

## Rhode Island Home Rule Supreme Court Cases

### Chronological Listing

<u>Year</u>	<u>Case Name</u>	<u>Citation</u>
1952	<b>ADVISORY OPINION to HOUSE of REPRESENTATIVES</b>	79 R.I. 277
	Questions answered: 1) Authority of general assembly after adoption of home rule charter? 2) Affirmatively answers questions concerning general assembly's power to legislate concerning the following issues: a) local officers and tenure of office b) fixing time of town meeting c) fixing time of beginning and ending of fiscal year d) parking meters 3) Effect of charters enacted prior to adoption of home rule amendment ?	
1952	<b>ADVISORY OPINION to SENATE</b>	79 R.I. 291
	Questions answered: 1) Acts involving imposition of tax or expenditure of money must be submitted for approval at a general or special election, but cannot be submitted to a financial town meeting; 2) Special acts must also be submitted for approval to a financial town meeting; 3) Special acts must provide essential details concerning elective process.	
1953	<b>ADVISORY OPINION to HOUSE of REPRESENTATIVES</b>	80 R.I. 288
	Questions answered: 1) General assembly has express and exclusive authority concerning how general municipal elections should be conducted; 2) General assembly may, by appropriate legislation, validate any provisions in a home rule charter inconsistent with advisory opinion of supreme court.	
1953	<b>STATE ex rel FLYNN v. MC CAUGHEY</b>	81 R.I. 143
	Home rule amendment did not constitute a general grant of power to city to adopt a home rule charter under which it might control manner of nominating candidates and conducting elections.	







1963	<b>DAVIS v. COUSINEAU</b>	97 R.I. 85
	Removal Issue: Mayor had power to remove officers only on the basis of legal cause as provided by charter language.	
	Appointment Issue: Since charter provisions conflict on power to appoint police officers, court finds that public safety board has this power due to legislative intent to place effective control of police department in the board.	
1964	<b>STATE v. KRZAK</b>	97 R.I. 156
	Police power of state was not transferred to municipalities by home rule amendment, therefore municipality, when implementing penalty ordinance, cannot exceed limitations contained in statute of authorization.	
1964	<b>COLLIER v. CUCULO</b>	98 R.I. 68
	Specific charter language conveyed evidence of legislative intent to confer authority upon town council to acquire land for use as a public dump.	
1964	<b>MORGAN v. THOMAS</b>	98 R.I. 20
	Under civil service system created by charter, personnel cannot be disciplined without notice of grounds and right to a hearing. Personnel appeal board sits as a quasi-judicial body at such a hearing.	
1964	<b>RANELLI v. EDWARDS</b>	98 R.I. 394
	Concerning mayor's authority to appoint city solicitor as acting judge of probate, public laws enacted by general assembly in this case should not be so narrowly construed so as to limit this delegated authority.	
1964	<b>HOWLAND v. THOMAS</b>	98 R.I. 470
	<ol style="list-style-type: none"> <li>1) Mayor can remove police officer if proper notice and right to hearing given;</li> <li>2) Personnel appeal board must conduct an impartial hearing, but oral argument not required;</li> <li>3) Discipline imposed by board was not excessive and beyond authority of board.</li> </ol>	

- 1965      **ADVISORY OPINION to HOUSE of REPRESENTATIVES**      99 R.I. 472
- Question answered: The home rule amendment does not vest the general assembly with the power to legislate that charter commissions be elected to amend the charter. This method is not the prescribed method.
- 1965      **FOX v. CRANSTON PERSONNEL APPEAL BOARD**      99 R.I. 566
- Sound public policy barred collateral attack by individuals on the validity of a de facto municipal corporation, and in this case the validity of the adoption of the home rule charter.
- 1965      **MELLOR v. LEIDMAN**      100 R.I. 80
- Charter provided that removal of city clerk occurs through a quasi-judicial proceeding. As a result, removal required a valid ground for dismissal despite clerk's appointment for an indefinite term by city council.
- 1966      **HENRY v. THOMAS**      100 R.I. 54
- Issue considered by supreme court was timeliness of personnel hearing requested by a classified employee. Conclusion of hearing must occur within a reasonable time after commencement date which is charter mandated.
- 1966      **WALSH v. PAWTUCKET PERSONNEL BOARD**      101 R.I. 187
- Charter vested primary jurisdiction in personnel board to hear appeals of personnel decisions. Decision of the board is subject to judicial review by supreme court under its inherent power to grant certiorari in the exercise of its supervisory function.
- 1967      **REYNOLDS v. LAMB**      102 R.I. 557
- Under charter language no public hearing is required unless requested in a removal from office by the city council situation. Removal from office by city council for lack of residency was valid grounds.
- 1968      **NUGENT v. CITY of EAST PROVIDENCE**      103 R.I. 518
- The reservoir of powers reserved to the general assembly as a repository of the sovereignty of the state includes the power to regulate and control by licensing the conduct of business in an exercise of its police power. Municipalities cannot exercise licensing power unless lawfully delegated by legislature. The right to license is not conferred by authority granted to municipalities to acquire, hold, and dispose of property.





1980            **WARWICK SCHOOL COMMITTEE v. GIBBONS**            410 A.2d 1354

Since, in this instance , there is a legislative charter, it should be looked at to discern the intention of the general assembly regarding the conferring of powers upon the school committee and the finance director. The finance director had a legal duty to determine there was a sufficient unencumbered balance in the budget of the school committee before honoring purchase orders.

1980            **COVENTRY SCHOOL COMM. v. RICHTARIK**            411 A.2d 912

Public education is the responsibility of the state, and various municipal school committees, when discharging their responsibilities, act as agents of the state. The town charter, as expressly validated by the general assembly, was controlling on issue of school committee's right to retain an attorney who was not part of town solicitor's staff.

1980            **MERCIER v. CITY of CENTRAL FALLS**            412 A2d 927

City council possessed authority to enact ordinance mandating retirement age, derived from legislative grant of power to create and regulate pension funds as contained in home rule charter.

1981            **FLYNN, JR. v. KING; WEST GLOCESTER FIRE DISTRICT v. FLYNN, JR.**            433 A.2d 172

Limiting eligibility to vote and hold office in fire district to owners of taxable property within the district denied equal protection to otherwise qualified voters since fire protection was governmental function that substantially affects all residents in the district.

1981            **MONTAQUILA v. ST. CYR**            433 A.2d 206

Charter provisions stating town solicitor and assistant town solicitors serve at the pleasure of someone were not unconstitutional. Also charter provision prohibiting removal because of political affiliation did not apply to this situation.

1981            **STATE v. COOK**            437 A.2d 1360

Although the General Laws do not specifically list a city manager as an official empowered to administer oaths, the city manager under the charter makes all appointments to the police department and is designated as chief executive officer. These duties served to empower manager to administer oaths to officers.



- 1986            **LOCAL NO. 799, I.A.F. v. NAPOLITANO**            516 A.2d 1347
- City charter’s residency requirement for city employees, as specifically validated by state legislature, takes precedence as a special act over any inconsistent general laws prohibiting such residency requirements for teachers and firefighters.
- 1987            **MELLOR v. CLANCY**            520 A.2d. 1278
- Superintendent of schools was employee of school committee, and as such was municipal employee since home rule charter, validated by state legislature, included department of public schools among town’s administrative departments.
- 1987            **WOMEN & INFANT’S HOSPITAL v. CITY of PROV.**            527 A.2d. 651
- Antidiscrimination ordinance enacted prior to adoption of home rule charter was invalid. Municipality lacking home rule charter could not enact antidiscrimination ordinance without specific authorization by general assembly.
- 1988            **CELONA v. RHODE ISLAND ETHICS COMMISSION**            544 A.2d 582
- Town council passage of a resolution authorizing payment of monthly expenses in a fixed sum contravened charter provision prohibiting such form of payment. Town council also violated conflict of interest law by not filing report with conflict of interest commission before taking its action.
- 1989            **PROV. TEACH. UNION LOC. NO. 958 V. NAPOLITANO**            554 A.2d 641
- City employees, employed prior to effective date of home rule charter section imposing residency requirement, were exempt from requirement under grandfather clause.
- 1989            **BRUCKSHAW v. PAOLINO**            557 A.2d 1221
- Regulation of city’s employee pension plan that directly affected only residents of city was not a matter of statewide concern over which state continued to maintain sovereignty after adoption of city home rule charter.

1989                    **WESTERLY RESIDTS. for THOUGHT. DEV. v. BRANCATO**                    565 A.2d 1262

The town's authority to regulate sewers was inherent in its home rule charter, which specifically vested authority in the town and its department of public works to regulate sewers and drains. Expansion of sewer system need not be submitted to qualified voters for their approval.

1990                    **MC CARTHY v. JOHNSON**                    574 A.2d 1229

Special acts passed by general assembly, which authorized suits against city by personal injury plaintiff, were not general acts applicable to all cities and towns but directed at a single community benefiting a single party. Local approval was necessary because these acts affected the property, affairs, and government of a single city.

1992                    **L.A. RAY REALTY v. TOWN COUNCIL of CUMBERLAND**                    603 A.2d 311

Zoning amendment establishing minimum subdivision lot size was invalid as adopted by referendum under provision of town charter. Charter was inconsistent with public notice and hearing requirements under state law for amendment of subdivision regulations, and state law prevails.

1992                    **BETZ v. PAOLINO; MC ELROY v. PAOLINO**                    605 A.2d 837

Charter provision giving council power, without limitation , “ to enact such ordinances necessary to ensure the welfare and good order of the city ” conferred entire legislative power on elected council. City retirement board did not have authority to amend city Retirement Act to provide additional benefits for police officers and firefighters.

1992                    **HERVIEUX v. PAPINEAU**                    611 A.2d 838

Under city charter the water supply board is an agent of the city, and other charter provisions support this interpretation. Settlement agreement entered into by water supply board releasing board from liability simultaneously released city from liability.

1992                    **TOWN of EAST GREENWICH v. O'NEIL**                    617 A.2d 104

Town ordinance regulating transmission of high voltage electric power within its border exceeded town's home rule authority, and was preempted by state statute vesting Public Utilities Commission with exclusive authority. Most critical factor in determining whether municipal legislation is matter of statewide concern is whether action of municipality has significant effect upon people outside home rule town.

- 1993            **ADVISORY OPINION to HOUSE of REPRESENTATIVES**            628 A.2d 537
- Question asked: Constitutionality of pending legislation which would approve new voting districts in town and remove current office holders?
- Answer: Reapportionment of local voting districts was a matter reserved to cities and towns by home rule article as a local matter relating to property, affairs, and government, and they are free to delineate their own voting districts for local election purposes.
- 1994            **MARRAN, JR. v. BAIRD**            635 A.2d 1174
- Statute vesting the director of state Dept. of Administration with power to appoint a budget and review commission in any city or town was not violative of home rule amendment. Although implementation of statute might affect each town differently, statute, on its face, applied equally to all. Also statute did not alter town's form of government, but merely had an incidental, temporary impact.
- 1994            **PROVIDENCE CITY COUNCIL v. CIANCI, JR.**            650 A.2d 499
- City ordinance requiring ratification of collective bargaining agreements by city council was not in contravention of home rule charter. It was not inconsistent with provision in charter which instructed director of personnel to aid mayor in negotiations with collective bargaining unit.
- 1995            **RETIREMENT BD. of EMPLOYEES' RETIREMENT SYST. v. CITY COUNCIL of CITY of PROVIDENCE**            660 A.2d 721
- The statutes granting the retirement board the authority to invest pension funds were superseded by the home rule charter. The source of the board's authority to invest was not the charter, and, thus, the city council could transfer that authority by ordinance without voter approval.
- 1996            **WARWICK MALL TRUST v. STATE OF RHODE ISLAND**            684 A.2d 252
- Legislation authorizing Economic Development Corporation and city to enter into long-term tax exemption agreement was within general assembly's exclusive reserved power to authorize local taxation, and home rule provision did not require local voter approval.
- 1997            **PROV. TEACHERS UNION v. PROVIDENCE SCHOOL BD.**            689 A.2d 388
- Under home rule charter and other pertinent ordinances, the city council, as the ultimate arbiter of school expenditures, was vested with the final authority to ratify or reject the contract negotiated by the school board and teachers union.

- 1997            **PROVIDENCE TEACHERS UNION v. NAPOLITANO**            690 A.2d 855
- Home rule charter provision requiring all city employees, including those of the school department, to be residents of the city during their employment has never been applied to substitute teachers.
- 1998            **TOWN of WEST WARWICK v. LOCAL 2045, AFSCME**            714 A.2d 613
- Issue of termination of employee was not arbitrable because charter required termination. Charter, as ratified by the legislature, had same force and effect as a statute and, therefore, any dispute relating to its terms was not arbitrable.
- 1998            **HOURIHAN v. TOWN of MIDDLETOWN**            723 A.2d 790
- Under the charter the town council has the power to enact ordinances for the preservation of the public peace, health, safety, comfort and welfare. Ordinances prohibiting the riding of horses on public beaches during the summer months fall within the authorization granted by the above charter provision.
- 1999            **PROV. LODGE NO. 3 FRATERNAL ORDER of POLICE v. CITY of PROVIDENCE; CITY of PROVIDENCE v. PROV. FIREFIGHTERS, LOCAL 799**            730 A.2d 17
- The Municipal Police Arbitration Act and the Firefighters Arbitration Act are acts of general application that supersede an inconsistent home rule charter provision. Ordinances adopted pursuant to a charter provision do not have the same limiting effect as state statutes on an interest arbitration panel.
- 1999            **MUNROE v. TOWN of EAST GREENWICH**            733 A.2d 703
- Development and Subdivision Review Enabling Act, which requires city and town councils to empower planning boards to control land development, was act of general application that would supersede inconsistent home rule charter provision directing town council to act as planning board. Local legislation embodied in charter, ordinance or other regulation is preempted by statewide legislation if local legislation disrupts state's overall scheme of regulation.
- 2000            **TOWN of LINCOLN v. CITY of PAWTUCKET**            745 A.2d 139
- Remediation of pollution of Narragansett Bay is a matter of statewide concern. Home rule provisions are not implicated, since the legislature reserves the power to act upon matters of statewide concern.



2002                    **STATE ex rel TOWN of RICHMOND v. ROODE**                    812 A.2d 810

Cities and towns have limited power to enact ordinances, except by virtue of those powers from time to time delegated to them by the legislature. A legislative grant of municipal power to exercise a portion of the state's sovereignty should be strictly construed.

2003                    **SKOLNIK v. MANSOLILLO**                    826 A.2d 91

The retirement board was not authorized to retain its own lawyer separate from the city solicitor under the city charter. If the provision of city's home rule charter which described a retirement board is inconsistent with the Retirement Act then the Retirement Act is superseded by the charter.

2004                    **KRIVITSKY v. TOWN of WESTERLY**                    849 A.2d 359

Mere fact that the General Assembly regulates a particular activity (aeronautics) does not mean that municipalities cannot impose additional restrictions that address legitimate local concerns.

2004                    **COASTAL RECYCLING, INC. v. CONNORS**                    854 A.2d 711

State statute which required towns to designate purchasing officer to exercise powers regarding competitive bidding did not preempt municipal ordinance which required town council's approval of any public bid, and council could reject officer's award of contract to lowest bidder which had failed to comply with bid requirements. The legislature did not intend to occupy the field by creating a uniform system to award municipal contracts. Such an interpretation strips town councils of any opportunity to review major decisions that will cost their municipality a significant amount of money.

2005                    **KELLS v. TOWN of LINCOLN**                    874 A.2d 204

Town charter provided that police chief be appointed for an indefinite term. While an indefinite term of employment was traditionally associated with at-will employment, town charter provision required that removal of police chief be in accordance with other provisions of charter which included the "when necessary for the good of the services" standard for removal. This standard required legally sufficient cause to be shown, rather than allowing town administrator to remove officers and employees at town administrator's own discretion.

2005                    **STATE ex rel TOWN of WESTERLY v. BRADLEY**                    877 A.2d 601

Home rule town had authority to prohibit swimming in breachway connecting pond to ocean. The ordinance did not infringe on the regulatory prerogatives of the Coastal Resources Management Council, and it related directly to preserving the public peace, safety, comfort and welfare, and was authorized by the charter.

2005                    **STEWART v. SHEPPARD**                    885 A.2d 715

Town charter provision permitting town administrator to serve as finance director did not make positions of town administrator and finance director coterminous, such that, upon the election of new town administrator, the finance director position held by incumbent appointed by prior administrator became vacant by operation of law. The town administrator would need to follow the charter's procedures for removing finance director from office, which involved referral of charges to town council.

2006                    **TOWN of JOHNSTON v. SANTILLI**                    892 A.2d 123

The school department is defined as a municipal body. The town charter which requires the town solicitor to represent "all departments, offices and agencies of the town" applies to the school committee, and prohibits it from retaining independent legal counsel unless the town solicitor is unable to represent the school committee because of ethical considerations.

2008                    **PROV. LODGE NO. 3, FRATERNAL ORDER of POLICE v. PROVIDENCE EXTERNAL REVIEW AUTHORITY**                    951 A.2d 497

City ordinance, that allowed for investigation of members of the city's police department and for the making of recommendations to the police chief regarding discipline, did not violate the home rule amendment. The ordinance, which limited the Providence External Review Authority to investigations and recommendations as a way of providing oversight of the city's police department, did not interfere with the power the general assembly granted to the police chief to actually impose discipline pursuant to the Law Enforcement Officers' Bill of Rights.

2009                    **FELKNER v. CHARIHO REGIONAL SCHOOL COMMITTEE**                    968 A.2d 865

Petitioner sought to retain rightful title to the office of member of the Chariho Regional School Committee despite having taken the oath of office as councilman for the Town of Hopkinton. The town charter clearly prohibits dual office holding by elected officials such as members of the Chariho Regional School Committee, therefore, the position on the school committee terminated by operation of law when the oath of office was taken to become a member of the Hopkinton Town Council.

- 2009            **VIVEIROS v. TOWN of MIDDLETOWN**            973 A.2d 607
- The State Constitution contemplates only one method of altering a home rule charter once it is adopted, and that is through the amendment process contained in Article 13 – section 8, which encompasses all changes both minimal and significant. Replacement of a town’s existing charter cannot be accomplished through the petition process created by section 6 of Article 13 of the State Constitution.
- 2010            **FOSTER-GLOCESTER REGIONAL SCHOOL BUILDING COMMITTEE v. SETTE**            996 A.2d 1120
- The Gloucester Town Charter did not empower the Gloucester Town Council to remove members of the Regional School Building Committee because, although the town charter grants the town council the authority to remove members of the boards, commissions, and committees of the Town of Gloucester, the Regional School Building Committee is not a board, commission or committee of the Town.
- 2011            **MOREAU v. FLANDERS, APPOINTED RECEIVER for the CITY of CENTRAL FALLS**            15 A.3d 565
- Allowing the Director of the Rhode Island Department of Revenue to appoint a receiver to conduct a city’s affairs in a fiscal emergency did not violate the home rule provisions of the Rhode Island Constitution because the act was an enactment of general application, and it did not alter the city’s form of government as the receiver’s powers were contained and channeled by the following: (1) standards setting forth a deliberate and progressive mechanism by which the city was provided with varying levels of support and control depending on the circumstances; (2) the Director of Revenue’s ability to remove the receiver and terminate the receivership; and (3) subjecting the receiver to administering any and all delegated powers in accordance with the act’s stated policy purpose.
- 2011            **NORTH END REALTY, LLC v. MATTOS**            25 A.3d 527
- This case involved enforcement of town ordinances that provided for the imposition of “fees-in-lieu” of undertaking the construction of affordable housing, in an effort to increase availability of affordable housing in accordance with the “Rhode Island Low and Moderate Income Housing Act”. Before a municipality may impose a “fee-in-lieu” on developers it must have specific statutory authorization from the General Assembly. The imposition of the “fee-in-lieu” constitutes an action ultra vires of the authority delegated by the home rule charter to the town council due to the fact that the council was not exercising its authority over purely local concerns.