

Excerpts from the
New York Civil Liberties Union
Amicus Curiae Brief (dated December 27, 2007) in
Parkhouse v. Stringer

“Virginia Parkhouse has spoken as a private individual before the New York City Landmarks Preservation Commission and now finds herself investigated and subpoenaed by the Department of Investigation of the City of New York (“DOI”) for non-perjurious statements made at the hearing.” (p. 2)

“The very purpose of the First Amendment is to foreclose public authority from assuming a guardianship of the public mind.” (citing Supreme Court decision *Meyer v. Grant*, 486 U.S. 414, 419 (1988)). (p. 2)

“Exercise of subpoena power to demand an individual to account for their speech before a public commission subverts those constitutional values that allow the people to decide the merit of political debate. By forcing Ms. Parkhouse to testify under oath concerning her statements to a public commission and by threatening prosecution, DOI has burdened her right to free speech without any connection to a legitimate governmental interest.” (p. 3)

“An individual’s representations before a public commission are expression, pure political speech to which the most rigorous First Amendment protection applies.” (p. 4)

“Much like the additional speech required in *McIntyre*, the subpoena issued to Ms. Parkhouse undoubtedly burdens her First Amendment right to speak before a commission concerning issues of public importance. The practical burden of compliance with a subpoena includes hiring an attorney, appearing before the DOI at the appointed time, and facing a battery of hostile questions under oath. Undoubtedly these increased personal costs would make even a civic-minded individual such as Ms. Parkhouse second-guess whether he or she should express their opinion before a public commission.” (p. 8)

“The First Amendment interests in this case are not confined to the personal rights of [the recipients of a subpoena.] Although their rights do not rest lightly in the balance, far weightier than they are the public interests in First Amendment freedoms that stand or fall with the rights that these witnesses advance for themselves.” (quoting decision *Burse v. United States*, 466 F.2d 1059, 1083 (9th Cir. 1972)). (p. 9)

“The First Amendment does not convey a “right” to the public to hear only a sanitized and government-approved version of the truth; rather the public holds a right to state what they believe the views of their leaders to be, even if those beliefs are mistaken.” (p. 11)

“Any further investigation serves only a retributive interest in prosecuting Ms. Parkhouse for her speech.” (p. 16)

“... the Parkhouse subpoena must be quashed. Likewise, there is no factual basis to support an investigation concerning criminal impersonation, as the record clearly demonstrates that Ms. Parkhouse presented herself as a representative of Landmark West! and furnished LPC with a copy of the letter she read and paraphrased.” (p. 17-18)

“There is no factual basis to support the claim that Ms. Parkhouse misrepresented before LPC that she was speaking on behalf of Borough President Stringer’s behalf, the allegation at the core of the DOI investigation.” (p. 25)

“In fact, the undisputed evidence is that Ms. Parkhouse signed in as herself and as a representative of Landmark West!, R. at 44, said her name, R. at 30, and distributed a copy of Mr. Stringer’s letter clearly indicating where she had deviated from the written text to bring it up to date, given that the hearing Mr. Stringer urged to be calendared was the hearing at which Ms. Parkhouse spoke.” (p. 26)

“Ms. Parkhouse’s actual conduct at the hearing cannot reasonably constitute ‘[p]retend[ing] to be a representative of some person or organization and does an act in such pretended capacity with intent to obtain a benefit or to injury or defraud another[.]’ N.Y. Penal Law § 190.25. Therefore, Mr. Stringer’s allegation to Mr. Tierney is contradicted by the record and, thus, unfounded. Accordingly, DOI lacks the authority to investigate Ms. Parkhouse, and the subpoena should be quashed.” (p. 26-27)