

FREEDOM FROM RELIGION *foundation*

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December 8, 2010

**SENT VIA U.S. MAIL & FAX
(731) 254-8012**

The Honorable James Bellar
Town of Whiteville
158 E Main St
Whiteville TN 38075

Re: Display of Cross on Government Property

Dear Mayor Bellar:

I am writing on behalf of a concerned Whiteville resident and taxpayer, and other Tennessee members of the Freedom From Religion Foundation ("FFRF") who object to the display of a cross on public property. FFRF is a nationwide nonprofit organization, which works to protect the constitutional principle of separation between state and church. We represent over 16,000 members across the country, including nearly 200 in Tennessee.

It is our information and understanding that a cross sits on top of the Whiteville water tower. We also understand that this cross is illuminated at night, making the display even more noticeable to all Whiteville citizens and passersby. Enclosed for your review is a copy of a photo of the cross on the water tower.

The religious significance of the Latin cross is unambiguous and indisputable. "The Latin cross... is the principal symbol of Christianity around the world, and display of the cross alone could not reasonably be taken to have any secular point." *Capitol Square Review and Advisory Bd. v. Pinette*, 515 U.S. 753, 792 (1995)(Souter, J., concurring). An overwhelming majority of federal courts agree that the Latin cross universally represents the Christian religion, and only the Christian religion. See, e.g., *Separation of Church and State Comm. v. City of Eugene*, 93 F.3d 617, 620 (9th Cir. 1996)("There is no question that the Latin cross is a symbol of Christianity, and that its placement on public land...violates the Establishment Clause") *Harris v. City of Zion*, 927 F.2d 1401, 1412 (7th Cir. 1991)("a Latin cross...endorses or promotes a particular religious faith. It expresses an unambiguous choice in favor of Christianity.") cert. denied, 505 U.S. 1218 (1992); *ACLU of Ill. v. City of St. Charles*, 794 F.2d 265, 271 (7th Cir. 1986)("When prominently displayed...the cross dramatically conveys a message of governmental support for Christianity, whatever the intentions of those responsible for the display may be. Such a display is not only religious but sectarian.") cert. denied, 479 U.S. 961 (1986).

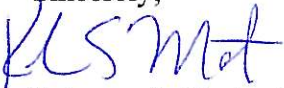
A majority of federal courts has held displays of Latin crosses on public property to be an unconstitutional endorsement of religion. *See, e.g., Buono v. Norton*, 371 F.3d 543, 550 (9th Cir. 2004); *Carpenter v. City and County of San Diego*, 93 F.3d 627,632 (9th Cir. 1996); *Friedman v. Bd. of County Comm'rs*, 781 F.2d 777, 778 (10th Cir. 1985)(en banc); *ACLU v. Rabun County Chamber of Commerce*, 698 F.2d 1098, 1111 (11th Cir. 1983); *ACLU v. Eckels*, 589 F. Supp. 222, 241 (S.D. Tex. 1984). While most of the aforementioned cases involved the display of a Latin cross in public parks, the display on any government property would also violate the Establishment Clause. Justice Kennedy has stated, "I doubt not, for example, that the Clause forbids a city to permit a permanent erection of a large Latin cross on the roof of city hall..." *Allegheny* at 661. (1989)(Kennedy J., concurring in part, dissenting in part). Such a religious display "would place the government weight behind an obvious effort to proselytize on behalf of a particular religion." *Id.*

No court of final resort has ever upheld the government's permanent display of a Latin cross on public land as constitutional. The inherent religious significance of the Latin cross is undeniable and is not disguisable. No secular purpose, no matter how sincere, will detract from the overall message that the Latin cross stands for Christianity and the overall display promotes Christianity. The display of this patently religious symbol on the City water tower confers government endorsement of Christianity, a blatant violation of the Establishment Clause.

It is unlawful for the Town of Whiteville to display a patently religious symbol such as a Christian cross on public property. The Whiteville cross, displayed on the Town water tower, unabashedly creates the perception of government endorsement of Christianity. It conveys the message to the twenty-six percent of the U.S. population who are not Christians that they are not "favored members of the political community." *Allegheny v. ACLU of Pittsburgh*, 492 U.S. 573, 594. The cross has an exclusionary effect, making non-Christian and non-believing residents of Whiteville political outsiders.

We ask you to remove the cross from Whiteville property immediately or direct the display be moved to a more appropriate private location. We would appreciate hearing from you at your earliest convenience, in writing, informing us of the steps the Whiteville will take to resolve this egregious violation. Our complainant awaits action.

Sincerely,



Rebecca S. Markert
Staff Attorney

