

THE BUFFALO NEWS

Suit accuses Boston of bias over lawn signs

- By Barbara O'Brien
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(Derek Gee/Buffalo News)

In the Town of Boston, you can put signs on your front lawn opposing fracking and the SAFE Act, or supporting Donald Trump or Bernie Sanders, and you won't hear anything from town officials.

But if you erect a sign supporting the town clerk, you could find yourself summoned to court for violating the town's sign ordinance and be required to pay \$10 for a temporary sign permit.

Nearly a dozen supporters of Boston Town Clerk Jennifer A. Mule found themselves in that situation.

And that's unconstitutional, several residents charge in a federal lawsuit filed against the town, Supervisor Martin Ballowe and Code Enforcement Officer William Ferguson.

They contend in their federal complaint that their constitutional rights are being violated and that the town is enforcing its sign ordinance in a discriminatory manner.

“In my view, pretty much any law that restricts political speech, including a sign, would be unconstitutional,” said their attorney, James Ostrowski.

It’s been an unruly year in the rural town in southern Erie County, a place with about 7,900 residents that’s known for the scenic vista from its picturesque hills.

The board [did not retain Mule’s deputy town clerks](#) at the reorganization meeting in January, and instead hired two others as part-time clerks. Board Member Jay Boardway had said that the deputy clerks did not reapply for their jobs by a Dec. 9 deadline. Mule said in January there had never been specific deadlines and she had asked for their resumes by Dec. 14. She refused to work with the new hires, and appointed her own deputies. State Police were called when Mule refused to allow the new clerks into the office, but troopers determined it was a civil matter.

The locks to the clerk’s office were changed, and Mule went to State Supreme Court and obtained a ruling from Justice John F. O’Donnell that she should keep the key to the vault and she and the town supervisor would have keys to the office. O’Donnell also ruled that only the clerk can appoint her deputies, but the town does not have to pay them. So they are not being paid.

As the [tussle with the Town Board grew](#) over the summer, more than a dozen residents erected “I support the Boston town clerk” signs.

Barbara Moore was among them. She put up a sign 4 feet long and 9 inches high at the end of her driveway. It’s next to her sign against fracking.

“Suddenly, a few of us got a letter which had the name of the code enforcement officer printed at the bottom, with no signature,” she said of letters sent to 16 property owners.

The letters stated the town required they pay a \$10 fee for temporary signs. Some people were intimidated and removed their signs, she said. She and others appeared before Town Justice Kelly Vacco, who reserved decision on their motion to dismiss the charges.

“To me, this town clerk sign is not a temporary sign,” Moore said, adding she has had the “No fracking” sign posted for three years and never received a complaint.