

Steven A. Bolton  
Corporation Counsel  
*BoltonS@nashuanh.gov*

Dorothy Clarke  
Deputy Corporation Counsel  
*ClarkeD@nashuanh.gov*

Celia K. Leonard  
Deputy Corporation Counsel  
*LeonardC@nashuanh.gov*



CITY OF NASHUA  
OFFICE OF  
CORPORATION COUNSEL

229 Main Street  
P.O. Box 2019  
Nashua, NH 03061-2019

T: (603) 589-3250  
F: (603) 589-3259

*Legal@nashuanh.gov*

November 11, 2020

Richard J. Lehmann  
Lehmann Law Offices, PLLC  
Three North Spring Street, Suite 200  
Concord, New Hampshire 03301

Re: Beth Scaer – Citizen Flag Pole

Dear Attorney Lehmann:

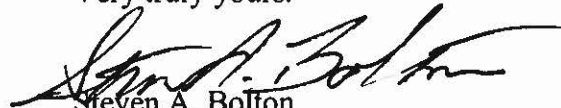
Please forgive the delay in responding to your October 13, 2020 letter to Mayor Donchess concerning the captioned matter. Our investigation reveals that you are in error regarding the facts and that we disagree with the legal analysis.

Contrary to your assertion that Ms. Scaer and her husband raised the “Save Women’s Sports flag “as agreed,” that flag was not raised on the “citizen flag pole” but instead the Scaers removed the American flag from the center and highest pole and replaced it with theirs. No permission or agreement had ever been allowed to the Scaers or anyone else for this or action.

When the wrongful flying of this flag on the pole reserved for the American flag came to the City’s attention a further inspection of the Scaer application was triggered and it was determined that this flag was outside of the parameters established for use of the citizen flag pole. Accordingly, the previously granted permission was revoked.

You have attempted to apply a public forum analysis to the City’s actions. It is the City’s position that the proper approach is to view the use of the flag pole as “government speech” where the City has reserved the right to determine the message that will be attributed to it. See, *Shurtleff v. Boston*, 928 F.3d 166 (1<sup>st</sup> Cir. 2019). Accordingly, your request for reconsideration on behalf of Ms. Scaer is denied.

Very truly yours.

  
Steven A. Bolton  
City Corporation Counsel

cc: James Donchess, Mayor