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Hempstead supervisor's case against town board argued in court

Lawyers for Gillen said a vote to promote and transfer employees benefitted relatives of council members, while attorneys for the board said the court should not intervene.



Hempstead Supervisor Laura Gillen sued the town board over promotions and transfers approved last year. Photo Credit: Newsday/J. Conrad Williams Jr.

By John Asbury

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Updated October 18, 2018 3:19 PM

An attorney for Hempstead Supervisor Laura Gillen argued in court Thursday that the town board's December vote on promotions and transfers and a union no-layoff clause should be invalidated because two board members violated an ethics code to benefit their relatives.

But a town board attorney said the board members had the authority to pass the resolutions and argued that the courts should not intervene or have the authority to undo laws passed by town government.

Nassau County Supreme Court Judge Randy Sue Marber heard oral arguments in Gillen's lawsuit against the six sitting town board members and former supervisor Anthony Santino. The lawsuit challenges the board's Dec. 13 vote to transfer and promote 192 employees and a separate vote to pass a no-layoff provision to the town's CSEA union contract through 2022.

"The board can't get out of their own way to concoct why they did what they did," Gillen's attorney Matthew Didora said. "This was done to tie the hands of the newly elected supervisor."

The town board, the CSEA and Santino have filed motions to dismiss Gillen's lawsuit, saying she lacks authority to challenge the board's vote.

"It is the town board and only the town board that makes all hiring and firing decisions. The Republicans still control the board," the board's attorney Ronald J. Rosenberg said. "The law allows these elected officials to do what they did, regardless of whether they can convince your honor that it was the right thing to do.

The board voted to pass the no-layoff provision four months after the board had approved a five-year CSEA contract. Didora called it a "gift to the union" after Santino lost the election.

The judge also will examine if the vote violated the town's ethics policy and if the resolutions affected the town's finances.

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Last year's 4-3 vote impacted Santino's sister and Councilman Anthony D'Esposito's sister-in-law, brother and mother, who all work for the town. D'Esposito recused himself from voting for a raise for his brother, who was among the 192 transfers.

"If you have a family member affected, you should not vote," Didora said. "If

you take out these two votes, the resolution doesn't pass."

Rosenberg said the ethics policy only applies to an elected official's spouse or children, but the judge pointed to a different code that applied to any relative with a financial interest.

Rosenberg also argued that none of the 192 transfers were deemed to be unqualified, including 32 positions slated for promotion under a town settlement.

"Personnel transfers are not barred, just because they're related to someone on the board," Rosenberg said. "It's not a conflict to begin with, but even it was, there's no statute or authority to say the vote should be discounted."

The judge reserved her decision following arguments Thursday and is expected to issue a written decision in the coming months.

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