

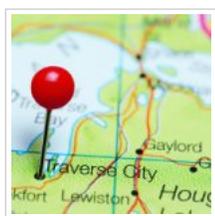
## Plaintiff earns victories in housing, political speech cases

*Traverse City's Prop 3 in 2016 resulted from initial case*

By: Thomas Franz ■ in News Stories ○ June 11, 2018

An 82-year-old resident of low-income housing in Traverse City has won a political speech retaliation case after a previous legal victory against the city.

In *Priscilla Townsend v. Traverse City Housing Commission*, the plaintiff, through mediation, won \$135,000 after reportedly being threatened with eviction when she displayed a political sign in support of a proposal to amend the city's charter in 2016.



"You can put up a political sign outside of your own home. The thing the housing commission and the city commission really missed is that these are low-income people, but that's irrelevant. These are people in their own homes, that's what's relevant, and you can put up a sign in your own home," said Grant W. Parsons, plaintiff's counsel from the Parsons Law Firm PLC in Traverse City.

### Case background

Parsons and Townsend met during the public comments portion of a city commission meeting about two years ago.

At that time, a developer had proposed to construct a high-rise condominium complex next to where Townsend and others lived. The project was also set to receive about \$30 million in incentives, according to a MiLW Verdicts and Settlements submission by Kathryn M. Walker, the plaintiff's trial counsel from the Parsons firm.

In Grand Traverse Circuit Court, Townsend and others successfully challenged the special land use permit that the city granted for the condo project.

"Traverse City is booming, but it also has some very strong protectionist provisions. In the city charter it says specifically, city voters can vote on the expenditure of public money involving subsidies for land use," Parsons said.

Parsons added that an element of the zoning code assisted them in the initial victory.

"There is a zoning code requirement that the city commission make specific findings about the infrastructure, what the judge called marginal infrastructure cost of new development," Parsons said. "The developer did not calculate those costs and the city never did either. So, we sued to enforce the zoning code."

### Prop 3

Following that victory, Townsend helped get an item on the ballot to essentially require a city-wide vote on any proposed development higher than 60 feet. The charter amendment became known as "Prop 3" in the fall of 2016.

Walker reported that as the Oct. 30, 2016, vote on Prop 3 neared, Townsend and her neighbors posted Halloween pumpkin-shaped signs that said "3 Yes" on their outward facing apartment windows.

One day after those signs went up, each resident who posted a pumpkin sign received an eviction notice under their door from their landlord, the city housing commission, according to plaintiff's counsel.

"They say they have a policy that does not allow for signs of any kind in the housing complex. The problem with that is it's factually not true, they allow signs of all kinds in there," Parsons said. "The worst thing is that my client and her friends had only had these signs up in their private residences. They weren't in common areas."

Defense attorney Daniel W. White of White and Wojda in Alpena said the housing commission's rules on signs were consistent with city zoning ordinances.

"Our position on the free speech claim is that our lease provision was content neutral. Our lease provision doesn't care what's being said, but it's geared for time, place and manner. It's not what you're saying, but how you're saying it in the context of certain rules which we believe serve our governmental interest," White said. "The manner in which the signs can go up, where they are and how big they are, is geared towards the local zoning ordinance, which we believe makes us consistent with what the community standards should be for these kinds of things."

Parsons and Walker added that the housing commission claimed that Townsend and others had bullied other residents of the building.

"They claimed my client conned a mentally handicapped person into putting up a sign in his residence. It wound up that she didn't, she wasn't even the one passing out the signs on that floor," Parsons said.

Under legal pressure, the housing commission rescinded the eviction notices within a day without evicting any of the residents. However, plaintiff's counsel made claims of political retaliation and a tort claim for infliction of emotional distress.

The case survived motions for summary disposition in Grand Traverse Circuit Court as well as the U.S. District Court for the Western District of Michigan. The case then went to mediation, where \$135,000 was awarded to the plaintiff.

Prop 3 was also passed by voters.

"The legal issues were critical to moving past the motions for summary disposition," Parsons said. "The key to this was putting the facts in front of the judge. We wrote an extremely detailed complaint, and any civil rights practitioner will say you have to write a detailed complaint showing the equity of the situation."

*If you would like to comment on this story, email Thomas Franz at [tfranz@mi.lawyersweekly.com](mailto:tfranz@mi.lawyersweekly.com).*

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