

STATE OF RHODE ISLAND
WASHINGTON, SC.

SUPERIOR COURT

RICHARD A. WELCH

VS.

C.A. FILE NO.: WC-2016-

TOWN OF NORTH KINGSTOWN,
JASON A. ALBUQUERQUE, in his official
capacity, CAROL H. HUESTON, in her
official capacity, KEVIN V. MALONEY,
in his official capacity, KERRY P. MCKAY,
in his official capacity, and
ELLEN S. WAXMAN, in her official capacity

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

STATEMENT OF THE CASE

This complaint and civil action pursuant to the Uniform Declaratory Judgment Act, RIGL §9-30-1 et seq, seeks to enforce the rights of the plaintiff and all citizens of the Town of North Kingstown to attend all Town Council meetings and be given a reasonable opportunity to be heard as codified in the North Kingstown Town Charter. On December 10, 2015, plaintiff was in attendance at a Special Town Council meeting with a full agenda and was denied the opportunity to speak. This denial was a clear violation of the Town Charter which states in pertinent part:

Citizens in attendance at council meetings shall be given a reasonable opportunity to be heard. Sec. 307 Exhibit B.

PARTIES

1. Plaintiff, Richard A. Welch, is a resident of the Town of North Kingstown, Rhode Island.
2. Defendant, Town of North Kingstown, is a Rhode Island municipality.

3. Defendants, Jason A. Albuquerque, Carol H. Hueston, Kevin V. Maloney, Kerry P. McKay, and Ellen S. Waxman, are all elected members of the North Kingstown Town Council.

JURISDICTION AND VENUE

4. This Court has jurisdiction pursuant to the Uniform Declaratory Judgments Act, RIGL § 9-30-1 et seq.

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

COMPLAINT

6. A properly noticed special Town Council meeting was held on December 10, 2015, with the attached agenda. See Exhibit A.

7. All regular and special meetings are open to the public and must be conducted pursuant to the Town Charter and the Rhode Island Open Meetings Law. RIGL § 42-46-1 et seq.

8. Sec. 307 of the Town Charter requires in pertinent part:

Citizens in attendance shall be given a reasonable opportunity to be heard. See attached Exhibit B.

9. At the December 10, 2015, special Town Council meeting, plaintiff attempted to speak and was denied the opportunity to speak by the Town Council President defendant Kerry McKay.

10. The denial of plaintiff's right to be heard was a direct violation of the Town Charter.

11. There is no distinction made in the Town Charter between regular and special Town meetings to justify the denial of the public's right to be heard.

WHEREFORE, plaintiff prays for the following relief:

1. A declaration that the plaintiff's and the public's right to be heard on December 10, 2015, was violated.
2. A declaration that the North Kingstown Town Charter requires the defendants to give the public a reasonable opportunity to be heard at all Town Council meetings.
3. An injunction requiring the defendants to honor the public's right to attend and have a reasonable opportunity to be heard at all Town Council meetings.
4. An award of plaintiff's costs.
5. Such other and further relief as the Court deems appropriate and in the public interest.

Plaintiff,
By his Attorney

/s/ H. Jefferson Melish

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THIS MOTION SHALL BE PERSONALLY SERVED ON THE DEFENDANTS

CERTIFICATE OF SERVICE

I hereby certify that, on the __ day of April, 2016, I electronically filed this document. The document is available for viewing and/or downloading from the Rhode Island Judiciary's Electronic Filing System.

/s/ H. Jefferson Melish