

Dina DiRuzzo and Carol LaClair v. Town of Narragansett, et al., C.A. No. WC-2021-0258 (October 20, 2022) <https://www.courts.ri.gov/Courts/SuperiorCourt/SuperiorDecisions/21-0258.pdf>

**Holding:**

Rhode Island Superior Court upheld the Town of Narragansett’s parking ordinance which allows on-street parking on Conant Ave, Pilgrim Ave, and Louise Ave. These roads intersect with Ocean Road and are in close proximity to coastal access points.

**Key Takeaways:**

1. The Town of Narragansett’s amendment to their parking ordinance to allow for on-street public parking on Conant Ave, Pilgrim Ave, and Louise Ave during the hours of 5:01 AM through 8:59 PM was found to be consistent with the Town’s Comprehensive plan which establishes the need for improved coastal access.
2. Because the allowance for on-street parking was found to be consistent with goals and actions of the Town’s Comprehensive Plan, the Court found the Narragansett Town Council had a clear rational basis for allowing parking on the subject streets, and advanced a legitimate state interest to provide improved coastal access.
3. Cities and towns have the authority to regulate for the public health, safety, and welfare, including adopting and amending parking ordinances to further the initiatives of a Comprehensive Plan.

**Facts:**

On May 3<sup>rd</sup>, 2021, The Narragansett Town Council amended the Narragansett Code of Ordinances to allow parking on the south side of Conant Avenue, the north side of Pilgrim Avenue, and the south side of Louise Avenue from 5:01 AM to 8:59 PM. The subject roads intersect with Ocean Road and Calef Avenue and lead to coastal access points.

On June 3, 2021 Plaintiffs sought declaratory judgement and injunctive relief based on allegations that the new parking ordinance is “unconstitutional, in violation of the Town’s Subdivision Regulations, and illegal for failure to comport with the public health, safety, and welfare.”

The Decision cites the criteria the Court considers when determining whether to grant a preliminary injunction: “[I]n deciding whether to issue a preliminary injunction, the hearing justice should determine whether the moving party (1) has a reasonable likelihood of success on the merits, (2) will suffer irreparable harm without the requested injunctive relief, (3) has the balance of the equities, including the possible hardships to each party and to the public interest, tip in its favor, and (4) has shown that the issuance of a preliminary injunction will preserve the status quo.” *Iggy’s Doughboys, Inc. v. Giroux*, 729 A.2d 701, 705 (R.I. 1999) (citing *Fund for Community Progress v. United Way of Southeastern New England*, 695 A.2d 517, 521 (R.I. 1997)).

## **Analysis:**

### **1. Parking Ordinance is a Legislative Act**

The Court determined that because amending a parking ordinance is a legislative act, and the subject roadways are public streets, the Town has the power to regulate the subject roadways.

The plaintiffs argued “the failure to document and substantiate the need for the Parking Ordinance and then to mandate the same upon Town residents owning property in the locus...constitutes an action that is not rationally related to any government interest.”, and that there is no rational basis for the regulation.

The Defendants argued the Town’s Comprehensive Plan, adopted by the Council, seeks to provide improved coastal access, and therefore the parking ordinance is a rational decision to implement the Comprehensive Plan.

The Court found the Amended Parking Ordinance is an exercise of the Town’s Police power, and the Council adopted the parking ordinance based on the need to improve coastal access in accordance with the Town’s Comprehensive Plan. “There is evidence on this record of excerpts from the Town’s Action Plan (the Action Plan) and Roadmap (the Roadmap) for its Comprehensive Plan, along with the Town’s Baseline Report (the Baseline Report) establishing the need for improved coastal Access.”

The Court found the Council had a clear and rational basis for enacting the Amended Parking Ordinance: advancing the legitimate state interest to provide improved coastal access.

### **2. Due Process**

The Plaintiffs alleged that the Council’s enactment of the Amended Parking Ordinance amounts to a violation of the Procedural and Substantive Due Process Clauses of the Rhode Island Constitution.

The Court found the Council followed the correct process in amending the Ordinance, as it held the required public meetings, and members of the public were given the opportunity to provide public comment and that the Defendants failed to show that the law in question is arbitrary or unreasonable, and has no substantial relation to the public health, safety or general welfare.

The Court determined that “the Amended Parking Ordinance was adopted to advance a key and legitimate government interest incorporated into the Town’s Comprehensive Plan—i.e., the need for improved coastal access. See *supra* Section III.A.2. Moreover, the Court has also determined that the Council conducted an adequate level of due diligence and exercised its legislative discretion when enacting the Amended Parking Ordinance. See *supra* Section III.A.”

### **3. Equal Protection**

The Plaintiff’s argued the Parking Ordinance violates the Equal Protection Clause because the regulations “have not been uniformly applied to owners of properties located along public rights

of ways in the Town.” And that the Town did not develop a uniform parking plan for the other public rights-of-ways located in Narragansett.

The Defendants argue that “the Amended Parking Ordinance is not violative of the Equal Protection Clause because it does not contain any legal classifications, serves a legitimate government interest, and is applied equally to citizens and non-citizens of the Town. (Defs.’ Opp’n Mem 15-16.)

The Court decided “the evidence on this record demonstrates that the Council decided to exercise its legislative discretion and enact the amended regulations *only after careful consideration of various issues and a determination that the proposed changes comport with its Comprehensive Plan*” (emphasis added).

#### **4. Government Taking**

The Plaintiffs argued the Amended Parking Ordinance was an unconstitutional taking without just compensation.

The Court decided that the Plaintiffs did not establish a reasonable likelihood of success of the merits, as they did not provide any evidence identifying government taking of their privately owned land, as the subject streets are public property.

#### **5. Public Health, Safety and Welfare**

The Plaintiffs argued the Amended Parking Ordinance “obstructs the ability of those ‘residing, or owning property’ along the Subject Roadways ‘ from the use of public rights-of-way from end to end and from side to side.”

The Court decided that strong evidence exists that the Amended Parking Ordinance comports with public health, safety, and welfare, citing the Fire Department’s determination that parking on one side of the street would not pose an issue for emergency access vehicles.

#### **6. Balance of Equities**

The Plaintiffs argued the Town would suffer no harm if injunctive relief is granted, but that they will suffer irreparable harm if the Amended Parking Ordinance remains in effect.

The Court determined that the balance of equities tips in the favor of the Defendants because granting injunctive relief would force the Town to take action that undermines its own Comprehensive Plan, and that “coastal access is paramount to the citizens of the Town as well as the State.”

Therefore, the Court denied the Plaintiff’s motion for injunctive relief and the Amended Parking Ordinance will remain in effect.

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