

UNITED STATES DISTRICT COURT  
DISTRICT OF MAINE

DIVA'S INC., ET AL., )  
 )  
 Plaintiff )  
 )  
 v. ) Civil 98-136-B  
 )  
 CITY OF BANGOR, )  
 )  
 Defendant )

ORDER AND MEMORANDUM OF OPINION

BRODY, District Judge

Defendant City of Bangor moves the Court to Amend and Alter its September 23, 1998 Order and Memorandum of Decision pursuant to Fed. R. Civ. P. 59(e). Also before the Court is Plaintiffs' Motion to Strike and Seal Defendant's Appendix.

**Defendant's Motion to Amend and Alter Judgment**

The Court has considered the arguments raised by Defendant's motion, and declines to alter or amend its judgment. For the reasons set forth in its earlier Order and Memorandum, the Court is persuaded that Sections 3(h) and 6(a) of Chapter VII, Article 1-C of the Laws & Ordinances of the City of Bangor constitute an unconstitutional restriction on the time, place, and manner of protected speech.<sup>1</sup> Furthermore, while the Court finds some merit to Defendant's argument, raised for the first time in this Motion, that Plaintiffs lacked standing to bring a vagueness challenge, the Court declines to resolve that issue as it does not affect the validity of

---

<sup>1</sup> The Court reaches this conclusion notwithstanding the location of arrests made in connection with an investigation of Studio 1431.

the ordinance under the time, place, and manner analysis. Thus, Defendant's Motion to Alter or Amend Judgment is denied.

**Plaintiffs' Motion to Strike and Seal**

Plaintiffs move to seal Section 9 of the Appendix submitted by Defendant in support of its Motion to Amend and Alter Judgment on the basis that it contains confidential material protected by state law. The Court agrees. Regardless of the circumstances under which it was obtained by Defendant, the Court finds that Section 9 contains "investigative material" as defined by Title 16 M.R.S.A. § 611(8) (Supp. 1998) and is therefore confidential pursuant to Title 16 M.R.S.A. § 614(C) (Supp. 1998). Plaintiffs' Motion to Seal is therefore granted as to Section 9 of the Appendix to Defendant's Motion to Amend and Alter Judgment.

Plaintiffs' Motion to Strike all portions of the Appendix to Defendant's Motion to Amend and Alter Judgment is denied.

SO ORDERED.

---

MORTON A. BRODY  
United States District Judge

Dated this \_\_\_\_ day of November, 1998.

