

Westchester Dog Owners File Civil Complaint Against the City of New Rochelle

City Overreaches Its Municipal Powers

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NEW ROCHELLE, New York, April 17, 2007: Two residents, Marci Malone and Michael S. Friscia, and one non-resident of New Rochelle, Dennis C. During, have filed a complaint, request for declaratory relief and a permanent injunction in the Supreme Court of Westchester County against a new, unprecedented ordinance imposed on users of Ward Acres by the City Council of New Rochelle on January 16, 2007 and effective April 1st of this year.

The complaint alleges that the ordinance is a “novel new dog license ordinance – the first of its kind in New York State”. The ordinance requires persons who wish to walk their dogs in Ward Acres (a 62 acre open and natural parkland purchased with voter-approved New York State conservation funds in 1962) to pay an annual licensing fee of \$50 per dog for residents and an exorbitant \$250 per dog for non-residents. In addition, dog owners must submit to a photo ID and carry the license and proof of rabies inoculation on their persons at all times when in the park with their dog. Furthermore, any person accompanied by a dog in Ward Acres is, at any time, subject to stop and questioning by armed police and liable for fines and possible imprisonment.

This illegal ordinance and its mode of enforcement raise serious issues of civil liberties and fundamental fairness which should concern all residents of Westchester County and New York State, not just dog owners. The illegal ordinance, which defies the plain language of several state statutes, has inexplicably burdened a long-standing peaceful use of state conservation lands, severely disrupted the lives of hundreds of neighbors and families and has arbitrarily stigmatized dog-owning households in the county.

This case is not about routine political disagreements over New Rochelle's leash law or policies regarding off-leash hours in Ward Acres. Rather plaintiffs seek to preserve the decades-long free and peaceful use of an open and natural parkland expressly created by the will of New York's voters.

Among other claims, the plaintiffs allege the following:

- The City exceeded its authority under the New York State Agriculture and Markets Law which explicitly limits the power of municipalities to issue dog licenses. The illegal ordinance charges more than the statutorily permissible fees and adds additional burdens not allowed under the statute.
- The ordinance illegally violates the NY State General Municipal law and common law which guarantee that public parks are to be free.
- The ordinance's exorbitant \$250 fee illegally discriminates against non-residents under

the New York Conservation Law, the General Municipal Law and the New York State Constitution which guarantees its citizens equal protection under the law.

- And the ordinance illegally subjects law-abiding citizens to unreasonable stops and questioning by armed police which violate a citizen's right to be left alone under the New York State Constitution.

If this ordinance is allowed to stand, plaintiffs fear it will serve as a precedent for other Westchester communities to follow should they wish to restrict access to conservation lands, vilify some segment of its law-abiding public or proscribe an ordinary activity of its citizenry.

Plaintiff and Mt. Vernon resident Dennis C. During explains, "I am disappointed that a municipality can ignore state law, our constitutionally protected civil liberties, and the will of the voters, legislators, and governor of New York State to destroy a peaceful use of natural parkland. I voted for the Open Space bond issue long ago and have been among the millions of New York State taxpayers who have paid taxes for this parkland to be preserved."

Plaintiff and New Rochelle resident Marci Malone adds that Ward Acres was one of the reasons her family chose to locate in New Rochelle five years ago. She wonders, "I just do not understand why the City can force dog-owning families to pay for use of a natural parkland that non-dog owning families may enjoy for free."

Plaintiffs have respectfully asked the Court to declare the ordinance illegal and invalid, permanently enjoin its enforcement and grant such other and further relief as the Court may deem just and proper.

To learn more about Ward Acres, the Westchester dog-owning community and the real world impact of this unprecedented ordinance go to: <http://www.WeLoveWardAcres.Net> A copy of the complaint for download has been made available at the site.

For more community discussion, join:

<http://groups.yahoo.com/group/FriendsofWardAcresPark/>

<http://groups.google.com/group/FriendsofWardAcresPark>