

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

C.A. No. 3:18-cv-30182

KAITLIN MOLLOY, SARAH OELKER,  
ANNE THALHEIMER, DANIELLE RYAN,  
GABRIEL QUAGLIA, LISA AHLSTROM, and  
DALE MELCHER,

Plaintiffs,

v.

CITY OF HOLYOKE, MASSACHUSETTS;  
ALEX MORSE, in his official capacity as Mayor  
of Holyoke; and DAMIAN COTE, in his official  
capacity as Holyoke Building Commissioner,

Defendants.

**CONSENT JUDGMENT AND PERMANENT INJUNCTION**

WHEREAS, on November 28, 2018, the Court granted the motion of plaintiffs Kaitlin Molloy, Sarah Oelker, Anne Thalheimer, Danielle Ryan, Gabriel Quaglia, Lisa Ahlstrom, and Dale Melcher (“Plaintiffs”) for a preliminary injunction against defendants City of Holyoke, Massachusetts; Alex Morse, in his official capacity as Mayor of Holyoke; and Damian Cote, in his official capacity as Holyoke Building Commissioner (“Defendants”); and

WHEREAS, the Court’s November 28, 2018 Order enjoined the Defendants from enforcing Section 6.4.3(7) of the Holyoke Zoning Code to the extent it (a) prohibits temporary signs on residential or commercial properties between December 1 and March 1 of each year or requires their registration during that period, and (b) forbids temporary signs on vehicles, including bumper stickers;

WHEREAS, Defendants and Plaintiffs (collectively, the “Parties”), have agreed to finally resolve the above-captioned litigation (the “Litigation”), and

WHEREAS, Defendants and Plaintiffs have agreed to entry of a Consent Judgment and Permanent Injunction on the following terms, and Defendants have agreed not to appeal any part of this stipulated Consent Judgment and Permanent Injunction;

NOW THEREFORE IT IS HEREBY ORDERED, ADJUDGED, AND DECREED  
THAT:

1. Judgment is entered against Defendants and in favor of Plaintiffs on Count I of the Complaint, for violation of the First Amendment to the United States Constitution.
2. The Parties agree that Section 6.4.3(7) of the Holyoke Zoning Code bans in some or all months of the year (a) lawn signs on private property, and (b) temporary signs, including bumper stickers, on motor vehicles. Based on these agreed facts, the Court declares that Section 6.4.3(7) of the Holyoke Zoning Code violates the First Amendment because it prohibits “too much speech.” *City of Ladue v. Gilleo*, 512 U.S. 43, 55 (1994). Further, to the extent Section 6.4.3(7) requires registration of “temporary” signs before they may be posted, it violates the First Amendment principles set forth in *Watchtower Bible and Tract Society of New York v. Village of Stratton*, 536 U.S. 150 (2002).
3. Counts II-IV of the Complaint are hereby dismissed by agreement.
4. Defendants and their respective officers, agents, servants, employees, attorneys, successors, and assigns, and all those acting in concert with them, (collectively, the “Enjoined Parties”), are permanently enjoined and restrained from enforcing any provision of the Holyoke Zoning Code or any other City code or ordinance, and from amending the Zoning Code or any such code or ordinance, in a manner inconsistent with the Court’s findings and rulings in

paragraph 2, above. Without limitation of the foregoing, defendants are permanently enjoined from enforcing any provision of the Holyoke Zoning Code in such a manner as to (a) prohibit temporary signs on residential or commercial properties, (b) require their registration, or (c) prohibit temporary signs, including bumper stickers, on motor vehicles. Notwithstanding the foregoing, nothing in this Consent Judgment shall prohibit the Enjoined Parties from enacting or enforcing content-neutral regulations governing the size or materials of signs on residential properties or on vehicles to the extent necessary to protect public safety.

5. Subject to the entry of this Consent Judgment and Permanent Injunction, and further subject to Paragraph 7, below, Plaintiffs agree to waive any claim for attorneys' fees and costs pursuant to 42 U.S.C. § 1988 related to this Litigation and incurred through the date of entry of this Consent Judgment and Permanent Injunction.

6. The City of Holyoke, Massachusetts shall give prompt notice of this Consent Judgment and Permanent Injunction to each of its officers, and any agents, servants, employees, and attorneys through which it conducts business related to signs on residential or commercial properties in the City of Holyoke, and all those acting in concert or participation with each or any of them. Defendants have waived notice and service of entry of the Consent Judgment and Permanent Injunction, and have agreed that violation of the Consent Judgment and Permanent Injunction will expose the Defendants to all penalties provided by law. Defendants have also agreed not to appeal or otherwise attack the validity or enforceability of the Consent Judgment and Permanent Injunction.

7. Plaintiffs, or other residents or affected visitors to the City of Holyoke, as well as the American Civil Liberties Union of Massachusetts ("Enforcing Party" or "Enforcing Parties"), shall have standing and are authorized to seek to enforce the terms of this Consent Judgment and

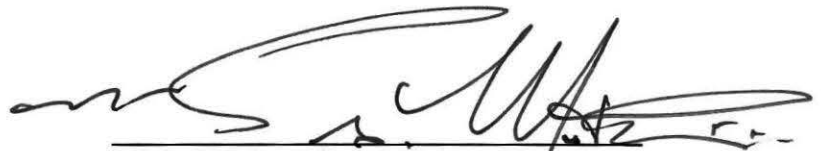
Permanent Injunction. Should an Enforcing Party determine at any time that the City of Holyoke is not in compliance with any material aspect of this Consent Judgment and Permanent Injunction and seek to enforce the same by reopening this Litigation, such Enforcing Party must notify the Holyoke City Solicitor in writing of its intent to enforce the terms of this Consent Judgment and Permanent Injunction. This written notice must specify the City code or ordinance provision that is not in compliance with a material aspect of this Consent Judgment and Permanent Injunction. If, after 14 days of the Holyoke City Solicitor's receipt of the notice, no temporary or permanent resolution is implemented to the satisfaction of the Enforcing Party or Parties, then an enforcement proceeding may be commenced by the filing of a motion to reopen this action, which the Enjoined Parties will not oppose, along with a motion to enforce this judgment or for other appropriate order of the Court.

8. In any judicial proceeding brought to enforce the terms of this Consent Judgment and Permanent Injunction, the Enforcing Party or Enforcing Parties shall be entitled to an award of reasonable attorneys' fees and costs if the enforcement action is a necessary and important factor in causing the Enjoined Parties or any of them to provide a material portion of the relief sought. Further, notwithstanding the provisions of paragraph 5, above, the Plaintiffs in this Litigation or the ACLU of Massachusetts shall be entitled to an award of reasonable attorneys' fees and costs incurred in this Litigation prior to entry of this Consent Judgment and Permanent Injunction if, in a proceeding brought by Plaintiffs in this Litigation or the ACLU of Massachusetts through a motion to reopen this case pursuant to paragraph 7, the Court finds that any Enjoined Party has failed to comply with the obligations set forth in this Consent Judgment and Permanent Injunction.

9. No provision of this Consent Judgment and Permanent Injunction shall preclude or establish preconditions to any other lawful means of enforcement or cause of action. The procedure and remedies in Paragraph 7 are in addition to, and interpose no restriction on or precondition to, any other lawful action by any person or entity.

IT IS SO ORDERED.

Dated: 4/12/19



Mark G. Mastroianni  
United States District Court Judge

The foregoing Consent Judgment and Permanent Injunction has been agreed and consented to by the parties:

CITY OF HOLYOKE, MASSACHUSETTS;  
ALEX MORSE, in his Official Capacity  
as Mayor of Holyoke; and DAMIAN COTE,  
in his official capacity as Holyoke Building  
Commissioner,

By their attorney,

/s/ Tasha Marshall  
Tasha Marshall, BBO #696791  
Assistant City Solicitor  
Holyoke Law Department  
20 Korean Veterans Plaza  
Holyoke, MA 01040  
marshallt@holyoke.org

KAITLIN MOLLOY, SARAH OELKER,  
ANNE THALHEIMER, DANIELLE RYAN,  
GABRIEL QUAGLIA, LISA AHLSTROM, and  
DALE MELCHER,

By their attorneys,

/s/ Jeffrey J. Pyle

Jeffrey J. Pyle (BBO #647438)  
PRINCE LOBEL TYE LLP  
One International Place, Suite 3700  
Boston, MA 02110  
(617) 456-8000 (tel)  
(617) 456-8100 (fax)  
[jpyle@princelobel.com](mailto:jpyle@princelobel.com)

Ruth A. Bourquin (BBO # 552985)  
AMERICAN CIVIL LIBERTIES UNION  
FOUNDATION OF MASSACHUSETTS  
211 Congress St.  
Boston, MA 02110  
[rbourquin@aclum.org](mailto:rbourquin@aclum.org)

William C. Newman (BBO # 370760)  
LESSER NEWMAN ALEO &  
NASSER, LLP  
39 Main St  
Northampton, MA 01060  
[newman@lenn-law.com](mailto:newman@lenn-law.com)

Date: March 27, 2019