



GOVERNOR GREG ABBOTT

December 22, 2015

Mr. John Sneed
Executive Director
State Preservation Board
201 East 14th Street, Suite 950
Austin, Texas 78701

Dear Mr. Sneed:

It has come to my attention that State Preservation Board staff approved an application by the "Freedom From Religion Foundation" to display an exhibit on the ground floor of the Capitol. The exhibit is entitled "Bill of Rights [N]ativity and Winter Solstice [D]isplay." The exhibit places the bill of rights in a manger and shows three founding fathers and the Statue of Liberty worshipping one of America's founding documents as a replacement for Jesus Christ. This juvenile parody violates the Preservation Board's regulations and should be removed immediately.

Regulations governing the State Preservation Board authorize the approval only of those Capitol exhibits that promote a "public purpose." 11 TEX. ADMIN. CODE § 111.13(c)(2). The regulations speak directly to the standard for promoting a "public purpose":

The promotion of the public health, education, safety, morals, general welfare, security, and prosperity of all of the inhabitants or residents within the state, the sovereign powers of which are exercised to promote such public purpose or public business. The chief test of what constitutes a public purpose is that the public generally must have a direct interest in the purpose and the community at large is to be benefitted. This does not include activities which promote a specific viewpoint or issue and could be considered lobbying. Political rallies, receptions, and campaign activities are prohibited in the public areas of the Capitol.

Id. § 111.13(a)(3). The "Bill of Rights Nativity" violates this legal standard in three ways.

First, far from promoting morals and the general welfare, the exhibit deliberately mocks Christians and Christianity. The Biblical scene of the newly born Jesus Christ lying in a manger in Bethlehem lies at the very heart of the Christian faith. Subjecting an image held sacred by millions of Texans to the Foundation's tasteless sarcasm does nothing to promote morals and the general welfare. To the contrary, the Foundation's spiteful message is intentionally designed to belittle and offend, which undermines rather than promotes any public purpose a display

promoting the bill of rights might otherwise have had. The Board has allowed and should continue to allow diverse viewpoints to be expressed in Capitol displays. But it has no obligation to approve displays that purposefully mock the sincere religious beliefs of others.

Second, the exhibit does not educate. According to the Freedom From Religion Foundation's application, the purpose of the exhibit is "to educate the public about the religious and nonreligious diversity within the State." But the exhibit does not depict *any* other religion, much less does it promote religious "diversity." And it promotes "nonreligious diversity" only insofar as it mockingly depicts Christians' religious worship. This is not an exhibit that spreads a secular message in an effort to educate the public about nonreligious viewpoints; it instead denigrates religious views held by others. There is nothing "educational" about that.

To the contrary, the exhibit promotes ignorance and falsehood insofar as it suggests that George Washington, Benjamin Franklin, and Thomas Jefferson worshipped (or would worship) the bill of rights in the place of Jesus. To take just one example, consider this passage from George Washington's prayer journal:

Direct my thoughts, words and work, wash away my sins in the immaculate blood of the lamb, and purge my heart by thy holy spirit, from the dross of my natural corruption, that I may with more freedom of mind and liberty of will serve thee, the ever lasting God, in righteousness and holiness this day, and all the days of my life. Increase my faith in the sweet promises of the gospel; give me repentance from dead works; pardon my wanderings, & direct my thoughts unto thyself, the God of my salvation; teach me how to live in thy fear, labor in thy service, and ever to run in the ways of thy commandments; make me always watchful over my heart, that neither the terrors of conscience, the loathing of holy duties, the love of sin, nor an unwillingness to depart this life, may cast me into a spiritual slumber, but daily frame me more into the likeness of thy son Jesus Christ, that living in thy fear, and dying in thy favor, I may in thy appointed time attain the resurrection of the just unto eternal life bless my family, friends & kindred unite us all in praising & glorifying thee in all our works begun, continued, and ended, when we shall come to make our last account before thee blessed saviour, who hath taught us thus to pray, our Father . . .¹

Those are hardly the words of a man who would think of a document—however important it is—as a substitute for faith in God.

Third, the general public does not have a "direct interest" in the Freedom From Religion Foundation's purpose. That organization is plainly hostile to religion and desires to mock it—or, more accurately, to mock our Nation's Judeo-Christian heritage. But it is erroneous to conflate the foundation's private purpose with the public's purpose. If the Foundation simply wanted to promote the Bill of Rights or even to promote the supposed virtues of secularism, its effort might

¹ See WILLIAM JACKSON JOHNSTONE, *GEORGE WASHINGTON, THE CHRISTIAN* 24-35 (1919).

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have some public purpose. But it is hard to imagine how the general public *ever* could have a direct interest in mocking others' religious beliefs.

In that regard, experience from the National Endowment for the Arts ("NEA") is instructive. The NEA awarded a \$15,000 grant for a photograph of a crucifix immersed in a jar of urine. Congress immediately enacted statutory changes to ensure that the NEA would not dedicate public funds to "art" that violated "general standards of decency and respect for the diverse beliefs and values of the American public." In upholding the constitutionality of the federal law, the Supreme Court of the United States emphasized that governments have no obligation to provide support for indecent or disrespectful "art." That is just as true for the State of Texas as it was for Congress. The Constitution does not require Texas to allow displays in its Capitol that violate general standards of decency and intentionally disrespect the beliefs and values of many of our fellow Texans.

As Chairman of the State Preservation Board, I urge you to remove this display from the Capitol immediately.

Sincerely,

A handwritten signature in black ink that reads "Greg Abbott". The signature is written in a cursive, flowing style.

Greg Abbott
Governor