

**Subject:** Re: Political signs  
**From:** John Dimich <jdimich@paulbunyan.net>  
**Date:** 10/24/2020, 8:00 AM  
**To:** Ryan Stish <rstish@cityofcoleraine.com>

Ryan I think the issue is now what political sign it is. First as to political signs Brina has laid the law which stated that during an election period no city ordinance can regulate those signs between 46 days before the primary to 10 days after the election. The real issue is that even though the city still owns the building and it remains a public building when created an new landlord-tenant relationship on the land May 2018 lease. First the lease states Tenant at their cost can maintain signage on the property and building. Second the law of landlord tenant as interpreted by the courts is as follows: The essence of a lease is the landlord's transfer of a temporary right of exclusive possession of the property to the tenant. This right means the tenant can exclude all including the landlord from the property except fro the right to enter granted in Minnesota statute 504B.211. The tenant can use the land in any way it wants short of destruction of the building. If the tenant chooses to put a sign up that is their choice not the landlords. This based on review of the Minnesota Attorney General landlord publication, discussions with the league of Minnesota Cities and my own research. *If you have any questions feel free to contact me John Dimich*

On 10/22/2020 4:15 PM, Ryan Stish wrote:

Hi John-  
Had an adamant complaint from a citizen regarding political signs on public buildings and grounds. They are asking for written documentation where it says it may be allowed when the property is being leased. The citizen will be attending Monday's council meeting. Any input would be helpful. Thanks!

## **Briana Anderson - City of Coleraine**

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**From:** Toskey, Kevin <KToskey@lmc.org>  
**Sent:** Friday, October 23, 2020 2:05 PM  
**To:** Briana Anderson - City of Coleraine  
**Subject:** Political Signs on Public Property

Hello Briana:

Thanks for your question.

I am not aware of any state statute that prohibits political signs on public property. Some cities have ordinances that prohibit signs on public property – from the sound of things, Coleraine does not have a similar ordinance.

That means that it is up to the lease agreement between the parties as to how the property can be used. The lease agreement does not prohibit the tenant from displaying signs and specifically states that the tenant can maintain signage on the property and building. Your attorney's interpretation sounds correct.

Keep in mind that cities can't regulate political signs solely based on their content. When cities do so, there are significant First Amendment implications and increased risk of litigation.

My colleague Jake Glass informed me that the city attorney did reach out to him yesterday on this topic and that he gave him the same information.

Sincerely,

**Kevin Toskey | Staff Attorney**

Phone: (651) 281-1292

[ktoskey@lmc.org](mailto:ktoskey@lmc.org)

**League of Minnesota Cities** | 145 University Ave. West | St. Paul, MN 55103

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Please note, this information is not legal advice. Consult with your city attorney concerning specific legal situations.

## Research Question Submission

Thank you for submitting a research question to the League of Minnesota Cities.

The League's Research Staff will begin working on it as soon as possible.

You submitted the following information:

First Name:	Briana
Last Name:	Anderson
Position:	City Clerk-Treasurer
City:	Coleraine
Phone:	218-245-2112
Email:	banderson@cityofcoleraine.com
Date Submitted:	Friday, October 23, 2020

Question submitted:

The Mayor, Councilmembers, and myself have been getting many heated complaints from residents regarding political signage on our old fire hall. The building and property is owned by the City but has been leased out to a private party since early 2018. The private party has put up two very large political signs - one on the building and one in the building yard. The residents state the signs are offensive and believe because the building is technically owned by them that the City has the authority to tell the party to remove the signs or to have them removed by City crew. The City Attorney's position is that although it is City owned property it is leased to the private party and the City has no authority to have the signs removed. We do have City ordinances in place regarding signage, but according to MN Statute 211B.045 municipality ordinance regarding size and number of noncommercial signs cannot be enforced for a timeframe in election year. The statute does not say anything about signage on a public building. The city does have a lease agreement with the party and one of the bullet points states: "Signage: Tenant at their cost can maintain signage on property and building." These residents have been adamant that the City needs to get the signs taken down and they do not agree with what the City Attorney has said. One resident has asked for documented, written proof that the private party can, in fact, place these signs up and that the City cannot do anything about it. There is a Council meeting on Monday (the 26th) and this topic is on the agenda for discussion AND I already know that there will be a number of highly charged residents in attendance. I contacted both the Attorney General's and Secretary of State's office to see if they are aware of any caveat that says political signs cannot be placed on a public building by a tenant. Can you please help me provide some guidance to the Council? Thank you! Briana Anderson 218-245-2112

## Briana Anderson - City of Coleraine

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**From:** Briana Anderson - City of Coleraine  
**Sent:** Thursday, October 22, 2020 4:16 PM  
**To:** Daniel Mandich - City of Coleraine; Ryan Stish; Jeff Troumbly; Joseph Pollard - City of Coleraine; Thomas Sutherland - City of Coleraine  
**Cc:** John Dimich  
**Subject:** political campaign signs  
  
**Importance:** High

Hello Gentlemen,

As probably each of you already know, there is much halaballoo and discord regarding political signs placed on the old fire hall (Public Property, but leased to a private party). I have received many texts and phone calls relative to all of this. Addressing this issue has been placed on the agenda for discussion by the Council.

Today, I had a very upset resident come in 'loaded for bear'. Jim Gibeau will be attending the Council meeting on Monday for the 3:30 work session to say his piece again. He doesn't like the answer he is getting and states that even by city ordinance we can tell the party to take it down because they didn't have written permission in the first place. He said he had contacted the Attorney General, showed me the ordinance, etc. He didn't like my answer either; apparently he wanted me to do something about it. He wants a copy of the paperwork stating that because the property is being leased that the City has no authority to tell him to take it down.

All that said, I have reached out to John Dimich again regarding this issue and to give him a heads up - he is in court and I probably won't hear from him for a while.

Just letting you know that I have been researching this afternoon I still don't believe that Mr. Gibeau is correct. There are state statutes regarding political/election signs and you can find reference to them on the Office of Secretary of State. Here is what I found on Campaign signs:

Local jurisdictions may have ordinances restricting the number and size of signs. If a jurisdiction does have such ordinances, in an even year these ordinances cannot be enforced for a specified time before and after election day. (***Minnesota Statutes 211B.045***). In jurisdictions which have no sign ordinance, campaign signs may be posted in any size and number throughout the year.

For 2020, the period when local sign ordinances may not be enforced begins June 26 and ends November 13.

The Minnesota Department of Transportation's webpage contains information about **signs along highway right of way**.

### **211B.045 NONCOMMERCIAL SIGNS EXEMPTION.**

All noncommercial signs of any size may be posted in any number beginning 46 days before the state primary in a state general election year until ten days following the state general election. Municipal ordinances may regulate the size and number of noncommercial signs at other times.

So, this specifically states that even with local ordinances in place that during an even year, a locality cannot enforce any of its sign ordinances regarding size and number. It does not address signs on public property. I did call the MN Attorney General's Office and they, too, only see the statute I referenced above. They suggested that I contact the MN Secretary of State regarding this issue specific to public buildings being leased to a private party.

John will have to weigh in and provide more information after he checks landmark case law.

As a reminder, I am attaching a copy of the signed lease agreement. The private party has given notice to terminate the lease on November 30<sup>th</sup>, but until that time . . . point will be mute by then.

I know that this is a 'sticky and unpleasant' issue. I am doing my best to give you the appropriate information for your discussion. I will let you know after I talk to someone in the Secretary of State's office.

If there is anything else that you would like me to get information on or from, please let me know,

*Briana*

Briana Anderson, MAM, MBA  
City Clerk-Treasurer  
City of Coleraine  
PO Box 670  
302 Roosevelt Street  
Coleraine, MN 55722  
218.245.2112, ext 1001  
218-245-2123 fax  
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SECRETARY OF STATE STEVE SIMON

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### CAMPAIGN SIGNS

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# Office of the Revisor of Statutes

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**History:** [1990 c 585 s 30](#); [2004 c 142 s 1](#); [2010 c 184 s 42](#); [2013 c 131 art 2 s 74](#)

Official Publication of the State of Minnesota  
Revisor of Statutes

EXTENSION OF LEASE

approved  
4.27.2020  
Council  
mtg.

THIS EXTENSION is for a lease made May 21, 2018 between the City of Coleraine, as (Landlord) and Rapid Rooter, as (Tenant).

WHEREAS: The Lease will Terminate in May.

WHEREAS: The City is in the process of drafting legal descriptions to facilitate a possible sale of the vacated Fire Department Building.

WHEREAS: The sale process has not started by the City.

THEREFORE: The parties agree to extend the lease on a month by month basis.

TERMINATION: Will be upon notice effective 60 days from the notice date.

All other terms of the 2018 lease shall remain in effect.

Coleraine

By Carl R. Marcil  
Its Mayor

Rapid Rooter

By Damian Fillbrandt  
Its Damian Fillbrandt

Attest

Diana Andrews  
Its Clerk



STATE OF MINNESOTA       )  
  ) ss.  
COUNTY OF ITASCA    )

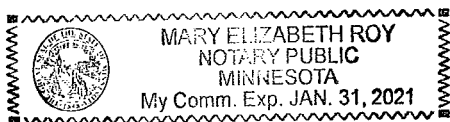
Signed, sworn to, and acknowledged before me by (Mayor) Dan Mandich this  
30 day of April, 2020.



Mary E. Roy  
\_\_\_\_\_  
Signature of Notary Public or Other Official

STATE OF MINNESOTA       )  
  ) ss.  
COUNTY OF ITASCA    )

Signed, sworn to, and acknowledged before me by Damian Fillbrandt this 30 day of  
April, 2020.



Mary E. Roy  
\_\_\_\_\_  
Signature of Notary Public or Other Official

LEASE AGREEMENT  
WITH OPTION TO PURCHASE

THIS LEASE AGREEMENT, made and entered into this 21 day of May, 2018 by and between The City of Coleraine landlord, and Rapid Rooter, Tenants.

NOW THEREFORE, the parties agree as follows:

1. Property: Tenant hereby leases real estate located in Itasca County at Roosevelt Avenue Coleraine legally described as follows:

Vacated Fire Department Building

2. Payment: Rapid Rooter shall make a monthly payment in the sum of \$500.00. for the right to lease.
3. Terms:  
This lease shall be for a period of One (1) years with the right to cancel upon 30 day notice to the other party.
4. Use: for Tenants use for their business
5. Signage: Tenant at their cost can maintain signage on the property and building.
6. Utilities: Tenant shall pay any and all utilities to the building.
7. Insurance: Each party will maintain its own insurance to cover any injury, damage or death which would occur in the use of this property. The Tenant needs to provide a proof of insurance with the City as a named Insured.
8. Indemnity: Tenant agrees to indemnify the other against any and all claims, damages, costs and expenses, including reasonable attorney fees arising out of the use of the property by their respective employees, agents, representatives, assigns, invitees and guests.
9. Assignment: Neither party may not assign or sublet the property without prior written approval of the others.
10. Entire Agreement: The parties agree this Lease as written represents the entire agreement between the parties and that there are no other agreements, and or written, between the parties pertaining to this Leased property.

In Witness Whereof, the parties have signed this agreement as of the above date.

Coleraine

By [Signature]  
Its Mayor  
Attest [Signature]  
Its Clerk

Rapid Rooter

By [Signature]  
Its Damian Villebro Fillbrandt  
Damien  
5-21-18

STATE OF MINNESOTA )  
 ) ss.  
COUNTY OF ITASCA )

Signed, sworn to, and acknowledged before me by (Mayor) Jim Hagen this  
21<sup>st</sup> day of May, 2018.

[Signature]  
Signature of Notary Public or Other Official

STATE OF MINNESOTA )  
 ) ss.  
COUNTY OF ITASCA )

Signed, sworn to, and acknowledged before me by Damian Villebro this 21<sup>st</sup> day of  
May, 2018.

[Signature]  
Signature of Notary Public or Other Official

