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Draper City Repeals Unconstitutional Sign Ordinance

SALT LAKE CITY – In a settlement agreement filed in federal court, Draper City agreed to repeal an ordinance that the American Civil Liberties Union of Utah claimed unconstitutionally restricted residents' political speech by limiting the posting of political signs on private property. As part of the agreement, the Draper City attorney will write to city attorneys in all other cities in Salt Lake County suggesting they review and repeal similar ordinances. The City also agreed to pay the plaintiffs' attorney fees and court costs.

The settlement agreement ended a federal lawsuit brought by the ACLU of Utah and cooperating civil rights attorney Brian Barnard on behalf Robert Latham, Heather Rice, and political candidate Ken Larsen, who wanted to displays political signs in Draper.

Latham and Rice wished to display campaign signs in yards more than thirty days prior to Election Day, an action expressly prohibited by the Draper ordinance unless the signs were left over from a primary election. Larsen, running for governor under the People's Choice Party, was prohibited from posting signs before October 3, whereas under Draper's ordinance, signs supporting the Republican candidate were allowed any time after May 22, thirty days prior to the Republican primary election.

In a complaint filed on September 14 in Federal Court, the ACLU of Utah and Barnard argued that by placing durational time limits on political campaign signs, the ordinance prohibited Draper residents from engaging in otherwise lawful and protected political expression. The suit also claimed a discriminatory classification of candidates based on participation in a primary election. Two days after the suit was filed, Draper City agreed not to enforce the ordinance before Election Day on November 2.

Margaret Plane, staff attorney for the ACLU of Utah, was pleased with the settlement decision. "Salt Lake County residents are very politically active this election year and cities should encourage residents' right to exercise their freedom of speech rather than enact laws to restrict it," she said.

Barnard hopes that other cities will read the letter from the Draper city attorney. "Perhaps cities will heed advice from a city attorney more than from the ACLU of Utah. The First Amendment is too often ignored by legislative bodies. I won't shy away from an opportunity to re-educate them. However, suits like this (and the related attorney fees) can be easily be avoided. As well they should be," Barnard said.

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