



Locust Club Of Rochester et al., Respondents, v. City of
Rochester et al., Appellants

[NO NUMBER IN ORIGINAL]

Supreme Court of New York, Appellate Division, Fourth
Department

29 A.D.2d 134; 286 N.Y.S.2d 99; 1968 N.Y. App. Div. LEXIS
4910

January 11, 1968

PRIOR HISTORY: [***1] *Locust Club of Rochester v. City of Rochester, 48 Misc 2d 763.*

Appeal from an order of the Supreme Court at Special Term (Jacob Ark, J.), entered February 2, 1966 in Monroe County, granting a motion by plaintiffs for summary judgment.

DISPOSITION: Order unanimously reversed on the law and facts, without costs, and judgment entered declaring chapter 17 (formerly ch. 10) of the code valid and constitutional.

HEADNOTES

Municipal corporations -- Police Advisory Board -- City Council of City of Rochester had authority to establish Police Advisory Board (*N. Y. Const., art. IX, § 2, subd. [c]; Municipal Home Rule Law, § 15, subd. 1, par [i]*) -- power of Board to make public its recommendations where there was disagreement between city officials and Board did not fatally infringe upon Charter provision authorizing Commissioner of Public Safety to reprimand police officer.

1. The City Council of the City of Rochester established a Police Advisory Board with jurisdiction to consider complaints which alleged the use of excessive or unnecessary physical force by members of the police force. The court at Special Term erroneously concluded that the provisions authorizing the Board to [***2] make public its recommendations to the Commissioner of Public Safety and the City Manager in a proceeding where action satisfactory to the Board had not been taken by the city administration, fatally invaded the Charter provision authorizing the Commissioner of Public Safety to impose disciplinary penalty in the nature of a reprimand. The legislative grant of power to the City Council to establish citizen advisory boards was valid (*N. Y. Const., art. IX, § 2, subd. [c]; Municipal Home Rule Law, § 10, subd. 1, par. [i]*).

2. Where there is a disagreement between the Board and the two city officials, the extent of the power of the Board is to make public its "recommendation". In the absence of any disciplinary power vested in the Board, it is difficult to imagine a

