

July 27, 2010

VIA U.S. MAIL, EMAIL, & FACSIMILE

Mr. Jeffrey Budd, City Manager
City of Coldwater
Henry L. Brown Municipal Building
One Grand Street
Coldwater, MI 49036
jbudd@coldwater.org
Fax: (517) 278-2947

Re: *Common Sense Patriots of Branch County Request to Display a Banner at the Four Corners Park*

Dear Mr. Budd:

The Common Sense Patriots of Branch County (hereinafter "Patriots") and a founding member, Ms. Barbara Brady, have asked the Thomas More Law Center, a national, public interest law firm based in Ann Arbor, Michigan (www.thomasmore.org), to assist them regarding the above referenced matter.

It has come to our attention that you, in your official capacity as City Manager, denied the Patriots the right to display at the Four Corners Park a banner advertising the 6th Branch County TEA Party. The Patriots requested that the banner be displayed this week thru July 31, 2010.

There can be no doubt that the Patriots' banner is speech protected by the First Amendment. Indeed, the U.S. Supreme Court "has recognized that expression on public issues 'has always rested on the *highest rung* of the hierarchy of First Amendment values.' '[Speech] concerning public affairs is more than self-expression; *it is the essence of self-government.*'" *NAACP v. Claiborne Hardware Co.*, 458 U.S. 886, 913 (1982) (citations omitted) (emphasis added).

Moreover, the Four Corners Park is a traditional public forum under the U.S. Supreme Court's First Amendment forum analysis. *Cornelius v. NAACP Legal Def. & Educ. Fund*, 473 U.S. 788, 800 (1985) ("The [Supreme] Court has adopted a forum analysis as a means of determining when the Government's interest in limiting the use of its property to its intended purpose outweighs the interest of those wishing to use the property for [expressive] purposes."). Public parks "have immemorially been held in trust for the use of the public and, time out of mind, have been used for purposes of assembly, communicating thoughts between citizens, and discussing public questions." *Hague v. CIO*, 307 U.S. 496, 515 (1939).

Consequently, in a traditional public forum the government's ability to restrict speech is sharply limited. The government may enforce content-neutral, time, place, and manner regulations of

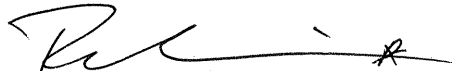
speech if the regulations are narrowly tailored to serve a significant government interest and leave open ample alternative channels of communication. *Perry Educ. Ass'n v. Perry Local Educators*, 460 U.S. 37, 45 (1983). Content-based restrictions on speech, however, are subject to strict scrutiny. *Cornelius*, 473 U.S. at 802. That is, “speakers can be excluded from a public forum only when the exclusion is necessary to serve a compelling state interest and the exclusion is narrowly drawn to achieve that interest.” *Id.* For “[i]t is axiomatic that the government may not regulate speech based on its substantive content or the message it conveys.” *Rosenberger v. Rector & Visitors of the Univ. of Va.*, 515 U.S. 819, 828 (1995).

Your content-based restriction on the Patriots’ speech cannot survive constitutional scrutiny. Consequently, we demand that you immediately reverse your unconstitutional decision. Should you choose to reject or ignore this demand, we will advise our clients of their legal rights, including their right to seek redress for the violation of their constitutional rights in federal court.

Please know that your denial has *already* caused a constitutional injury. See *Elrod v. Burns*, 427 U.S. 347, 373 (1976) (“The loss of First Amendment freedoms, *for even minimal periods of time*, unquestionably constitutes irreparable injury.”) (emphasis added). Therefore, ***a prompt response is requested.***

Sincerely,

THOMAS MORE LAW CENTER



Robert J. Muise, Esq.
Senior Trial Counsel

cc: Mayor Eugene F. Wallace
Fax: (517) 278-2947