

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

DIXON O’BRIEN and)
INTERNATIONAL UNION OF)
OPERATING ENGINEERS, LOCAL 150,)
AFL-CIO,)

Plaintiffs,)

Case No.)

Judge:)

Magistrate Judge:)

v.)

VILLAGE OF LINCOLNSHIRE,)
a Municipal Corporation)

Defendant.)

COMPLAINT

Plaintiffs Dixon O’Brien (“O’Brien”) and the International Union of Operating Engineers, Local 150, AFL-CIO (“Local 150” or the “Union”), by and through their attorneys, hereby file suit against Defendant Village of Lincolnshire (“Lincolnshire”) arising under the First and Fourteenth Amendments of the United States Constitution. In support thereof, Plaintiffs allege the following:

COUNT I:
VIOLATION OF FREE SPEECH UNDER THE FIRST AMENDMENT TO
UNITED STATES CONSTITUTION

1. This action raises federal questions under the United States Constitution, particularly the First and Fourteenth Amendments, and 42 U.S.C § 1983, *et seq.*

2. This Court has jurisdiction over the federal claim pursuant to 28 U.S.C. § 1331.

3. This Court has the authority to grant declaratory relief under 28 U.S.C. §§ 2201 and 2202 and Federal Rule of Civil Procedure 57.

4. This Court has the authority to grant the requested injunctive relief under 28 U.S.C. § 1343 and Federal Rule of Civil Procedure 65.

5. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b) because Lincolnshire is located in the district, and a substantial part of the events or omissions giving rise to the claim occurred in the district.

6. Plaintiff Dixon O'Brien resides in Lincolnshire and pays a variety of municipal taxes to Lincolnshire. O'Brien is also a proud member of the International Union of Operating Engineers, Local 150, AFL-CIO.

7. Plaintiff International Union of Operating Engineers, Local 150, AFL-CIO, is a "labor organization" under federal law. The Union represents several individual residents of Lincolnshire and many more employees who work there, all of whom are taxpayers.

8. At all times relevant to this action, Lincolnshire was a municipal corporation and unit of local government under Illinois law.

9. At all times relevant, the Lincolnshire Village Board of Trustees and Mayor were the corporate authority for Lincolnshire. Six Trustees and the Mayor sit on the Village Board.

10. Lincolnshire is a dues-paying member of the Illinois Municipal League ("IML").

11. The IML is a private, nonprofit organization that holds itself out to be nonpolitical in nature and practice.

12. The IML holds itself out on its website as "the formal voice for Illinois municipalities."

13. "The corporate authority of each municipality may provide for joining the municipality in membership in the Illinois Municipal League, an unincorporated, nonprofit,

nonpolitical association of Illinois cities, villages and incorporated towns and may provide for the payment of annual membership dues and fees.” 65 ILCS 5/1-8-1.

14. The IML boasts over 1,000 Illinois municipalities as members.

15. The IML charges dues payments based on a municipality’s population and collects each member municipality’s dues.

16. Each member municipality uses tax money to pay the dues charged by the IML.

17. The IML’s stated purpose is “to cooperate with its member municipalities in the development and improvement of their governments to promote efficient municipal administration” (*see* attached Exhibit B at 2).

18. The IML explicitly advertises its lobbying efforts, as well as its sponsorship of its annual “Lobby Day” (*see* attached as Exhibit A).

19. On or about March 4, 2015, via email, the IML began lobbying Illinois units of government, urging them to adopt Illinois Governor Bruce Rauner’s “Turnaround Agenda”

20. On or about March 23, 2015, the IML, per Governor Rauner’s request, emailed Illinois units of government a draft of “Governor Rauner’s Turnaround Agenda Resolution.”

21. The March 23, 2015 IML email acknowledged ongoing correspondence between the IML and the Governor’s office, stating, “[t]he Governor’s office has asked that we follow-up with mayors and managers on the Turnaround Agenda information and provide a resolution...that is supportive of his administration’s effort to address collective bargaining, unfunded mandates, prevailing wage requirements, workers’ compensation costs and legal empowerment zones, among other things noted in the attachment...[i]f you do adopt it locally, please send me a copy electronically...and mail me a copy to the Governor’s office...”

22. The IML urged Illinois municipalities to adopt local ordinances purporting to legalize local “right to work” zones as part of Governor Rauner’s “Turnaround Agenda.”

23. Lincolnshire was the only unit of local government in the State of Illinois to adopt a local “right-to-work” zone, which was struck down by this court in 2017. *International Union of Operating Engineers, Local 399 v. Lincolnshire*, 228 F.Supp.3d 824 (N.D. Ill. 2017).

24. Because O’Brien is a tax-paying resident of the Village of Lincolnshire, a portion of his tax money is spent on Lincolnshire IML membership dues.

25. O’Brien objects to the use of his tax money to fund private organizations that lobby and/or engage in other political activities that run directly against his economic interests and his political beliefs.

26. On or about January 18, 2018, O’Brien sent a letter to Lincolnshire Mayor Elizabeth Brandt requesting a refund of the portion of his tax money that funded lobbying and other political activities, including but not limited to his share of dues paid to the IML.

27. To date, neither Mayor Brandt nor any agent of Lincolnshire has responded to O’Brien’s demand. O’Brien reasonably believes the demand has been or will be denied.

28. The IML, a private organization, through its lobbying and other political activities, urges the adoption of laws and local ordinances consistent with Governor Rauner’s “Turnaround Agenda” by spending taxpayer money.

29. As stated by the National Right-to-Work Legal Defense Foundation and the Liberty Justice Center in their BRIEF FOR THE PETITIONER in *Janus v. AFSCME*, Case No. 16-1466, a case currently pending before the Supreme Court of the United States, “[a]gency fees thus inflict the same grievous First Amendment injury as would the government forcing individuals to support a mandatory lobbyist or political advocacy group.” *Id.* at 11.

30. As such, Lincolnshire has violated O'Brien's First Amendment rights by forcing him to support speech with which he disagrees.

COUNT II:
VIOLATION OF FREEDOM OF ASSOCIATION UNDER THE FIRST AMENDMENT
TO THE UNITED STATES CONSTITUTION

1-29. For Paragraphs 1 through 29 of this Count II of the Complaint, Plaintiffs restate and reallege paragraphs 1 through 29 of Count I of the Complaint as is fully set forth in Count II herein.

30. As such, Lincolnshire has violated O'Brien's First Amendment rights by forcing him to associate with the IML.

WHEREFORE, Plaintiffs respectfully request that this Court enter the following relief:

- a. enter a permanent injunction restraining Defendant, its officers, agents, employees, and all other persons acting as an agent of Lincolnshire from using tax money to fund private entity IML's speech;
- b. enter a declaratory judgment declaring that Lincolnshire's use of taxpayer money to pay its share of IML dues violates the First and Fourteenth Amendments of the U.S. Constitution both facially and as-applied by restricting O'Brien's free speech and association rights;
- c. issue the requested injunctive relief without a condition of bond or other security being required of O'Brien;
- d. award Plaintiffs' costs and expenses, including its attorneys' fees, pursuant to 42 U.S.C. § 1988; and
- e. For such other relief as the Court deems just and equitable.

Dated: February 21, 2018

Respectfully submitted,

By: /s/ Dale D. Pierson

One of the Attorneys for Plaintiffs

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