

Get the Facts Straight

Misinformation from Elected Officials and the Press Not Acceptable

By Charlene LaVoie, Community Lawyer

Public discussion does not benefit from incorrect and misleading information, therefore a response to a recent letter to the editor and reports in the newspaper is necessary.

In June 1991, citizens filed a petition to challenge an action of the Board of Selectmen which violated the Charter. The Charter directs the town clerk to certify a petition for accuracy and present it to the Board of Selectmen.

In the case of the June 1991 petition, the town clerk did not follow the Charter and did not certify the petition to the Board of Selectmen. When this fact was revealed after two years, the town clerk's failure to certify the petition became the technical basis for the dismissal of the lawsuit which challenged the Board of Selectmen action.

There are two separate issues: the action of the Board of Selectmen which 360 citizens challenged by petition, and; the failure of the town clerk to do his duty to certify a petition as directed by the Charter.

A Selectman stated in a recent letter to the editor that the plaintiff was defeated in court on the issue of the town clerk's failure to certify the petition.

This is incorrect. The public knows that the court has never addressed the actions of the town clerk. Had the court done so there would be no need for the town attorney to give an opinion on the handling of petitions nor would any further legal action be necessary.

The right of citizens to petition their government is permitted by the Charter and state law. The mechanism requires that signatures be verified by the town clerk and a certification to the Board of Selectmen that the signers are electors of the town. The fundamental democratic right to

petition was denied when the town clerk failed to certify the petition.

Finally, the press continues to report that the town clerk did not certify the petition on the advice of the town attorney. This is incorrect.

The town clerk never questioned the town attorney about the petition nor did the town attorney ever speak or write to the town clerk with advice about the petition. The town attorney wrote a letter to the town manager dated June 28, 1991. This letter, which is available from the town manager, said nothing about the certification of the petition. The letter advised the town manager to make the payment to the retiring police captain because the challenge to the Board of Selectmen action was not permitted under the Charter.

The town attorney's interpretation of the Charter is an opinion. Many believe that the town attorney's opinion was in error but the court never had the opportunity to determine whether it was correct or incorrect due to the technical dismissal of the case.

The town clerk, as an elected official, has responsibilities to citizens to perform specified functions such as certification of petitions. A town attorney, who is hired by the taxpayers only to give advice, can not override the responsibilities of the town clerk. The town clerk should know this. It is a great victory for democracy that the town clerk certified the petition last week; now the technicality which blocked the citizen challenge is removed.

Citizens must insist on the facts and not tolerate inaccurate information and the use of sarcastic innuendo which are obstacles to the public discussion and resolution of issues.