

STATE OF NEW YORK

SUPREME COURT : COUNTY OF CHEMUNG

JULIAN MARCUS RAVEN,

Petitioner,

Docket No.

2026-1056

-against-

ORDER to SHOW
CAUSE

CITY OF ELMIRA, et al.,

Defendants.

Hazlett Building Courtroom
Lake Street
Elmira, New York
June 2, 2026

B E F O R E: HONORABLE CHRISTOPHER P. BAKER,
Justice

A P P E A R A N C E S:

Julian Marcus Raven, Petitioner, unrepresented

Attorney John Ryan, City of Elmira Attorney

Mr. Brinn, Park Church Pastor

Court Reporter: Kathleen A. Rohan

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1 THE COURT: We're going to go ahead and
2 call the matter of Raven versus the City of Elmira.
3 Just for both of the parties present here today,
4 the Court should let everyone know, I have reviewed
5 the papers extensively, including but not limited
6 to the petitions, the supporting documentations
7 related to the petition, the applicable codes and
8 ordinances. I've also reviewed the respondent's
9 verified answer, memorandum of law, supporting
10 affidavit, along with the reply papers that were
11 submitted by Mr. Raven late yesterday afternoon, so
12 I'm very familiar with the facts and the applicable
13 law in this matter.

14 So I'm going to give each party 15
15 minutes for oral argument. Mr. Raven, let's first
16 begin with you, it's your petition. Let's talk
17 about standing. Tell me why you have standing in
18 this matter to challenge the issuance of this
19 permit?

20 MR. RAVEN: Good morning, your Honor. I
21 have standing primarily as a taxpayer in the City
22 of Elmira, New York State. Under New York State
23 General Municipal Law 51, taxpayers have standing
24 to confront, challenge a government action before
25 it takes place, especially an illegal government

1 action before it takes place.

2 THE COURT: So you're relying on the
3 concept of taxpayer standing rather than standing
4 as it relates to you having a concrete identifiable
5 injury beyond an injury what the general public
6 would suffer?

7 MR. RAVEN: Well, the injury is personal
8 and general in the sense that as an individual who
9 will suffer the consequences and have already
10 suffered the consequences of a decision that's been
11 made without municipal review, I am already in an
12 injured status, because an illegal act has already
13 taken place. The city has failed to follow the
14 law, and as a consequence, I am an injured party.

15 THE COURT: So just to pick up on what
16 you just said, in order for you to have standing,
17 in order for you to commence this action, to seek
18 judicial review of the permit process here, you
19 have to convince me and show me that you have
20 suffered special damage, different in kind and
21 degree from the community generally, and that that
22 injury is something beyond conjecture or
23 speculation.

24 So, tell me, how is this injury to you
25 personally, beyond the general public?

1 MR. RAVEN: Beyond conjecture and
2 speculation.

3 THE COURT: Let's talk about -- I want to
4 know what your specific injury is here, beyond the
5 general public's injury.

6 MR. RAVEN: Well, as a taxpayer, I am
7 paying, supporting a city organization, city
8 government, to enforce the laws that have been
9 placed on the books, that have been elected, been
10 constituted as part of the constitution of the City
11 of Elmira. When the city fails illegally to follow
12 their own law, that constitutes a direct injury to
13 the taxpayer, in this case, me personally, because
14 why have I paid taxes if the city does not do what
15 it has told and committed and promised it would do
16 in following the law?

17 And so, as an individual, I'm a taxpayer,
18 and the injury is succinct, and the injury is
19 permanent, because I've been paying taxes for over
20 a decade in this city.

21 THE COURT: Couldn't any other taxpayer
22 have that same argument to me? I want to know what
23 your specific injury is, beyond conjecture and
24 speculation, because your papers indicate to me, or
25 at least a reading of your papers indicate to me

1 that you are operating under the presumption that a
2 pride festival, which would include but not limited
3 to a drag performance, or a drag kids story hour,
4 would somehow equate to pornography or lewd or
5 explicit images that would rise above what a
6 community event would be. So tell me, how does the
7 nonspeculative, nonidentifiable injury here affect
8 you and you alone?

9 MR. RAVEN: Well, it's not speculative,
10 your Honor, to -- when an event is promoted as a
11 drag show, the drag shows are known to perform
12 sexually oriented material. The City of Elmira has
13 a sexually oriented code.

14 THE COURT: We're going to get to that.

15 MR. RAVEN: I understand. But that is
16 where the injury comes. Because I've paid as a
17 taxpayer that the government would enforce its own
18 sexually oriented code, and it would enforce that.
19 And when it has failed to do so by issuing a permit
20 to an event which is known because they have said
21 this is what it's going to be about, then it is
22 already in violation of its own rules. And in that
23 way, I am a direct injured party.

24 THE COURT: Let's move on to your
25 different causes of action, whether they be error

1 of law, arbitrary and capricious as it relates to
2 the zoning code here that you are relying your
3 argument on, or the special events committee.
4 Because I don't see in my reading of the special
5 events ordinance as it relates to the permitting
6 process, that the committee, that it is required to
7 be formed under -- the ordinance is required to
8 issue a written determination. And it seems that
9 your petition really is based upon the failure to
10 submit a written determination of what the special
11 committee considered.

12 So, tell me, if you can look at either
13 Article 10 -- excuse me, Chapter 10, Article 11,
14 where in that says that the special events
15 committee must issue a written determination?

16 MR. RAVEN: Article -- I don't have that
17 before me, your Honor.

18 THE COURT: Okay. Let's just say the
19 general special events permitting process --

20 MR. RAVEN: Yes.

21 THE COURT: -- and the ordinance that one
22 must follow. Where in that ordinance does it say
23 that a written determination has to be issued?

24 MR. RAVEN: Well, you would expect that
25 when an application, for example in Exhibit B of

1 the defendant's papers, when an application is
2 submitted from an event, and I'll direct the Court
3 to view page --

4 THE COURT: Well, it's not what I'm
5 expecting, it's what the law says.

6 MR. RAVEN: I know. But the law, you
7 would say the law, if there's an application made,
8 and the application says what is your event about,
9 and there is a review of a written description --

10 THE COURT: Correct.

11 MR. RAVEN: -- and that event does not
12 describe or even mention the drag show, then you
13 have a question whether the municipality is to say,
14 well, hold on, you're advertising the drag show
15 everywhere. I have exhibits that I'd like to
16 submit to the Court that I could not last night,
17 your Honor, Exhibit G, which shows the promotional
18 material for the drag show, and yet the application
19 is completely void of a mention of the drag show.
20 So a review committee would be expected to say,
21 well, hold on a second, you've mentioned here that
22 you're going to have continuous music and stage
23 entertainment for all ages, and yet what you're
24 really saying is that there is a drag show going
25 on. You haven't even mentioned the drag show.

1 And so any reviewing committee would then
2 be under obligation to ask the questions and say,
3 we would like to know, what exactly is the show all
4 about? Now, whether they'll need to write a
5 specific written reply or just respond in their own
6 papers, it would be obvious, because the question
7 has been asked, has this city reviewed the
8 application and approved what they have said
9 they're going to do? And by all accounts, that's
10 not the case.

11 THE COURT: So you would like for
12 additional rules and criteria to be imposed upon
13 the city, or the special events committee, to
14 consider these factors, and consider what an agenda
15 would look like, and impose that upon the new
16 ordinance, or ordinance in granting --

17 MR. RAVEN: That can be fine-tuned, I
18 imagine, at a future date. But just mere
19 permitting process would ask the government to say,
20 well, it's like if you had an application for a
21 musical concert, and all it says is music. And it
22 turns out that the band -- it doesn't show the
23 band. You see, we have an application, we don't
24 have the names of the performers, we don't know who
25 they are. We don't have any group names. But if I

1 just put an application in and said, oh, I'm just
2 doing music, and the city says, oh, go ahead and do
3 music, Mr. Raven, and that music turns out to be
4 blowing up animals on stage, turns out to be men
5 stripping naked on stage, singing, we would have a
6 real problem, then are they saying, well, why
7 didn't we ask the questions when the application
8 was filled out say who's playing, what's the name
9 of the band, what type of music do they perform,
10 and then there's their website and the city would
11 review. That's the purpose of a review process, is
12 to review and say, you know what, this is
13 acceptable for public concerts in Elmira, or it's
14 triggering our sexually oriented code, because
15 there is -- there are aspects that are of a sexual
16 nature, and we are under obligation then to apply
17 the code and investigate, say, does this comply
18 with the code, does it trigger the code, should
19 this event be held in a private location, or is
20 this event permissible under our own municipal
21 codes to be had. And so that's a simple process of
22 any administration.

23 THE COURT: But Section H of that
24 ordinance indicates that all local laws, ordinances
25 and regulations must be adhered to, and it also

1 gives the authority of the City Clerk to revoke
2 that permit if any of the terms and conditions of
3 that of license are violated, or if the applicant
4 makes any material misrepresentations. So there's
5 protections within that ordinance without having me
6 to impose or you impose any additional requirements
7 for a written determination, because the special
8 events committee simply gets the application, they
9 determine whether criteria such as the nature and
10 the time and the street closure, police protection,
11 liability coverage have been met. And the
12 ordinance simply says that those are the things
13 that the special events committee must consider,
14 and there is no requirement that a written
15 determination is made and, therefore, the permit is
16 granted. And we also have the protections of
17 Section H.

18 But most importantly, don't we have the
19 protections of local laws, ordinances, and Penal
20 Law Section 245 to deal with public exposure
21 offenses, where inherent in those claims that you
22 think that are going to be occurring at this event,
23 there is inherent protections already in place;
24 correct?

25 MR. RAVEN: If there -- if they're

1 enforced, your Honor. But going back to the
2 process, if the -- if the whole -- the whole point
3 of having a review process, an application that
4 asks for a short description of the event, the
5 whole purpose of having a description is to give
6 the licensing body an idea of whether or not it
7 should or should not license the event. Otherwise,
8 there would be no need to have a requirement of a
9 description of the event. It would just be carte
10 blanche, you can move on with your event. But the
11 minute the city has a presentation or application
12 and it is deceptive, because it is avoiding all
13 that is being publicized, it is under obligation to
14 say, hold on a second, what you're saying here, and
15 I have -- I would also like to submit to the record
16 Exhibit F, which is a 2008 application, which I
17 have the original.

18 THE COURT: I'm only concerned about the
19 2026.

20 MR. RAVEN: I understand, your Honor.
21 But the application has a description of the event
22 back then, and the event back then was described as
23 an impersonator show. So we are dealing with
24 euphemistic descriptions that are avoiding the
25 issue of what is actually going to be presented.

1 And the city is under obligation, once they see the
2 application and say, hold on, you have not
3 mentioned anything to do with a drag show, and yet,
4 all of your marketing throughout the city and
5 online and everywhere is all about the drag shows,
6 you say it's the primary highlight of your event.
7 How come the drag show, with eleven adult men who
8 will be dressed in women's clothing from underwear,
9 hidden or visible, how come these eleven men in
10 their outfits, because they're dressed as women, is
11 not mentioned in your application? Why do we have
12 a disconnect? That should produce municipal
13 review.

14 And that's why I'm asking the question,
15 should the city, when confronted with this type of
16 material, exercise its discretion and find out if
17 this application actually qualifies for the permit.

18 THE COURT: Are you challenging the
19 constitutionality of this specific ordinance?

20 MR. RAVEN: Not at all.

21 THE COURT: Are you challenging the
22 enactment, as far as the application, as it
23 pertains to the private event, the
24 constitutionality of that?

25 MR. RAVEN: Not constitutionality. I

1 think it's just a clear matter of a government
2 procedure and law. Because the issue is not the
3 constitution and rights, the issue is the city
4 applying its own law. Why does the City of Elmira
5 have an extensive very detailed, over twelve-page
6 law specifically dealing with sexually oriented
7 activity? The reason is, because the heart of the
8 law is to protect children, minors, the vulnerable,
9 the community, from secondary effects of such
10 activities.

11 So it is to say, well, this is only a
12 reasonable response of the city to say, well, this
13 is triggering, because eleven men dressed in
14 women's underwear, whether visible or not, is
15 something that is, under DSM-V of the American
16 Diagnostic Manual of Mental Disorders, transvestism
17 is described as a mental paraphrenic disorder, and
18 it's a sexual disorder. And now they have modified
19 the determination.

20 THE COURT: Now we're getting far afield
21 outside anything that was in your petition.

22 MR. RAVEN: That is in my petition.

23 THE COURT: Let's talk about Section 457
24 of the city ordinance which regulates sexually
25 oriented businesses. How does that relate to this

1 event as it's sponsored by a church, which my
2 reading of the definition of a sexually oriented
3 business, meaning that it has a substantial or
4 significant portion of revenue derived from sexual
5 activity, and since this is being sponsored
6 primarily through Park Church, how does that meet
7 the criteria that this is a sexually oriented
8 business wherein the city zoning should apply?

9 MR. RAVEN: Well, the issue of the
10 business criteria is that that is a law that was
11 written maybe 40 or 50 years ago, and it was when
12 sexually oriented activity specifically happened in
13 fixed locations. In his situation, we are looking
14 at the spirit of the law. What is the purpose of
15 that law? The purpose of the law is to protect
16 children, minors, from indecent material. That's
17 the idea behind it. If not, it's just a guess,
18 just arbitrary to have a law to say you have to go
19 over here, no, there's a reason behind it.

20 And ultimately, I'm not arguing that the
21 Park Church is a sexually oriented business.
22 That's not my argument. It's answering the wrong
23 question. I'm asking whether the city should be
24 obligated, under its own laws, to exercise its own
25 judicial scrutiny over the application of an event

1 that contains sexually oriented material. That
2 is --

3 THE COURT: And Section H of that special
4 ordinance, special events ordinance, indicates all
5 local laws, ordinances, which would assume to be
6 457, and regulation, must be adhered to. So isn't
7 that implicit in that special events permit, that
8 one must adhere to all local zoning ordinances as
9 well?

10 MR. RAVEN: Well, only if you've actually
11 included what you're going to do in the special
12 events permit. Because if you haven't, they have
13 licensed something that is not going to take place.
14 This event has bypassed the legal scrutiny stage,
15 because they've hidden what's actually going to
16 take place. This is the deceptive nature of the
17 application, and that's where the city needs to be
18 called. The Court should call the city to say, you
19 need to review the activities. How come you have
20 activities going in public advertising this, this
21 type of activity, and yet in your application,
22 there is no mention of it? That is a question that
23 needs to be resolved. That is where the city
24 itself needs to answer the question.

25 THE COURT: Any of your causes of action

1 that you would like to speak about with the five
2 minutes you have left?

3 MR. RAVEN: I have five minutes, your
4 Honor?

5 THE COURT: You do?

6 MR. RAVEN: I would like to maintain
7 those five minutes till the end of the proceeding.

8 THE COURT: Rebuttal?

9 MR. RAVEN: Yes, sir.

10 THE COURT: Okay. Mr. Ryan, let's begin
11 first with the issue of standing, and does
12 Mr. Raven have standing, either as an individual
13 taxpayer or as the broad taxpayer with standing
14 theory as we know it?

15 MR. RYAN: Your Honor, it's the position
16 of the city that Mr. Raven does not have standing
17 on this particular issue to propose to the Court,
18 bring to the Court, the question of the validity of
19 the license that was approved by the special events
20 committee, and granted by the City of Elmira.

21 What I'm hearing this morning is an
22 argument to say the city is supposed to monitor and
23 potentially squash statements, behaviors, that are
24 outside the question of whether the event should go
25 forward.

1 He, Mr. Raven, is stressing the fact that
2 the application, which was approved and license
3 granted, should question what the event is going to
4 consist of. And that's an attempt to, I'd say,
5 suppress speech, activity, without any basis to say
6 that it's going to happen.

7 The city does not get into that position
8 of analyzing whether speech is proper or improper,
9 other than the fact, as you -- the Court has
10 already indicated, that the application and the
11 permit requires the sponsor and the participants to
12 obey all laws, and applicable to the City of
13 Elmira, and to try to suppress free speech or free
14 activities that are being sponsored by Park Church,
15 a Christian organization, is an attempt to squash
16 the opportunity for the people who are interested
17 in participating from expressing their viewpoints.
18 That's not the -- where the City of Elmira comes
19 into play. The city does not squash opportunities
20 for people to speak or to behave as long as they're
21 complying with the laws and rules that are
22 established.

23 Thirdly, there's a question about
24 obscenities, et cetera, et cetera. Those are
25 criminal statutes, and I would refer the Court to

1 Article 35 of the Penal Law. It talks about
2 obscenities, and it has provisions in there with
3 regards to violations pertaining to minors. So
4 there are criminal laws that address the concerns
5 that Mr. Raven is trying to bring to the Court to
6 say the city should have taken a more detailed
7 review of what the events are going to be.

8 Furthermore, these are speculations by
9 Mr. Raven as to what's going to happen. And the
10 Court has presented already the affidavit of Pastor
11 Brinn that none of the activities that Mr. Raven is
12 alleging are going to take place during the course
13 of this event. So, it's an attempt to squash the
14 opportunity of free speech, free activity, within
15 the law. That's --

16 THE COURT: Can you tell me, when you
17 look at the special events ordinance, what that
18 special events committee must actually take a hard
19 look at to determine whether the permit should be
20 approved or not?

21 MR. RYAN: The application is broken down
22 into obviously identifying the sponsor, et cetera.
23 But then it gets into traffic. It gets into police
24 requirements. It gets into fire. Now, there is a
25 provision, police. Well, the event is to take

1 place within a couple blocks of the city police
2 department. Fire. It's going to take place within
3 a couple blocks of the fire department. So police
4 and fire are available immediately, if necessary.

5 It takes into account the timing that
6 it's going to occur. It takes into account traffic
7 that's going to take place. It takes into account
8 the closing of streets and the impact that closing
9 streets have on the immediate area, as well as the
10 downtown area in which this event is scheduled to
11 take place.

12 So it takes into all the considerations
13 the impacts. It's looking at what will be the
14 impact if this license or application is approved.
15 And therefore, it concludes that it's not going to
16 have an adverse impact on the city. It's up to the
17 residents of the city and those who wish to
18 participate to make their own free decision. It's
19 not the City of Elmira to be the arbitrator of what
20 should be or what shouldn't be in terms of
21 presentation.

22 THE COURT: What about Mr. Raven's claim
23 that the agenda and the specific description of the
24 agenda, what's going to occur, was somehow lacking
25 in this matter in order for the special events

1 committee to consider whether the permit should be
2 approved or not? Is that necessary?

3 MR. RYAN: I don't believe it's
4 necessary.

5 THE COURT: Is it required?

6 MR. RYAN: It's covered under the catch-
7 all that it has to be in compliance with all laws,
8 ordinances of the City of Elmira. If there is an
9 event or a portion of an event that is in violation
10 of a state law, a city ordinance, or city statute,
11 then that has to be addressed at the time. And
12 Reverend Brinn has indicated, sworn to the Court,
13 that those activities that are being quoted by
14 Mr. Raven are not going to take place. It's not
15 the purpose of this event. And therefore, again, I
16 come back to the point that it's covered under the
17 broader position that they have to comply with all
18 rules, statutes, and regulations of the state and
19 of the city, and federal, if it becomes necessary
20 to look at the federal law.

21 THE COURT: And is it your position,
22 also, the ordinance doesn't require written
23 determination?

24 MR. RYAN: It is, your Honor. There is a
25 determination, because on the application, and you

1 have a copy that was submitted, it indicates in the
2 upper right-hand corner, "Approved." So the
3 committee has looked at the elements that it must
4 look at based upon the statute, the section,
5 ordinance, that they must consider, before they
6 make a determination. And they wrote, "Approved."
7 That by itself is implicit -- not implicit,
8 explicit approval. And then, attached to that
9 application are the representations from the mayor
10 and the City Clerk that the event has been reviewed
11 and approved.

12 And again, the -- for the Court's
13 information, and this is not in the record, your
14 Honor, but for this morning, the attendance, now,
15 the individuals from the committee change because
16 of occupation, but it's represented by, in this
17 case, Sergeant Linehan for traffic, the fire chief
18 at the time, Andy Mall, who's now retired, Kyle
19 Sullivan, who's the director of buildings and
20 grounds for the city, Scott Aspel, who is a
21 director for electrical purposes, electrician, who
22 makes sure that, from an electrical point of view,
23 there's no indication of any problems, and lastly,
24 Mr. Reynolds at the time, Department of Public
25 Works. And that encompasses streets.

1 And so he looks at all the impacts on
2 street, traffic, to determine that the streets that
3 are going to be closed off, or considered to be
4 closed off, the impact and timing and all of that
5 is given consideration. This is not just, oh, go
6 ahead and do whatever you want to do. The city is
7 saying, you can do whatever you want to do, but you
8 have to do it within the context of obeying all
9 laws, ordinances, regulations, et cetera.

10 THE COURT: Let's talk about Section 457
11 of the city zoning ordinance, which Mr. Raven
12 claims is being violated as a result of this
13 private event, and whatever is going to take place,
14 according to him. How is that applicable, if at
15 all, as to the special events ordinance?

16 MR. RYAN: Judge, 457 stands on its own,
17 number one. And 457 -- and this is the first cause
18 of action in the petitioner's papers. It alleges
19 failure to apply the city's adult use sexually
20 oriented business code. And as the Court has
21 already noted, in that ordinance, there's a
22 definition for sexual business. And the sexual
23 business has to relate to the revenue that is
24 generated by the activity being performed. And the
25 activity in this particular case, does it derive

1 essential or substantial part of its profits, or
2 revenue, from a sexually oriented? And as Pastor
3 Brinn has indicated, the church, Park Church, is
4 not going to be deriving any revenue that is
5 substantial in any way, shape, or form, and
6 therefore, the -- the income of the proffered test
7 doesn't result in a determination that this is a
8 sexually oriented business. It's not being
9 represented as a sexually oriented business. And
10 therefore, there's no indication that this
11 particular -- 457 would apply to this particular
12 proposed activity or festival.

13 THE COURT: What's your reply to
14 Mr. Raven's purported argument that issuance of
15 this permit and the proposed agenda violates the
16 spirit and intent of 457?

17 MR. RYAN: Well, if 457 had a concern --
18 counsel had a concern in adopting 457, then it
19 would explicitly state and not restrict to the
20 question of how do I define -- or how does the city
21 define a sexual business activity? And the test is
22 look to see the amount of revenue or profit that
23 the applicant would derive from the activity.
24 There is no benefit to this sponsor, Park Church,
25 in terms of revenue or profit from this particular

1 proposed event. And so, 457 is just a red herring
2 raised by Mr. Raven to say that the city is not
3 complying with with its ordinances.

4 THE COURT: One of the things that I pick
5 up in your opposing papers, in your memorandum of
6 law where you indicate that the special events
7 ordinance does grant the committee authority to
8 grant a variance, if necessary, I don't know
9 whether one was granted here or in fact whether a
10 variance was even needed. Can you answer those
11 questions for me?

12 MR. RYAN: Yes.

13 THE COURT: Because if 457 doesn't apply,
14 no variance would be needed; correct?

15 MR. RYAN: Correct. Mr. Raven brings up
16 the fact that this activity, proposed festival, is
17 adjacent to a church. And the code would say that
18 sexual business cannot be close to a church. And,
19 so, therefore, the variance would be -- Park Church
20 is a sponsor of this event. And Park Church, by
21 its own activity, is saying we're not opposing the
22 festival that's being considered by reason of the
23 fact that it's taking place immediately adjacent to
24 the church. The westerly park, Wisner Park west of
25 Main Street, is the site of this activity. It's

1 directly next to the Park Church. So if you're
2 going to talk about a variance, the church is
3 saying -- and a committee could say, well, there is
4 no opposition from the Park Church, so we can say
5 we're not going to have to impose the fact that it
6 is adjacent to the church, and therefore deny the
7 claim, when the sponsor itself is saying we're
8 sponsoring this activity. And therefore, the
9 special events committee can say, well, if they're
10 sponsoring it, then it can be next to their church,
11 because they're saying we, the church, are agreeing
12 with having this event immediately adjacent to the
13 church.

14 THE COURT: But variance in the terms
15 that we know them as a matter of law, going before
16 a zoning board of appeals and applying for a
17 variance, that's not what is happening here; is
18 that correct?

19 MR. RYAN: That's correct. There's no
20 requirement in this particular situation to get a
21 formal variance, such as you would get an area
22 variance or a use variance under the board of
23 zoning appeals.

24 THE COURT: And lastly, one of the things
25 that I wanted to ask you about was, as required by

1 Article 78 of the CPLR, I have to put interested
2 parties on notice that could be affected by a
3 judgment of this Court, and that's why the Court
4 did put on notice the Park Church and require them
5 to have notice, along with the sponsoring of the
6 pride event, and I see that Reverend Brinn had
7 submitted an affidavit. But one of the things that
8 struck me in there is that he is seeking to have
9 this Court restrain Mr. Raven from being within a
10 hundred yards of the facility.

11 Doesn't the First Amendment grant the
12 pride festival the authority to do this, and
13 doesn't the First Amendment also grant Mr. Raven
14 the right to protest, again, with the restrictions,
15 in accordance with the Penal Law, et cetera? So
16 how can I enjoin Mr. Raven from either attending or
17 having a peaceful protest in the context of these
18 matters, and especially when I don't really have a
19 proper application before me from Park --

20 MR. RYAN: Excuse me, your Honor.

21 (Speaks with Mr. Brinn off the record.)

22 Your Honor, the state budget was passed
23 within the last week, and I'm informed -- first of
24 all, let me clarify for the record, I do not
25 represent Park Church. I represent the City of

1 Elmira with regards to this matter. However, the
2 Park Church, I worked with the Park Church, as well
3 as the employees within the City of Elmira
4 regarding this application. I'm informed, and I
5 don't have this before the Court, but I am informed
6 that the state budget which has been approved this
7 past week, has a provision in it that, if I'm using
8 the correct term, objectors to certain activities
9 have to avoid being in contact with that activity,
10 or disrupting that activity, and they have to stay
11 a hundred yards from the activity itself.

12 If it opposes the activity, the city is
13 not saying you can't be on the eastern side of
14 Wisner Park, east of Main Street, and have your
15 objection, but you can't enter the western part of
16 the park and carry on an opposition, in whatever
17 form, because you're interfering with the activity
18 that is being sponsored by the church.

19 THE COURT: Again, that's being brought
20 by simply a responsive affidavit as far as that
21 request, not by a party.

22 MR. RYAN: Understood.

23 THE COURT: We don't know the effective
24 date of that budgetary ruling from the governor,
25 and et cetera. So I guess my question is, does the

1 Court even have jurisdiction at this point to
2 preclude Mr. Raven from attending or either
3 engaging in the peaceful protest, again, in
4 compliance with all applicable local laws, rules,
5 and regulations?

6 MR. RYAN: Your Honor, I too have not
7 seen the actual state law imposing this, so I don't
8 want to represent to the Court that it's part of
9 the city's application. However, Pastor Brinn has
10 requested that based upon prior experiences,
11 because this is the fourth annual pride event,
12 there's been three previous events over the last
13 three years, there have been disruptions, I'm
14 informed. I don't want to -- I can't represent to
15 the Court in any way, shape, or form, as to what
16 those disruptions were. It's a case of saying --
17 request this morning to say, let's try to prevent
18 any potential activities that would be disruptive
19 to the festival itself.

20 THE COURT: Just as Penal Law Section 245
21 would apply to any performances of any lewd nature,
22 Article Penal Law 240 would also apply to any
23 disruptive conduct by any protestors; correct?

24 MR. RYAN: Correct.

25 THE COURT: Anything else you'd like to

1 add in regards to your response to the petition?

2 MR. RYAN: No, thank you, your Honor,
3 appreciate the time.

4 THE COURT: Mr. Raven, you have five
5 minutes in rebuttal.

6 MR. RAVEN: Thank you, your Honor. First
7 of all, I would like to remind the city, this is
8 not about squashing anybody's rights. This is
9 about a meaningful review of an event that has been
10 planned and permitted. It is just asking for
11 review. The review may turn up and say, well, no,
12 it's actually totally fine. Or the review could
13 turn up and say, well, actually parts of this
14 event, especially the drag show, do trigger the 457
15 code, and we are going to restrict that event.

16 Now, the Supreme Court's been very clear
17 about restricting events that are harmful to the
18 community, and they've ruled on it and they've said
19 that the municipality has the right to restrict.
20 It's not prohibiting adults. We're sexual
21 creatures, they can go and have their sexual fun.
22 But it's going to be over there in the building,
23 it's going to be closed off to the public. No minors
24 involved. You have to be 18 to get in. Go have at
25 it. But this is not restricting or squashing, this

1 is just asking for legitimate review.

2 And then a follow-up, just by the city's
3 own reasoning about the -- the strict business
4 application of that same code, it sounds like if
5 tomorrow somebody applies for a free sex act show
6 to go on in Wisner Park next week, the city would
7 just gladly grant it, with no calms whatsoever,
8 because they're going to do it for free, and
9 they're not going to charge, and there's no
10 business activity.

11 So, where the city continues to
12 contradict itself, because it's in the circular
13 reasoning it can't get out of, because it's failing
14 to admit, actually, we do need to review this, and
15 we do need -- and that doesn't mean they're going
16 to prohibit anything, it doesn't mean the event is
17 going to be cancelled, I have not asked for the
18 event to be cancelled. People have First Amendment
19 rights to express their ideas, their understanding.
20 They have freedoms in this country. This is what
21 we're all about. But when it comes to certain
22 subject matters and contents like an adult content
23 that the city has extensive code about, adults,
24 responsible adults and city leaders should respond
25 and say, well, we need to review this.

1 But then going back to that whole
2 permitting problem, how can they review it if it's
3 not even mentioned, if it's hidden, if it's hidden
4 in that, is what I think is really disturbing about
5 the whole thing. How come they can do this and
6 promote one side of the event and say, City, this
7 is what we're doing, but this is what we're doing
8 over here. And the city is saying, oh, we don't
9 have to review anything. It's not responsible
10 governance, your Honor.

11 So I would say this is simply a question
12 put forward to the city to say, you are under at
13 obligation to the taxpayers, the citizens, review
14 honestly this activity. And after the review is
15 done, write a written determination that the
16 taxpayers and citizens can say, okay, good
17 governance, they found no issues whatsoever, go
18 ahead, wonderful. Or they can say, you know what,
19 there's actually something concerning about this,
20 and we think this portion of it should be placed
21 over there. People still have freedoms to go about
22 their business. Minors are protected. Citizens
23 are protected. Everybody is happy. Everybody wins
24 when the law is followed.

25 But when the law is not followed, we have

1 to come to court and say, City, you're failing to
2 do your job. And so, that's how I would like to
3 conclude, your Honor. And I hope that we just have
4 a reasonable review of a permit that has been
5 granted without all the facts.

6 THE COURT: Thank you. So, after hearing
7 oral arguments, reviewing the petition and
8 opposition papers before the Court, including but
9 not limited to the relevant ordinances that have
10 been cited here, and that apply to this festival,
11 the Court has to begin its initial inquiry as to
12 standing, because the Court understands that
13 standing is a threshold issue determination. And a
14 litigant such as Mr. Raven must establish standing
15 in order to seek judicial review. And he has the
16 burden to convince this Court that he has an injury
17 in fact, meaning that he has to demonstrate to this
18 Court that he will suffer a concrete and
19 identifiable injury rising beyond mere conjecture
20 or speculation.

21 Here, in this matter, Mr. Raven has
22 relied on a long-standing theory of what's known as
23 taxpayer standing. And taxpayer standing is
24 oftentimes afforded to taxpayers as to challenge
25 important governmental actions, despite such

1 parties being otherwise insufficiently interested
2 for standing purposes. When taxpayers standing
3 takes effect is when an individual such as
4 Mr. Raven would have an impenetrable barrier to any
5 judicial scrutiny or legislative action.

6 Here, in this case, Mr. Raven has failed
7 to specifically identify a concrete and
8 identifiable injury rising above mere conjecture or
9 speculation, or to show that he has suffered a
10 special damage different in kind and degree from
11 the community generally.

12 The Court finds that Mr. Raven, in light
13 of long established standing principles, does not
14 have standing to bring this petition. But,
15 nevertheless, the Court believes that in the
16 interest of justice, it's necessary to go through
17 all of the different causes of action that
18 Mr. Raven has set forth in order to address the
19 merits of those causes of action, even though the
20 Court is now exercising essentially academic
21 review.

22 As to Mr. Raven's error of law cause of
23 action, the Court has to be guided by the principle
24 that a determination is affected by an error of
25 law, when a governmental body erroneously

1 interprets an applicable standard or applies an
2 incorrect standard of proof.

3 Here, Section 457 of the city's zoning
4 ordinance, which regulates sexually oriented
5 businesses, that zoning ordinance does not, in the
6 Court's view, apply to special events permits. 457
7 regulates sexually oriented businesses, not special
8 event permits that we have here.

9 Even if Section 457 did apply, the
10 applicant here is clearly under obligation, as
11 spelled out in Section H, that they must apply to
12 all local laws, ordinances, and regulations,
13 meaning that sections of the Penal Law must be
14 adhered to, sections of the zoning law must be
15 adhered to, and the failure to do so either results
16 in arrest or, under Section 10-399 of the special
17 event ordinance, the City Court has the right to
18 revoke the permit if any of those terms and
19 conditions are violated, or if any
20 misrepresentations have been made in the
21 application.

22 Therefore, the error of law cause of
23 action that has been advanced by Mr. Raven is
24 hereby determined to be without merit and is denied
25 and dismissed in its entirety.

1 As to the arbitrary and capricious cause
2 of action, the Court must apply the test of whether
3 the determination here by the special events
4 committee has a rational basis. As explained
5 another way, a determination should not be
6 disturbed unless the record shows that the
7 respondent's action here was arbitrary,
8 unreasonable, irrational, or indicative of bad
9 faith.

10 Here, in taking a look at Chapter 10,
11 Article 11 of the city code of ordinances, a
12 procedure has been established whereby the special
13 events committee does not have to issue a written
14 determination, but must understand that they have
15 to consider events such as nature, time, agenda,
16 street closure, police protection, liability
17 insurance, and if that -- those factors have been
18 analyzed by the committee, the permit shall be
19 approved under Section 10-399.

20 Therefore, the Court has to presume that
21 the special events committee exercised a valid
22 legislative act in granting the permit here. And
23 most importantly, a court, nor Mr. Raven, can
24 substitute its own judgment for that of the agency
25 making the determination.

1 Therefore, there is no merit to any claim
2 of the decision by the special events committee, or
3 of the city, that the granting of the permit was
4 either arbitrary or capricious.

5 As to the third cause of action which
6 deals with violation of lawful procedure, again,
7 the Court is also indicating that the special
8 events committee does not have the -- or I should
9 say the special events committee does not have to
10 issue a written determination. The section, 10-395
11 of the ordinance, was in fact complied with the
12 applicant, and any arguments that Mr. Raven has
13 made as to this cause of action that the special
14 events committee or the city should include
15 additional restrictions, such as revealing
16 underwear, lingerie, lewd gestures, or eroticized
17 dancing, that the Court should impose, or the city
18 should impose any restrictions, are clearly unduly
19 vague, and would seem to violate the First
20 Amendment principles by imposing content based
21 restrictions on expressive conduct.

22 Therefore, the Court finds that the cause
23 of action dealing with violation of lawful
24 procedures is hereby denied and dismissed in its
25 entirety.

1 As to the fourth cause of action, access
2 of jurisdiction, again, for the reasons already
3 noted, the cause of action for excess jurisdiction
4 is hereby denied in its entirety.

5 And as to the fifth cause of action,
6 Mr. Raven has failed to identify any denial of
7 equal protection rights that would apply to him, or
8 that he has somehow been selectively enforced or
9 have a selective enforcement cause of action, or
10 that he has been punished for purported viewpoint
11 favoritism.

12 Therefore, the Court hereby, in applying
13 the principles that would be relevant to the
14 granting of a preliminary injunction here, first,
15 the most important one, a likelihood of success on
16 the merits, here the Court has already determined
17 that preliminary injunction should not be granted
18 either at the time the Court executed the Order to
19 Show Cause or moving forward. Because, as
20 explained by the Court, there is a -- there is no
21 likelihood of success on the merits.

22 As to any other ancillary requests by any
23 interested party to bar Mr. Raven from either
24 attending or engaging in a peaceful protest, the
25 Court should also note that he does have First

1 Amendment rights, as do the pride festival
2 organizers and participants to express their
3 viewpoints, again, with the safeguards and
4 restrictions of Penal Law and/or any other
5 governing laws that should apply here in this
6 matter.

7 Therefore, the Court is hereby denying
8 and dismissing the application and petition before
9 the Court in its entirety.

10 Mr. Ryan, as a prevailing party, please
11 submit an order on notice by the end of the day
12 which reflects that the petition is hereby denied
13 and dismissed in its entirety. Thank you.

14 MR. RAVEN: Thank you, your Honor.

15 MR. RYAN: Thank you, your Honor.

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C E R T I F I C A T I O N

I, Kathleen A. Rohan, do hereby certify that
the foregoing pages constitute a full, true and accurate
transcript, to the best of my ability, utilizing
computer-aided transcription, of the proceedings had in
the aforesaid action on the 2nd day of June, 2026.

Dated: June 4, 2026.



Kathleen A. Rohan
Official Court Reporter