

From: Scott Eric Le Vine [mailto:scottelevine@hotmail.com]

Sent: Tuesday, November 10, 2020 5:46 PM

To: PublicComment <PublicComment@mynewcastle.org>

Subject: Public Comment on Form Based Code

To TNC colleagues:

Please enter the attachment as a Public Comment on the Form-Based Code DGEIS, attributed to me.

Please enter it in its entirety.

Can you please do this at your earliest convenience, and reply to let me know when you have done it?

Thank you.

--Scott Le Vine
149 King Street

Re: Request for equal access to Town resources

Scott Eric Le Vine <scottelevine@hotmail.com>

Tue 2020-11-03 13:58

To: Edward J. Phillips <ephillips@kblaw.com>; publiccomment@mynewcastle.org
<publiccomment@mynewcastle.org>

Cc: Jill Shapiro <JSHAPIRO@mynewcastle.org>; Nicholas M. Ward-Willis <nward-willis@kblaw.com>

To Mr. Phillips: Your representations are noted. I reiterate my requests below.

To publiccomment@mynewcastle.org: Please enter this chain of correspondence into the public record, as a comment on the Form Based Code attributed to me.

Thank you.

--Scott Le Vine

From: Edward J. Phillips <ephillips@kblaw.com>

Sent: 23 October 2020 08:08

To: 'scottelevine@hotmail.com' <scottelevine@hotmail.com>

Cc: Jill Shapiro <JSHAPIRO@mynewcastle.org>; Nicholas M. Ward-Willis <nward-willis@kblaw.com>

Subject: RE: Request for equal access to Town resources

Mr. Le Vine:

Your emails below inquiring as to your use of the Town's e-newsletter, and asserting that a violation of the Town's Ethics Code has occurred, were referred to our office for a response.

The Town's e-newsletter is reserved for use by the Town Board as a platform for communicating with its constituents on matters of public concern. When the Government engages in such communications, it is not required to share the forum with outside speakers who wish to express their own views. As the U.S. Supreme Court recognized in *Perry Educ. Ass'n v. Perry Local Educators' Ass'n*, 460 U.S. 37, 46, 103 S. Ct. 948, 955 (1983), a case that involved a school district's internal mail system, the "First Amendment does not guarantee access to property simply because it is owned or controlled by the government."

The Town's e-newsletter is not a public forum, and the Town has chosen to limit its use to its intended purpose, which is entirely permissible. In this instance, the Town used the e-newsletter to disseminate a video that it produced explaining the potential benefits that could be achieved by enacting certain proposed legislation. Such government communications are also permissible, and routine. "When government speaks, it is not barred by the Free Speech Clause from determining the content of what it says." *Walker v. Texas Div., Sons of Confederate Veterans, Inc.*, 576 U.S. 200, 207, 135 S. Ct. 2239, 2245 (2015).

For these reasons, the Town is denying requests 1 and 2 in your email.

As to your third request, under New York State law, the Town adheres to document retention policies that supersede your request concerning internal and external communications. Accordingly, the Town will not be recognizing your retention request.

Finally, the Town Code contains procedural requirements for the filing of an ethics complaint that your email does not satisfy. Please refer to Town Code § 9-14.1. Any such complaint should be mailed to the attention of Evan Glassman, Ethics Board Chairperson, at Town Hall.

Regards,

Edward Phillips
Principal Member



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 Please consider the environment before printing this email message.

From: Scott Eric Le Vine [<mailto:scottelevine@hotmail.com>]
Sent: Thursday, October 22, 2020 3:04 PM
To: Jill Shapiro <JSHAPIRO@mynewcastle.org>
Subject: Fw: Request for equal access to Town resources

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear New Castle Town Administrator Shapiro --

With regard to the Town's re-zoning of Chappaqua, I have requested that affected residents be granted equal access to the Town's e-newsletter and the Town's professional production of social media videos. I have not received a reply. Details of my request are at the bottom of this email-chain.

I feel that the Board's denial of this request for equal access violates Section 9-3-B of the Town's Code of Ethics which reads: *Town officers or employees shall treat all members of the public, whether a person, firm or corporation, or other organization, without special advantage in carrying out his or her official duties.*

Can you please:

- 1) forward this complaint without delay to the Chair of the Town's Ethics Board for the Board's consideration,
- 2) advise me of the date/time that you do this,

3) advise when I will receive a response.

Thank you.

--Scott Le Vine
149 King Street

From: Scott Eric Le Vine <scottelevine@hotmail.com>
Sent: 21 October 2020 16:22
To: publiccomment@mynewcastle.org <publiccomment@mynewcastle.org>;
chappaquaforward@mynewcastle.org <chappaquaforward@mynewcastle.org>;
townboard@mynewcastle.org <townboard@mynewcastle.org>
Subject: Request for equal access to Town resources

Dear Members of the New Castle Town Board:

Thank you for your tireless work motivated to enhance the Town.

With respect to the Form-Based Code, it is concerning that the Town has granted some affected property owners privileged access to the Town's communications platforms (e.g. professionally produced videos, dissemination in the Town's e-newsletter), but has not granted this access to other similarly situated property owners who have principled differences of view.

I wrote to you all on Oct 17th to request equal access to these communications platforms. I have not received a reply. I write to you again to reiterate my request that you grant equal access to these communications platforms.

This may be a) an equal protection issue and/or b) viewpoint discrimination. In addition, be aware that members of ethnic minority and immigrant communities are among the residents to whom you may have constructively denied equal access to Town communications resources.

Please can you:

1) Now provide and publicize a mechanism for affected property owners and other parties to receive equal access to the Town's communications platforms that you have granted property owner Don Feinberg.

2) Not close the public hearing nor take any other official action until all similarly situated affected parties have had a reasonable opportunity to avail themselves of the requested equal access to Town communications platforms.

3) Retain all records, including both internal and external communications, relating to the use of the Town's communications platforms, including but not limited to the promotional-videos' production and Town e-newsletter, to promote a selected subset of affected parties' views regarding the Form-Based Code.

Thank you.

--Scott Le Vine
149 King Street