

# NATIONAL SECURITY LETTERS

## Brighton, NY

Passed on March 28, 2007

WHEREAS, the Board of the Town of Brighton recognizes the Constitution of the United States as the supreme law of the nation and that the Bill of Rights enshrines the fundamental and inalienable rights of Americans, and

WHEREAS, attacks against the United States such as those that occurred on September 11, 2001, have necessitated the crafting of laws to protect the public from terrorist attacks but, at the same time, those laws must not infringe on the civil liberties and rights of innocent people as guaranteed in the Constitution and Bill of Rights, and

WHEREAS, the USA PATRIOT Act was enacted by Congress on October 26, 2001 and re-authorized in March 2006, and

WHEREAS, within the USA PATRIOT Act are provisions expanding the scope of national security letters (“NSL”), an administrative subpoena primarily issued by the FBI compelling third parties to turn over certain information without court approval, and the scope of warrants for the production of “tangible things”, issued by a secret court created by the Foreign Intelligence Surveillance Act (“215 orders”), and

WHEREAS, provisions of the USA PATRIOT Act prohibited indefinitely the recipients of NSLs and 215 orders from disclosing the contents of the notices and the very fact that they had received the notices; and

WHEREAS, following much criticism and two adverse court decisions, Congress on March 2006, amended the provisions pertaining to NSLs and 215 orders to allow the recipient of a NSL or a 215 order to challenge the validity of the NSL or the 215 order in court and to allow the recipient to challenge the gag in court; and

WHEREAS, questions persist about the constitutionality of the provisions pertaining to NSLs and 215 orders, as amended, because to prevail in a challenge a recipient must meet a high burden of proof and no exchanges of information, even those between attorney and client and physician and patient are deemed confidential; and

WHEREAS, the Town of Brighton collects and retains many sensitive and nonpublic records which the federal government could seek by the means of NSL or 215 order, and desires to ensure that the constitutional rights of Town residents, employees and other persons using Town facilities and services are safeguarded.

THEREFORE, BE IT RESOLVED that

1. The Board of the Town of Brighton supports the government of the United States of America in its campaign against terrorism and affirms its commitment that the campaign not be waged at the expense of civil liberties of the people of this country and community.
2. The supervisor shall prepare guidelines similar to the guidelines drafted by the American Library Association and reflecting any changes based on the reenactment of the USA Patriot Act, in order to educate the employees of the Town on how to respond to inquiries from law enforcement, the Federal Bureau of Investigation, the Central Intelligence Agency, and any other government intelligence agency seeking nonpublic information collected and retained by the Town.
3. The Town shall critically examine any NSL that it may receive to determine if compliance would be unlawful and if so, the town shall consider a challenge to the validity of the NSL in court.
4. If the Town receives a NSL which contains a statement prohibiting it from disclosing to any person, other than the attorney for the Town, that the issuer of the NSL is seeking certain information, the Town shall consider challenging the prohibition in court. The Town may decide to challenge the prohibition even though it decides not to challenge the validity of the NSL.
5. The Town shall examine any 215 order that it may receive to determine if it was lawfully issued, and if it was not, the town shall consider a challenge to the validity of the 215 order in court.
6. If the Town receives a 215 order, the Town shall consider challenging the prohibition on disclosure in court, after one year has elapsed if such delay mandated under the reenacted Act is determined to be constitutional. The Town may decide to challenge the prohibition even though it decides not to challenge the validity of the 215 order.
7. The Town Board of the Town of Brighton urges its Congressional representatives to address concerns about these provisions in the USA PATRIOT Act, as amended, and other statutes that infringe on civil liberties and to oppose pending and future legislation to the extent that it unconstitutionally infringes on the rights and liberties of the people of the United States.

Dated: March 28, 2007

Sandra L. Frankel, Supervisor

Voting

Sherry S. Kraus, Councilperson

Voting

James R. Vogel, Councilman

Voting

Louise Novros, Councilperson

Voting

Raymond J. Tierney III, Councilman

Voting