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JACQUELINE ROSA,

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: BERGEN COUNTY

Plaintiff,

DOCKET NO. BER-L-0750-18

vs.

BOROUGH OF LEONIA, BOROUGH OF
LEONIA COUNCIL, TOM ROWE in his
official capacity as acting Borough Clerk of
the Borough of Leonia, JUDAH ZEIGLER,
in his official capacity as Mayor of the
Borough of Leonia, JOHN DOE
MAINTENANCE COMPANIES 1-5

Civil Action

**AMENDED
COMPLAINT IN LIEU OF
PREROGATIVE WRITS**

Defendants.

Plaintiff, JACQUELINE ROSA (herein “Plaintiff”), residing in Edgewater, New Jersey, by way of Complaint against Defendants, alleges as follows:

NATURE OF ACTION

This is an action in lieu of prerogative writs challenging the validity of an ordinance enacted by the Borough of Leonia.

PARTIES

1. Plaintiff is an interested party affected by the enactment of Defendant, Borough of Leonia’s ordinance §194-25.1 and §194-25.2. Plaintiff’s right to travel on public streets and freely enjoy public streets for the purpose of transportation have been denied, violated and infringed upon by the actions of the Defendants. Plaintiff is a resident of Edgewater, NJ, who commutes through Leonia on a weekly basis, to travel to and from her home. Plaintiff has standing to bring this

action because this case involves a substantial public interest, and the Plaintiff has a private interest.

2. Defendant, Borough of Leonia (“Borough”) is the municipality enacting ordinance §194-25.1 and §194-25.2, and infringing upon Plaintiff’s rights.

3. The Defendant Borough of Leonia Council (“Council”) is the governing body of the municipality and is responsible for enacting and passing municipal ordinances.

4. The Defendant, Tom Rowe (“Rowe”), was the acting Borough Clerk for the Borough of Leonia, and in that capacity in the official custodian of records.

5. The Defendant, Judah Zeigler, (“Zeigler”)is the mayor of the Borough of Leonia and approved ordinance §194-25.1 and §194-25.2

FIRST COUNT

CHALLENGE TO THE VALIDITY OF ORDINANCE §194-25.1 and §194-25.2

6. Plaintiff repeats and realleges the statements in numbers 1-5.

7. On January 22, 2018, the Borough put into effect ordinance §194-25.1, which was signed by defendant Rowe and Zeigler and approved by the Council. This ordinance amends chapter 194 to include “temporary closing of streets.”

8. The Ordinance specifically mandates that over seventy streets will be closed to the public during designated hours, unless that person is a resident of the specific street, or needing access to his or her home within the Borough, or can name a business they are going to.

9. The Ordinance states that the seventy plus streets will be closed daily from 6:00am to 10:00am and from 4:00pm to 9:00pm.

10. Any person who is not a resident of the Borough, or who cannot produce valid documentation will be fined two hundred dollars as listed in §194-25.2.

11. Ordinance §194-25.1 and §194-25.2 violates Plaintiff's right to freedom of travel and are facially and presumptively invalid.

12. Ordinance §194-25.1 and §194-25.2 are arbitrary, capricious, and unreasonable.

13. The validity of Ordinance §194-25.1 and §194-25.2 are a matter of public interest rather than private interests and requires adjudication. Ordinance §194-25.1 and §194-25.2 cause a continuing public harm to travel.

WHEREFORE, Plaintiff demands judgment against Defendants, for a declaration that Ordinance §194-25.1 and §194-25.2 are void and of no effect, for interest and costs of suit, attorney's fees, and for other such relief as the Court deems just and equitable.

SECOND COUNT

ORDINANCE §194-25.1 IS IN VIOLATION OF N.J.S.A. 39:4-8

14. Plaintiff repeats and realleges the statements in numbers 1-13.

15. N.J.S.A 39:4-8 states that any ordinance, resolution, or regulation which places any impact on a State roadway shall require the approval of the commissioner.

16. The Borough has closed over seventy streets, many of which connect to State Highway Route 4, Route 80, and the New Jersey Turnpike.

17. Closing these roads during commuting hours has resulted in an increase in traffic on all three State Highways and would therefore also increase the safety of commuters on these highways.

18. The Borough has not sought approval from the Commissioner and is in direct violation of N.J.S.A 39:4-8.

19. N.J.S.A 39:4-8 also states that municipality that is enacting the ordinance, must provide appropriate notice to the adjoining municipality or county before enacting such ordinance. No such prior notice was given.

20. The Borough's new ordinance places an increased burden on surrounding municipalities, some including Fort Lee, Teaneck and Edgewater, which will see an increase in commuting traffic from the state highways.

WHEREFORE, Plaintiff demands judgment against Defendants, for a declaration that Ordinance §194-25.1 is void and of no effect, for interest and costs of suit, and for other such relief as the Court deems just and equitable.

THIRD COUNT

ORDINANCE §194-25.1 IS IN VIOLATION OF N.J.S.A 39:4-197.

21. Plaintiff repeats and realleges the statements in numbers 1-20.

22. N.J.S.A. 39:4-197 requires that a municipality may not pass an ordinance that alters or nullifies any provisions of N.J.S.A. 39:4-197 without the approval of the Commissioner.

23. The Borough's ordinance is in clear violation of the intended nature of N.J.S.A 39:4-8 and N.J.S.A. 39:4-197, and does not fall into any of the exceptions.

WHEREFORE, Plaintiff demands judgment against Defendants, for a declaration that Ordinance §194-25.1 is void and of no effect, for interest and costs of suit, and for other such relief as the Court deems just and equitable.

FOURTH COUNT

ORDINANCE §194-25.1 IS IN VIOLATION N.J.S.A 39:4-197.2

24. Plaintiff repeats and realleges the statements in numbers 1-23.

25. N.J.S.A 39:4-197.2, states that a municipality may not regulate traffic on a county road unless it complies with N.J.S.A. 39:4-197, and has consent or the governing body of the county.

26. For reasons listed under Count Three, the Borough is not in compliance with N.J.S.A 39:4-197.

27. The Borough has limited traffic on parts of Fort Lee Road, Broad Avenue, Grand Avenue, and Bergen Boulevard, all of which are county roads except Broad Avenue. Broad Ave, Grand Ave and Bergen Boulevard run through both Bergen and Hudson counties.

28. By blocking off the roads to the public, the Borough has limited the public's ability to drive on roads that run through multiple municipalities and counties.

29. The Borough failed to get consent from the governing body of Bergen county and is therefore in violation of N.J.A. 39:4-197.2.

WHEREFORE, Plaintiff demands judgment against Defendants, for a declaration that Ordinance §194-25.1 is void and of no effect, for interest and costs of suit, and for other such relief as the Court deems just and equitable.

FIFTH COUNT

ORDINANCE §194-25.2 IS IN VIOLATION of N.J.S.A 39:4-94.2

30. Plaintiff repeats and realleges the statements in numbers 1-29.

31. The Borough has enacted a two hundred dollar (\$200.00) fine for any vehicle who violates ordinance §194-25.1.

32. N.J.S.A 39:4-94.2 specifically states that anyone who drives a vehicle over or upon the closed section of the highway, road or street which he knows or should have reason to know has been closed to traffic shall be subject to a fine of no more than \$100.00.

33. The Borough has unilaterally decided on a fee they can charge to motorists which is in direct violation of state law.

WHEREFORE, Plaintiff demands judgment against Defendants, for a declaration that Ordinance §194-25.2 is void and of no effect, for interest and costs of suit, and for other such relief as the Court deems just and equitable.

SIXTH COUNT

ORDINANCE §194-25.1 IS A VIOLATION OF PLAINTIFF'S

CIVIL RIGHTS UNDER 42 U.S. CODE §1983.

34. Plaintiff repeats and realleges the statements in numbers 1-33.

35. U.S. Code §1983 guarantees Plaintiff her civil rights under the law.

36. Defendants' are violating Plaintiff's Fifth Amendment rights of basic liberty.

37. Plaintiff has a constitutional right to travel freely without being stopped and questioned

WHEREFORE, Plaintiff demands judgment against Defendants, for a declaration that Ordinance §194-25.1 is void and of no effect, for interest and costs of suit, and for other such relief as the Court deems just and equitable.

SEVENTH COUNT

ORDINANCE §194-25.1 IS A VIOLATION OF THE INTERSTATE COMMERCE

CLAUSE

38. Plaintiff repeats and realleges the statements in numbers 1-33.

39. The Interstate Commerce Clause, found in Article 1, Section 8 of the US Constitution states that a state may not pass legislation that discriminates against or excessively burdens interstate commerce.

40. State regulations affecting interstate commerce, whose purpose or effect is to gain for those within the state an advantage at the expense of those without, or to burden those out of the state without any corresponding advantage to those within, impinge on the Plaintiff's Constitutional rights.

41. The Borough cannot enact an ordinance that favors only the residents of its town, and discriminates against non-residents and commuters within and out of New Jersey.

WHEREFORE, Plaintiff demands judgment against Defendants, for a declaration that Ordinance §194-25.1 is void and of no effect, for interest and costs of suit, and for other such relief as the Court deems just and equitable.


DESIGNATION OF TRIAL COUNSEL

Pursuant to R. 4:25-4, plaintiff designates Jacqueline Rosa as trial counsel.

CERTIFICATION PURSUANT TO RULE 4:5-1

Pursuant to Rule 4:5-1, the undersigned certifies that the matter in controversy is not the subject of any other action pending in any Court or of a pending arbitration proceeding, nor is any other action or arbitration proceeding contemplated.

SEIGEL LAW FIRM LLC



Jacqueline Rosa, Esq.
Pro Se Plaintiff

Dated: February 12, 2018