



Lehmann Major List pllc

6 Garvins Falls Road | Concord, NH 03301 | (603) 715-2516 | info@nhlawyer.com

VIA EMAIL: bolstons@nashsuanh.gov

May 3, 2022

Steve Bolton
Corporation Counsel
City of Nashua
229 Main Street
Nashua, NH 03060

Re: Beth Scaer Flag Save Women's Sports Flag

Dear Attorney Bolton:

On October 13, 2020, I wrote to Mayor Donchess seeking reconsideration of the City's decision to reject my client Beth Scaer's request to fly a flag on the "citizens flag pole." In that letter, I asserted that the City of Nashua was engaging in unconstitutional viewpoint discrimination in violation of the First Amendment to the United States Constitution. You responded on November 11, 2020, and denied our request, stating that you had conducted an investigation that you disagreed with my legal analysis and that the question of whether Nashua's "citizen flag pole" is a public forum of "government speech" was controlled by *Shurtleff v. Boston*, 928 F.3d 166 (1st Cir.2019).

Yesterday, in a unanimous decision, the United States Supreme Court reversed the First Circuit's decision in *Shurtleff*. The Court held that where citizens are invited to register and fly flags on a public flagpole constitutes a public forum and that the government cannot engage in viewpoint discrimination against members of the public seeking to engage in expressive activity in that public space.

Accordingly, I once again renew my request that the City of Nashua issue a permit to my client her to fly her Save Women's Sports flag as the Constitution requires.

Thank you for your prompt attention to this matter.

Very truly yours,

Richard J. Lehmann