

From: Lee Fischman <lee.fischman@gmail.com>
Subject: Signs on property in Scarsdale
Date: September 10, 2020 at 10:49:22 AM EDT
To: Mayor <mayor@scarsdale.com>

CAUTION: External sender.

Mayor Samwick et. al.,

I'm sending this to mayor@scarsdale.com intending that it should be entered into the formal record and distributed to the entire BOT:

In 2018, Bob Berg sued the Village for the right to place political signs in the Village right of way. For those of you who are unfamiliar with or forget the facts of this case, the key paragraph is reproduced here:

"Plaintiff, a resident of the Village of Scarsdale, Plaintiff, a resident of the Village of Scarsdale, brings this action pursuant to 42 U.S.C. § 1983 challenging the constitutionality of Section 256-1 of the Scarsdale Village Code. Section 256-1 provides, in relevant part, that residents may not "obstruct any street, public easement or other public place without first securing a written permit from the Village Engineer and complying with such regulations affecting obstructions as the Village Engineer may prescribe." (Aff. of Robert J. Berg in Supp. of TRO and Prelim. Inj. at 48.) Because the Village of Scarsdale maintains "ownership of[] paved roads [and] thirteen feet (13') on each side of [each] paved road," (Id.), the Village has interpreted Section 256-1 as allowing for the removal of unauthorized political signs from the front lawns of residents within the thirteen foot Village "right-of-way." (Id.) Plaintiff claims, and the Village apparently does not contest, that the Village Police Department has in fact removed such signs pursuant to Section 256-1. (See Id. at 47-52.) Plaintiff contends that the provision, thus, unconstitutionally burdens, and has chilled the exercise of, his First and Fourteenth Amendment right to free speech."

The judge issued this preliminary injunction and temporary restraining order, stating:

"It is ORDERED that Defendants are enjoined from enforcing the provisions of Section 256-1... with respect to posting political lawn signs in the Village of Scarsdale right of way in front of private homes,"

While this suit is under way, the Village has elected to not remove any signs, placed anywhere. This interim policy has led to the current preponderance of

political signs on public property and also would allow commercial signs without restriction.

The right to place signs on their own property or in right of way, while clearly in front of one's own property is something that I think most residents could agree on, as evidenced by the number of Raiders, White Plains Hospital and other signs about the Village. Given this, my questions for the Village are:

- 1) The lawsuit concerned the placement of signs in front of residents' own properties, including within the Village right of way. Since most residents would probably agree that this is reasonable, why does the Village think it necessary to continue to defend a lawsuit which could be amicably resolved?
- 2) Why is the Village currently not removing signs placed anywhere, far exceeding the judge's order?
- 3) Would the Village undertake hearings regarding the code change suggested above: to allow only signs placed by residents at the front of their own properties, including within the right of way.

I thank you for your attention, and hope that all stakeholders gain from the hopefully simple responses and actions asked for above.

Sincerely,

Lee Fischman