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September 14, 2026

Kenneth Brown
Code Enforcement Officer
Westerly Town Hall
45 Broad Street
Westerly, RI 02891

VIA EMAIL AND MAIL

Dear Mr. Brown:

I am writing in response to a complaint our office has received from town resident and Town Council candidate Jean Leo Gagnier. Mr. Gagnier was notified by your office last week that he was in violation of the Town's zoning ordinance due to the number of political signs he has placed on his property, subjecting him to a potential \$500 dollar a day penalty for this violation. Because we believe that this sign restriction is clearly unconstitutional, we request that you rescind the pending warning that has been issued to Mr. Gagnier, as well as any similar warnings or citations issued to other town residents; cease any further enforcement of this provision; and seek Town Council action in revising the ordinance in order to avoid any future disputes or the necessity of litigation.

The relevant provision of the zoning ordinance at issue is § 260-86(E)(5), which allows the display of:

Signs proclaiming religious or political activities that do not exceed one per lot and 12 square feet in area and that are not internally illuminated. Signs erected in connection with elections or political campaigns shall be erected no more than 60 days prior to the election and shall be removed within seven days following the election or end of the campaign.

The provision directly affecting Mr. Gagnier is the restriction on more than one political sign per lot. However, such a limitation is a clear violation of the First Amendment, as it vastly, and unnecessarily, reduces the ability of homeowners to express their views on political matters and candidates. Courts have consequently struck down similar restrictions as unconstitutional over the years. See, e.g., *Arlington County Republican Committee v. Arlington County Virginia*, 983 F.2d 587 (4th Cir. 1993)(ordinance limiting temporary political signs to two per house violates First Amendment); *Fehribach v. City of Troy*, 341 F.Supp.2d 727 (E.D. Mich. 2004)(same); *Dimas v. City of Warren*, 939 F.Supp. 554 (E.D. Mich. 1996)(striking down sign ordinance allowing only one election sign per candidate, per issue to be displayed on a property).

In addition to the clear legal problems with the ordinance, it is worth emphasizing the important public policy considerations involved. In a society that values freedom of speech and

political participation, political signs play an important role for both candidates and voters. Many people do not have the time to actively participate in political campaigns, nor the money to make substantial financial contributions to the candidates they support. Political signs are an easy way for people at the grassroots level to get involved in political campaigns and to show their support for candidates or ideas. The Town simply has no compelling interest in imposing a limitation that forces a resident to choose to display one political message or show support for one political candidate at the expense of all others.¹

Although it does not directly apply to Mr. Gagnier's situation, we would be remiss if we didn't point out another significant constitutional problem with the ordinance.² Its additional ban on the posting of political signs more than 60 days prior to, or seven days after, an election is also blatantly unconstitutional. There has been virtual unanimity among the courts, in cases stretching back decades, that durational limits on the posting of political signs amount to unconstitutional content-based restrictions on core political speech, and are not sufficiently narrowly tailored to serve a significant government interest.³

In Rhode Island alone, our Affiliate has successfully challenged numerous sign ordinances with durational restrictions similar to Westerly's over many years.⁴ As recently as four years ago, we sued the City of Pawtucket over a city ordinance barring the posting of political signs on residential property more than 30 days before an election. The suit led to entry of a consent judgment awarding damages to the plaintiffs and permanently barring the City from enforcing any durational limit on the posting of political signs.⁵

The amount of time that political signs can be posted is especially important for some candidates. One of the key issues for any challenger in a political campaign is name recognition, something they generally lack in comparison to an incumbent candidate. The use of political signs

¹ Any suggestion that Mr. Gagnier can seek a permit from the Town in order to display more than one political sign merely creates a new set of problems. "[E]ven if the government may constitutionally impose content-neutral prohibitions on a particular manner of speech, it may not condition that speech on obtaining a license or permit from a government official in that official's boundless discretion." *Lakewood v. Plain Dealer Publishing Company*, 486 U.S. 750, 764 (1988).

² The size limitation imposed on political signs, if larger signs for commercial purposes are allowed, may also be problematic, but that is a separate issue that we are not raising here. See *Reed v. Town of Gilbert*, 576 U.S. 155 (2015).

³ To give just two examples a few decades apart: *Orazio v. Town of North Hempstead*, 426 F.Supp. 1144, 1149 (E.D.N.Y. 1977) (ordinance limiting erection of political wall signs to six weeks prior to election is unconstitutional; "the court also holds that no time limit on the display of pre-election political signs is constitutionally permissible under the First Amendment"); *Quinly v. City of Prairie Village*, 446 F.Supp.2d 1233 (D.Kan. 2006) (ruling unconstitutional an ordinance allowing non-commercial signs to be posted only for a period of up to ninety days, and requiring signs tied to an election to be removed immediately after the election).

⁴ See, e.g., *Williams v. City of Warwick*, C.A. No. 01-194L (D.R.I.) (Lagueux, J.) (consent judgment entered August 8, 2001, enjoining enforcement of ordinance which restricted posting of political signs to no more than 60 days prior to election and 120 days total in any calendar year); *Thibodeau v. Town of Cumberland*, C.A. No. 88-0460T (D.R.I.) (Torres, J.) (consent judgment entered Nov. 15, 1988, enjoining enforcement of ordinance which restricted posting of political signs to no more than 30 days prior and 14 days after election for which they were erected); *Jones v. Town of West Warwick*, C.A. No. 08-375ML (D.R.I.) (Lisi, J.) (consent judgment entered Aug. 24, 2009, enjoining enforcement of ordinance which, among other things, required the removal of political signs within seven days after election for which they were erected).

⁵ *Stewart v. City of Pawtucket*, C.A. No. 22-280-MSM (D.R.I.) (McElroy, J.) (consent judgment entered Dec. 6, 2022).

is a simple, inexpensive way for a candidate without much money to make his or her name known in a community. Without crossing this threshold, a candidate's campaign is often doomed to failure, regardless of the ideas or platform the candidate is running on. As one court noted in striking down a sign restriction similar to Westerly's, "Two months is simply not enough time to allow a relatively unknown person to achieve household familiarity."⁶ Indeed, since Rhode Island now allows early voting, which commences 20 days before Election Day, the improper effect of time restrictions on the meaningful exercise of First Amendment rights is only heightened.

In light of the clear precedents across the country finding restrictions on the placement of political signs similar to those contained in § 260-86(E)(5) unconstitutional, enforcement of these provisions in any way simply cannot stand. Because this is a time-sensitive matter, I would appreciate hearing back from you as soon as possible about the Town's plans regarding enforcement of the ordinance.

Thank you in advance for your prompt attention to this.

Sincerely,

A handwritten signature in black ink, appearing to read "Steven Brown", with a stylized, flowing script.

Steven Brown
Executive Director

cc: Westerly Town Council
Shawn Lacey, Town Manager
William J. Conley, Jr., Town Solicitor
Jean Leo Gagnier

⁶ *Van v. Travel Information Council*, 628 P.2d 1217, 1226 (Ore. 1981).