

IN THE IOWA DISTRICT COURT FOR HUMBOLDT COUNTY

BRADLEY BLAIR and APRIL BLAIR,)

Plaintiffs,)

vs.)

CITY OF HUMBOLDT, IOWA,)
and DEAN A. KRUGER individually,)
and in his official capacity as Police)
Administrator of the City of Humboldt,)
Iowa.)

Defendants.)

EQUITY NO. _____

PETITION

COMES NOW, Plaintiffs Bradley Blair and April Blair, through counsel, and state to the Court as follows:

PARTIES AND JURISDICTION

1. The Plaintiffs are residents of the City of Humboldt, Humboldt County, Iowa.
2. Defendant City of Humboldt is a political subdivision of the State of Iowa. In all respects set forth herein, Defendant City of Humboldt acted under the color of the law of the State or Iowa and/or City of Humboldt.
3. Defendant Dean A. Kruger is the Police Administrator for the City of Humboldt and is sued both individually and in his official capacity as Police Administrator of the City of Humboldt. In all respects set forth herein, Defendant Dean A. Kruger acted under the color of the law of the State or Iowa and/or City of Humboldt.
4. The incident that forms the basis of this petition took place in Humboldt County, Iowa.

FACTS

5. On or about June 2010, Plaintiffs erected a sign in the front yard of their residence. On the sign was a quote from President Thomas Jefferson which read “the enemies of the people are criminals and government, so let us tie the second down with the chains of the Constitution so the second won’t become the legalized version of the first.” The sign was approximately twenty (20) square feet in size.

6. On or about September 28, 2010, an anonymous complaint regarding the sign was made to the Humboldt Police Department.

7. On or about October 13, 2010, Police Administrator Dean A. Kruger wrote a letter to Plaintiffs notifying them that the sign violated the City of Humboldt’s Municipal Code. Kruger ordered Plaintiffs to remove the sign.

8. At a City Council meeting on October 18, 2010, Plaintiffs notified the City Council that the Municipal Code Chapter 165.02 (11) violated their rights to freedom of speech under both the United States and Iowa Constitutions, but were told by the City Council that they must comply with the ordinance.

9. Humboldt Municipal Code Chapter 165.02 (11) prohibits all signs on residential lots except the following:

- a. One sign not exceeding twenty-five (25) square feet in area advertising only the sale or lease of the premises, or
- b. One unlighted sign not exceeding one (1) square foot in area attached flat to the building pertaining to a home occupation.
- c. Outdoor bulletin boards for churches or schools.

10. The penalties for a violation of the municipal infraction ordinance include a civil penalty not to exceed \$750.00 for the first violation, and a civil penalty not to exceed \$1,000.00 for each repeat violation. Each day the violation continues is considered a repeat violation.

11. Under the current City Ordinance, Plaintiffs will be subject to civil penalties if they re-post their sign.

12. On December 20, 2010, the City Council placed a 120 day moratorium on all new signs within the City of Humboldt.

13. Plaintiffs have a right under the United States and Iowa Constitutions to post the sign on their property.

14. Plaintiffs intend to repost their sign on their property, but cannot do so because of the threat of the civil penalties and the 120 day moratorium.

15. Enforcement of the ordinance and the moratorium by the City of Humboldt violates the Plaintiff's freedom of speech, freedom of expression, and freedom of the press under the 1st Amendment to the United States Constitution and Article 1 §7 of the Iowa Constitution. For this deprivation of their Constitutional rights, Plaintiffs are entitled to relief under 42 U.S.C. §1983.

16. By acting under the color of the Municipal ordinance to violate Plaintiff's right to freedom of speech, freedom of expression, and freedom of press under the 1st Amendment to the United States Constitution, Kruger has deprived the Plaintiffs of their Constitutional rights and Plaintiffs are entitled to relief under 42 U.S.C. §1983.

DECLARATORY JUDGMENT

17. Humboldt Municipal Code Chapter 165.02 (11) violates the First Amendment to the United States Constitution and Article 1 §7 of the Iowa Constitution facially and/or as applied to the Plaintiffs.

18. The 120 day Moratorium violates the First Amendment to the United States Constitution and Article 1 §7 of the Iowa Constitution facially and/or as applied to the Plaintiffs.

INJUNCTION

19. Enforcement of Humboldt Municipal Code Chapter 165.02 (11) and the moratorium has caused Plaintiffs to suffer permanent and irreparable harm for which they have no adequate remedy at law.

20. This Petition has not been presented to or refused in whole or in part by any court or justice.

WHEREFORE, Plaintiffs pray to the Court as follows:

1. That the Court prescribe notice and set hearing on the granting of a temporary injunction;

2. That an order be entered directing the issuance of a temporary injunction restraining and enjoining Defendants from enforcing City of Humboldt Municipal Code Section 165.02 (11), or the 120 day moratorium on new signs;

3. That the temporary injunction continue until hearing upon entry of a permanent injunction;

4. That the Court issue a permanent injunction restraining and enjoining the Defendants from enforcing City of Humboldt Municipal Code Chapter 165.02 (11), or the 120 day moratorium on new signs;

5. That the Court declare Humboldt Municipal Code Chapter 165.02 (11) and the 120 day moratorium on new signs unconstitutional;
6. That the Court award actual and nominal damages;
7. That the Defendants be responsible for Plaintiffs' attorney's fees under 42 U.S.C. 1983;
8. That the Defendants be responsible for the costs of this action;
9. That the Court grant such other and further relief as the Court may deem just and equitable.

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