

STATE OF RHODE ISLAND
WASHINGTON, SC.

SUPERIOR COURT

CAITLIN DOWD, JENESSA REDFERN,
GRACE RIGNANESE

VS.

C.A. NO:WC 12-

TOWN OF NARRAGANSETT;
GLENN M. HAGOPIAN, DAVID CROOK,
SUSAN CICILLINE-BUONANNO,
CHRISTOPHER WILKENS, and
ALISA TRAINOR FLEET, COUNCIL MEMBERS
in their Official Capacities;
GRADY MILLER, TOWN MANAGER,
ROBERT UYTTEBROEK, TOWN TREASURER,
and DEAN HOXSIE, TOWN POLICE CHIEF,
in their Official Capacities

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

STATEMENT OF THE CASE

This Complaint concerns a dispute between the Town of Narragansett (hereinafter, Respondent or Town) and certain URI students and renters (hereinafter, Petitioners) with respect to the Town's Parking Restrictions and Regulations (Article II, Sections 74-35 of the Code of Ordinances) which prohibit certain overnight and daytime parking in designated sections of the Town except for permit holders who are residents of the town. The Town of Narragansett arbitrarily redefined the length of residency required to obtain a valid parking permit in the midst of the effective period of the petitioners' permits without notice or an opportunity to be heard, rendering them retroactively ineligible to obtain the parking permits that were then in effect; subsequently petitioners were ticketed and fined for parking illegally because their permits were deemed invalid. Petitioners contend that such arbitrary redefinition of their resident status,

retroactive nullification of their validly obtained parking permits, and application of resulting penalties in the course of enforcing this Ordinance, all violate their property rights as valid permit holders and their due process and equal protection rights under the Rhode Island and United States Constitutions.

PARTIES

1. Petitioners Caitlin Dowd, Jenessa Redfern, and Grace Rignanese are URI students who reside in Narragansett, RI.

2. Respondent Town of Narragansett is a Rhode Island municipality.

3. Respondents Glenna M. Hagopian, David Crook, Susan Cicilline-Buonanno, Christopher Wilkens, and Alisa Trainor Fleet are members of the Town Council of the Town of Narragansett, State of Rhode Island.

4. Respondent Grady Miller is the Town Manager of the Town of Narragansett, State of Rhode Island.

5. Respondent Robert Uyttebroek is the Finance Director/Treasurer of the Town of Narragansett, State of Rhode Island.

6. Respondent Dean Hoxsie is the Police Chief of the Town of Narragansett.

JURISDICTION AND VENUE

7. This is an action for equitable and injunctive relief commenced pursuant to the Rhode Island Uniform Declaratory Judgment Act, RI Gen. Laws § 9-30-1, et seq and 42 USC §§ 1983 and 1988.

8. The jurisdiction of this Court is invoked pursuant to Rhode Island Uniform Declaratory Judgment Act and to remedy federal, state and local civil rights violations pursuant to 42 USC §§ 1983 and 1988.

9. The jurisdiction of this Court is invoked to secure the protection of, and to redress the deprivation of, rights secured by 42 USC §§ 1983 and 1988.

10. The jurisdiction of this Court is invoked to redress violations of Article 1, Sections 2 and 5, of the Rhode Island Constitution.

11. The jurisdiction of this Court is invoked to redress violations of the Fourteenth Amendment of the Constitution of the United States.

12. The venue of this action properly lies in the Superior Court for Washington County.

COMPLAINT

13. On August 22, 2011, the Narragansett Town Council amended Article II, Section 74-35, of the Code of Ordinance of the Town of Narragansett entitled “A RESOLUTION AMENDING THE OFFICIAL LIST OF PARKING RESTRICTIONS AND REGULATIONS IN THE TOWN OF NARRAGANSETT, IN ACCORDANCE WITH THE NARRAGANSETT CODE OF ORDINANCES.” See Exhibit A for a copy of said Resolution No. 2011-17.

14. Said Amended Ordinance took effect on passage and replaced any previously adopted restrictions for Atlantic Avenue and the relevant segment of Narragansett Avenue.

15. The Parking restrictions and regulations on specific streets were amended as follows:

Narragansett Avenue between Kingstown Road and Caswell Street: Overnight parking is prohibited on both sides from 11:00 pm to 7:00 am except for permit holders. Daytime parking from May 15th through September 15th between the hours of 9:00 am and 4:00 pm is limited to two (2) hours except for permit holders.

Atlantic Avenue entire length: No parking anytime on the easterly side. Parking is by permit only May 15th through September 15th between 9:00 am and 4:00 p on the westerly side. Overnight parking on the westerly side is prohibited from 11:00 pm to 7:00 am.

These parking restrictions replace any previously adopted restrictions for Atlantic Avenue and this segment of Narragansett Avenue.

16. The petitioners are URI students who are residents of the Town of Narragansett residing at 92 Narragansett Avenue.

17. The petitioners moved into 92 Narragansett Avenue on September 5, 2011, under a nine-month lease and shortly thereafter secured parking permits for overnight parking from the Town Clerk's office. See Exhibit B front and back.

18. The petitioners have a property right to their parking permits which were issued in September of 2011 and expire on 5-22-12. Id.

19. In mid-October petitioners received unofficial written notices on their windshields (not on official Town or Police Department stationery) stating that parking permits were now limited to "permanent residents" (individuals with a lease of 12 months or longer). See Exhibits C, D, and E.

20. In November 2011 and early January 2012, parking tickets were issued to petitioners, but the Narragansett Police Department dismissed them, acknowledging that they conflicted with the Ordinance and that petitioners held valid parking permits. Id.

21. In late January of 2012 each of the petitioners was again ticketed.

22. Petitioners asked for an explanation as to why they were being ticketed when they had valid parking permits.

23. Defendant Police Chief Dean Hoxsie wrote to petitioner Dowd on 1-27-12 that the enforcement policy had changed because "[t]he Ordinance had to be amended after the town solicitor provided an opinion that a 'resident' was someone that holds at least a 12 month lease or resides permanently in the town." See Exhibit F.

24. No further amendment had been made to this Ordinance between the August 2011 amendment allowing overnight parking for permit holders and late January of 2012, as Chief

Hoxsie claimed. Council minutes do not reference any subsequent change in this Ordinance or amendment. The Town Clerk was unable to furnish a copy of such an amendment or resolution. See Exhibit C.

25. Petitioners Dowd and Redfern each paid for one ticket (\$35 each) and petitioner Rignanese paid for two tickets (\$70 total).

WHEREFORE, petitioners pray for the following relief:

a. That this Honorable Court declare that the enforcement of said Ordinance violated petitioners' rights as permit holders under the Ordinance.

b. That this Honorable Court declare that the town was without authority to redefine eligibility for a parking permit without notice or hearing.

c. That this Honorable Court declare that said implementation of this Ordinance against petitioners violated their rights to justice, due process and equal protection under Article 1, Sections 2 and 5 of the Rhode Island Constitution, and to due process and equal protection under Amendment 14 of the United States Constitution.

d. That this Honorable Court issue a permanent injunction preventing the Town of Narragansett from arbitrarily enforcing the terms and conditions of the aforesaid Ordinance by extra-legally determining the validity of a parking permit based on the length of lease of any resident.

e. that the Town be ordered to reimburse the petitioners for the cost of the illegally issued tickets.

f. That the petitioners be awarded damages for violation of their rights, and their costs of suit including reasonable attorney's fees.

g. That the petitioners be awarded such other and further relief as this Honorable Court may deem just and appropriate.

Attorney for the Petitioners

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CERTIFICATION

I hereby certify that on the _____ day of April, 2012, a true copy of the within document was mailed to Mark McSally, Esq.

H. Jefferson Melish