

Andrew Fischer, Precinct 6 TMM

I write to urge everyone to start considering Article 14, to see if the town will vote to prohibit picketing focused on a particular residence in the Town of Arlington. This article was inserted by the town manager, after many neighbors asked for relief from repeated demonstrations focused on the governor's house.

The vote may be as soon as Wednesday, April 24, or Monday, April 29. It's a challenge, because most of us are quite leery of any restriction on First Amendment rights. The law underlying this bylaw, however, has already been [appealed and] approved by the U.S. Supreme Court, in 1988.

I am especially asking people who oppose this warrant article to look into it well ahead of the vote. The language is quite specific, and still allows picketing that moves past a particular home. The reasoning behind the bylaw deserves to be well examined before we consider this attempt to protect the right of public figures, and all residents, to feel secure in their homes.

The following words in italics are the substitute motion submitted to the Select Board by Town Counsel Mike Cunningham for his presentation of the article during the April 1 Select Board hearing:

VOTED: that the Town does and hereby amends Title I of the Town's Bylaws to add a new provision to prohibit and make it unlawful for any person to engage in picketing focused on, or taking place in front of or about, a particular residence in the Town of Arlington; or take any action related thereto, so that the new provision of Title I reads as follows:

*TITLE I*

*ARTICLE 26*

*FOCUSED RESIDENTIAL PICKETING*

*It is unlawful for any person to engage in picketing before or about the residence or dwelling of any individual in the Town of Arlington.*

Town counsel explained that the language of this new provision nearly duplicates a bylaw of Brookfield, Wis., which passed the bylaw in response to repeated antiabortion protests by groups of nine to 40 people demonstrating at the home of a doctor who performed abortions. Upon appeal, the U.S. Supreme Court ruled in 1988 that the bylaw "is constitutional if it:

- 1) is content neutral on its face, (meaning it must apply evenly to all picketing focused on a particular home. For example, it prohibits both prochoice and antiabortion demonstrators from focusing on a single residence. It applies evenly to all parties.)
- 2) prohibits only focused picketing taking place solely in front of a particular residence,
- 3) leaves open ample alternative channels of communication for the dissemination of messages and
- 4) prohibits the type of focused picketing, which is fundamentally different from more generally directed means of communications that may not be completely banned in residential areas, and

5) is narrowly tailored to serve the significant government interest of protection of residential privacy, especially where the picketing is narrowly directed at the household, not the public, and where even if some picketers have a broader communicative purpose, their activity none the less inherently and offensively intrudes on residential privacy.” (Frisby vs Schultz, 487 U.S.474 1988).

The Select Board hearing on this article was incredibly informative, including testimony from neighbors of Gov. Healy, Police Chief Julie Flaherty, Cunningham and others including opponents. Here is the link to the [ACMi video](#). The discussion of Article 14 starts at 1:23:50 of the YouTube video.

Let’s have the most informed vote possible. We do not need to have the debate in Town Meeting without finding out if the ACLU will sue the town if we vote yes on the article, as predicted by one meeting member during the Town Meeting member candidates' night Zoom call. We can ask the ACLU if it would sue the town. In addition, can the ACLU tell us if the existence of this prohibition on picketing in front of a particular home in Brookfield, Wis., has lead to attempts to further restrict First Amendment rights?

I cannot make an informed vote on this article until I find out the answer to this question. Last Thursday I contacted the ACLU office in Boston, and in Wisconsin, and received no answers from either.

I hope everyone will learn the specifics of this article so as to make the best vote possible.