City of Naperville IGA." This is purely a factual, case-specific issue.

¶ 24 As to the second criterion of the public-interest exception, the case must present a situation for authoritative guidance where the law is in disarray or there is conflicting precedent. See *Alfred H.H.*, 233 Ill. 2d at 358. As mentioned above, at oral argument plaintiffs clarified that they sought review of the purely factual issues concerning the actual amount of money that was approved, as well as an interpretation of the handwritten notations to the "City of Naperville IGA." Hence, plaintiffs do not reference issues of law, let alone issues where the law is in disarray or there is conflicting precedent. Indeed, both parties agree on all potential issues of law concerning section 6-501(c) that may have been implicated here. The parties agree that section 6-501(c) does not confer a township board with the authority to add new line-items to a tentative budget, but a township board may reduce and revise existing line-items. Also, section 6-501(c) gives a township board the discretion to determine what amounts or line-items are "necessary" in a tentative budget. Plaintiffs' attorney acknowledged at oral argument that a court "can't substitute its judgment" for a township board as to what was deemed "necessary" in a tentative budget. (See minute 13:10 of oral argument audio). Furthermore, both parties agree that section

6-501(c) does not provide any standards or criteria to aid judicial review of a township board's determination as to what it deemed "necessary." Nevertheless, plaintiffs' attorney asked this court to render an advisory opinion that establishes a "precedent" and creates standards or criteria as to what is "necessary" under section 6-501(c), "no matter how vague it is." (See minute 17:50 of oral argument audio). As explained above, "[t]he courts of Illinois do not issue advisory opinions to guide future litigation, and this court has adhered to this rule with few exceptions." *Golden Rule Insurance Co., v. Schwartz*, 203 Ill. 2d 456, 469 (2003).

¶ 25 As to the third criterion of the public interest exception, the factual and case-specific issues presented here for review are not likely to recur. All public officials named in the complaint were out of office as of April 2017, and a new tentative budget was approved for the Road District and its new Highway Commissioner. Because the parties involved here no longer have any interest in the outcome of the proceedings, the third criterion is not satisfied. *Cf. In re Lance H.*, 2014 IL 114899, ¶ 14 ("As for the third criterion, respondent's own history demonstrates how this question might recur. Respondent has been found subject to involuntary admission multiple times prior to this adjudication, and this is not the first time respondent has sought voluntary admission."); and *People v. McCoy*, 2014 IL App (2d) 130632, ¶ 19 ("With respect to the third criterion, defendant's own history demonstrates how this question might recur. Defendant was found unfit, he later exhibited behavior at his guilty-plea hearing similar to behaviors exhibited when he was unfit, and he argues that there is a substantial likelihood that his guilty pleas will be vacated.").

¶ 26 Finally, the dissent's application of the public interest exception to the mootness doctrine is particularly inappropriate here, because the dissent proposes that the case be remanded to the trial court. *Infra* ¶ 39. At oral argument, plaintiff's attorney advised this court that, because the

fiscal year at issue is over, the court "should *not* remand [the case], it should be dismissed." (Emphasis added). (See minute 42:15 of oral argument audio). Thus, plaintiffs do not seek review of the issue that the dissent proposes to remand, nor do they seek remand of the matter to the trial court at all.

¶ 27 III. CONCLUSION

¶ 28 For the reasons stated, the appeal is dismissed as moot.

¶ 29 Appeal dismissed.

Justice HUTCHINSON dissenting.

¶ 30 While I agree that the issues raised in this appeal are moot, I respectfully disagree with the majority's dismissal. I believe that the public interest exception to the mootness doctrine is applicable to the issue of whether defendants violated section 6-501(c) of the Highway Code when they made line-item changes to the Highway Commissioner's tentative budget. I therefore dissent.

¶ 31 In count III of their verified complaint, plaintiffs generally sought declarations on two distinct issues: (1) whether defendants violated section 6-501(c) when they made line-item changes to the tentative budget before approving it; and (2) whether the approved budget was arbitrary and unreasonable. The trial court dismissed count III in its entirety under the political question doctrine.

¶ 32 I do not believe that the first issue in count III is a political question. The political question doctrine ensures that the judiciary does not exercise the powers of another branch of government. *Moore v. Grafton Township Board of Trustees*, 2011 IL App (2d) 110499, ¶ 5.

Under the doctrine, issues that lack "satisfactory criteria for judicial determination" and for which it is proper to assign "finality to the action of the political departments," are not subject to judicial review. *Id.* (quoting *Committee for Educational Rights v. Edgar*, 174 Ill. 2d 1, 28 (1996)).

¶ 33 To apply the political question doctrine to the issues in this case requires a court to consider the statutory language in section 6-501(c). The statute provides that the Highway Commissioner shall each year prepare a tentative budget and appropriation ordinance and file it with the clerk of the township. 605 ILCS 5/6-501(c) (West 2014). The statute further provides that, at a public hearing held on the tentative budget, the township board of trustees "shall adopt the tentative budget and appropriation ordinance, or any part as the board of trustees deem necessary." 605 ILCS 5/6-501(c) (West 2014).

¶ 34 The plain language of section 6-501(c) is clear that a township board of trustees has discretion to adopt either: (1) the entire tentative budget and appropriation ordinance; or (2) any "part" of the tentative budget and appropriation ordinance that the board of trustees deems "necessary." However, the statute is unclear as to whether a township board of trustees, in deciding upon what is "necessary," is allowed to make line-item revisions to the figures in the tentative budget and appropriation ordinance. Stated differently, it is unclear whether a line-item revision constitutes a "part" of a tentative budget and appropriation ordinance, or whether the term "part" applies in the more general sense of the word, meaning that the board of trustees is restricted to approving only those *sections* of the tentative budget and appropriation ordinance that it deems "necessary." The resolution of this issue is not precluded from judicial review by the political question doctrine, as we do not lack "satisfactory criteria for judicial determination." *Moore*, 2011 IL App (2d) 110499, ¶ 5 (see also *PACE*, 346 Ill. App. 3d at 136 (noting that, while

courts should not review the budgetary decisions of a branch of government that is authorized to control spending, it is appropriate for courts to consider whether that branch of government exceeded its statutory limits of authority). I do, however, agree with the trial court that the second issue in count III is barred by the political question doctrine, as section 6-501(c) lacks any criteria for a court to apply in reviewing the propriety of the board of trustees' decisions as to what it deemed "necessary."

¶ 35 That brings me to the public interest exception to the mootness doctrine. The *amicus curiae* briefs in support of plaintiffs are an obvious indicator that: (1) the questions presented in this case are of a public nature; (2) there is a need for an authoritative determination for the future guidance of public officers; and (3) there is a likelihood of future recurrence of the question. See *In re Alfred H.H.*, 233 Ill. 2d at 355.

¶ 36 The majority declines to apply the public interest exception to the issue that I have identified on the basis that plaintiffs' counsel conceded at oral argument that the Township Board "had the statutory authority to make line-item changes and revisions to the tentative budget." *Supra* ¶ 22. After reviewing the recording of the oral argument, I am unclear as to whether counsel explicitly made any such concession. At one point, counsel stated, "I do not believe [the Board] [had] authority to add anything to the budget or to move lines around." He later conceded the Board had the discretion to "reduce any line *** but not to the extent that they basically shut down the road district." The latter statement seemingly contradicts count III in plaintiffs' verified complaint, where plaintiffs request a declaratory judgment that defendants "exceeded their statutory authority in changing, adding to and otherwise revising" the Highway Commissioner's tentative budget. At any rate, counsel's confusing statements during oral argument should not preclude our application of the public interest exception.

¶ 37 I also disagree with the majority's conclusion regarding the third criterion of the public interest exception to the mootness doctrine, which considers the likelihood of future recurrence of the question. *PACE*, 346 Ill. App. 3d at 133. The majority observes that all public officials named in the complaint were out of office as of April 2017, and holds that, "[b]ecause the parties involved here no longer have any interest in the outcome of the proceedings, the third criterion is not satisfied." *Supra* ¶ 25. This reasoning suggests that the third criterion of the public interest exception would be met if the officials in question had been reelected in April 2017. But our application of the public interest exception cannot turn on the results of a recent election.

¶ 38 The majority has mistakenly conflated the third criterion of the public interest exception with the "capable of repetition yet avoiding review" exception. Under the latter exception, there must be a reasonable expectation that "the same complaining party would be subjected to the same action again." *In re Alfred H.H.*, 233 Ill. 2d at 358 (quoting *In re Barbara H.*, 183 Ill. 2d 482, 491 (1998)). However, the third criterion of the public interest exception does not require a likelihood of future recurrence between the same complaining parties; rather, it requires that the facts giving rise to the underlying claim are likely to recur either as to the same parties *or to anyone else*. *In re Alfred H.H.*, 233 Ill. 2d at 358 ("there is no substantial likelihood that the material facts that give rise to respondent's insufficiency claim are likely to recur either as to him or anyone else"); see also *Lakewood Nursing & Rehabilitation Center v. Department of Public Health*, 2015 IL App (3d) 140899, ¶ 29 (finding a likelihood of future recurrence on questions concerning statutory application and departmental procedures); and *People v. Horsman*, 406 Ill. App. 3d 984, 986 (2011) (finding a likelihood of future recurrence where two judges had ruled differently on the same question of statutory construction in two separate cases). I maintain that the question I have identified is likely to recur, given the interest in this case and the fact that

there are 1,428 townships in Illinois. Township Officials of Illinois, https://www.toi.org/ (last visited June 26, 2017).

¶ 39 As discussed above, I believe the statute is unclear as to whether the Board had the authority under section 6-501(c) to make any line-item revisions or changes to the figures in the tentative budget before approving it. I would remand this case to the trial court for a determination of that specific issue with instructions that any other interested parties be given an opportunity to move to intervene.