

FREEDOM FROM RELIGION *foundation*

P.O. BOX 750 · MADISON, WI 53701 · (608) 256-8900 · WWW.FFRF.ORG

November 16, 2018

SENT VIA EMAIL AND U.S. MAIL:
david.reifman@cityofchicago.org

David L. Reifman
Commissioner
Dept. of Planning and Development
121 N. LaSalle St. 10th Floor
Chicago, IL 60602

Re: Unconstitutional religious use of DPD funds

Dear Mr. Reifman:

I am writing on behalf of the Freedom From Religion Foundation to alert you to an unconstitutional use of DPD funds. FFRF is a national nonprofit organization with more than 32,000 members across the country, including more than 900 members in Illinois and a local chapter in Chicago. FFRF's purposes are to protect the constitutional principle of separation between state and church, and to educate the public on matters related to nontheism.

A concerned local taxpayer contacted us to report that the Chicago Department of Planning and Development awarded a grant to the First Church of Deliverance, located at 4315 S. Wabash Avenue, under the Adopt-a-Landmark program. Public records related to this grant reveal that the funds will be used to advance the church's religious mission, in violation of both the U.S. and Illinois Constitutions.

Notwithstanding the church's status as a historic landmark, and regardless of the City's intent in allocating funds to repair the church, it is unconstitutional to force Illinois taxpayers to support a religious ministry. We request written assurances that in the future the DPD will not award funds for projects to support ministries or active houses of worship.

The church's application informed the DPD that a grant would advance the church's religious ministry.

When the First Church of Deliverance applied for a grant under the Citywide Adopt-a-Landmark program, the church's application stated that the project "will further the mission of the church."¹ The church explained that the renovations will attract visitors to the church, many of whom the church expects

¹ Quoted pages from the church application are enclosed.

will “remain and become part of the body because they find solace, services and support vital for spiritual and natural growth.”

The funded projects were not limited to external work or structural restoration. The church also received funds for internal restoration, including two painted murals. The church application included a picture of one such mural, showing a plainly religious scene that features Jesus with a Christian cross on a halo.

The church application emphasized:

Adopt-A-Landmark Funds would also boost additional expansion at the church which will provide for the following services:

- Additional administrative offices for choir rehearsal and dressing rooms, a memorial wing and museum, full sized gymnasium and state of the art dining facility and commercial kitchen;
- **After School Tutoring Ministry** which will provide one-on-one tutoring services and afterschool activities for all ages.²

The City directly cited the expansion of this after-school ministry as a justification for taxpayer funding. One of the “Funding Priorities” listed on the Citywide Adopt-a-Landmark Fund Project Summary to the church is “Projects that will have a positive, catalytic impact on the community” The document notes that the church fulfills this priority because it “Anticipate[s] being able to **expand and re-engage after school programs**”³

The same document also noted that DPD funding would expand church attendance. Another “Funding Priority” is to “improve [building’s] occupancy,” which the City noted as being fulfilled because “Existing occupied church, **project will improve attendance** and programming with safety compliance.”

Finally, please note that the church’s designation as a city landmark does not change the fact that the church is first and foremost a religious ministry. In fact, the 1994 document designating the church with landmark status justified the definition, in part, on the church’s wide-reaching proselytizing:

WHEREAS, First Church of Deliverance has features prominently in the history of Christian broadcasting, being a pioneer in using the medium of radio to further its religious mission;

WHEREAS, The founder and pastor of First Church of Deliverance, the Reverend Clarence Cobbs, was one of the most popular and inspirational

² Emphasis added.

³ See enclosed document titled *Citywide Adopt-a-Landmark Fund Project Summary* (emphasis added).

ministers of his day, becoming the most widely followed radio preacher in Chicago and the United States.⁴

In short, the First Church of Deliverance told the City that awarding taxpayer funds to the church would directly support its religious ministry. After reviewing the application, the City considered the expansion of religious church programs as factors weighing *in favor of* awarding the requested taxpayer funds to the church.

Using taxpayer funds to support a ministry is unconstitutional.

The \$228,000 grant to the First Church of Deliverance violates both the U.S. and Illinois Constitutions. The DPD must withhold any taxpayer funds not already given to the church. The DPD should amend its policies to ensure that similar violations do not occur in the future.

First and foremost, the Establishment Clause of the First Amendment prohibits the government from financially supporting religious activities. *See, e.g., Comm. For Pub. Educ. And Religious Liberty v. Nyquist*, 413 U.S. 756, 778–79 (1973) (striking down government-subsidized maintenance and repair of nonpublic schools); *Lemon v. Kurtzman*, 403 U.S. 602, 625 (1971) (holding that government aid to nonpublic education impermissibly entangled the government with religion, even when limited to secular subjects); *Tilton v. Richardson*, 403 U.S. 672 (1971) (holding unanimously that government construction subsidies are unconstitutional if the buildings are ever used for religious activities). The DPD grant to the First Church of Deliverance supports religious activities by paying for integral elements of a house of worship, both internal and external, and restoring religious artwork.

The Seventh Circuit Court of Appeals, which has jurisdiction over Illinois, has applied this principle to strike down government funding that supported religious activities, regardless of the government’s secular intent. FFRF successfully challenged a Wisconsin program involving grants to private religious schools, even though the purpose of those grants was secular in nature. *FFRF v. Bugher*, 249 F.3d 606 (7th Cir. 2001). *See also Wirtz v. City of S. Bend*, 813 F.Supp.2d 1051, 1068 (N.D. Ind., 2011) (striking down a land transfer to a religious school by a 7th Circuit district court because “A well-informed and reasonable nonadherent would see the below-market transfer as a direct endorsement of a particular religion.”).

Aside from the federal Constitution, the Illinois Constitution contains a “No Aid” clause that creates even stronger taxpayer protections against being forced to support religion: “No person shall be required to attend **or support any ministry or place of worship** against his consent, nor shall any preference be given by law to any religious denomination or mode of worship.” ILL. CONST. Art.

⁴ Relevant page of document granting the church landmark status enclosed.

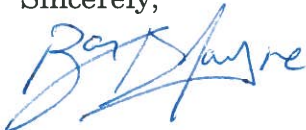
I § 3. It also states broadly that “Neither the General Assembly nor any . . . city . . . shall ever make any appropriation or pay from any public fund whatever, anything in aid of any church . . . nor shall any grant or donation of land, money, or other personal property ever be made by the State, or any such public corporation, to any church, or for any sectarian purpose.” ILL. CONST. Art. X § 3 (emphasis added to each). Supporting a ministry through a grant to a church is exactly what occurred here, in plain violation of these provisions.

The Illinois Constitution’s “No Aid” clause is similar to a provision in the New Jersey Constitution that was written in 1776. N.J. CONST. art. I, ¶ 3. Earlier this year, the New Jersey Supreme Court *unanimously* held that grants totaling more than \$4.6 million to repair twelve historic churches violated the state’s No Aid clause. *Freedom From Religion Found. v. Morris Cty. Bd. of Chosen Freeholders*, No. 079277, slip op. at 3–4; 12–52 (Apr. 18, 2018) (cert. petition pending). The Illinois Constitution similarly provides taxpayers with the assurance that they will not be compelled to support a place of worship for a religion they do not adhere to.

Please note that the Supreme Court’s 2017 decision, *Trinity Lutheran v. Comer*, 137 S. Ct. 2012, does not prohibit the DPD from excluding active houses of worship from its Adopt-a-Landmark program. The New Jersey Supreme Court’s unanimous *Morris County* decision thoroughly analyzed the scope of *Trinity Lutheran* and concluded that it was permissible for New Jersey to exclude active houses of worship from its historic preservation program because “the Churches are not being denied grant funds because they are religious institutions; they are being denied public funds because of what they plan to do—and in many cases have done: use public funds to repair church buildings so that religious worship services can be held there.” *Morris Cty.*, slip op. at 44–45.

FFRF requests assurances that future DPD grants will not be awarded to repair or support active houses of worship. Any funds not already given to the First Church of Deliverance must be withheld. Please respond in writing at your earliest convenience with the steps taken to address this serious constitutional violation.

Sincerely,



Ryan D. Jayne
Staff Attorney

Enclosure

Phase II - Interior (Interior open to the public) – Projected plan for 9 Months

- **Painting Restoration - \$54,384.00**
 - Visible cracks, flaking paint, varnish drips and grime
 - Estimated Start Date: July, 2018
 - Estimated End Date: August, 2018
- **Painting Restoration - \$43,507.20**
 - Visible cracks, flaking paint, varnish drips and grime
 - Estimated Start Date: August, 2018
 - Estimated End Date: September, 2018
- **6 Wood Doors Restoration- \$53,148.00**
 - Large and multiple splits, iron stains, chipped sections, etc.
 - Estimated Start Date: September, 2018
 - Estimated End Date: March, 2019
- **Laboratory Materials Fee applied - \$7,700.00**

Sub Total = \$158,739.20

Total for Phase I (Front Façade) & Phase II (Public Interior) = \$363,354.90

Phase III – Side Facade (Less visible from public street) – Projected plan for 3 Months

- **Masonry Wall Rebuilding \$135,220.20 – August, 2018**
 - Poor condition from weather; failures in roofing
- **Masonry Wall Repointing \$35,253.60 – September, 2018**
 - Poor condition and needs repointing
- **Chimney Restoration \$16,916.40 – October, 2018**
 - Poor condition from weather; failures in roofing

Sub Total = \$187,390.20

Grand Multi-Phase Project Total = \$550,745.10

Please note, the projected timeline will be impacted if there are funding/contracting delays or incimate weather over the project period. Our office will work with the Department of Planning and Development to provide real-time updates and document the need for any revisions.

Project	4 th Quarter (Oct-Dec) 2017	1 st Quarter (Jan-Mar) 2018	2 nd Quarter (Apr-June) 2018	3 rd Quarter (July-Sept.) 2018	4 th Quarter (Oct-Dec.) 2018	1 st Quarter (Jan-Mar) 2019
Phase I:						
Phase II:						
Phase III:						

III. Why Adopt-A-Landmark Funds are Needed:

Vital support provided through the Adopt-A-Landmark Fund will allow us to restore this unique house of worship back to an immaculate condition which will further the mission of the church, continue expansion of needed services to the community, and allow

FCD to remain a beacon of pride in the Bronzeville area. We invite all to come and hear about the rich heritage and legacy of FCD and to join in with the fellowship of believers. While one can enjoy the splendor of the church, its history and legacy, many remain and become part of the body because they find solace, services and support vital for spiritual and natural growth. They find assistance with employment, food, education and housing—all important aspects for surviving and thriving. Therefore, we see restoration and conservation of this church to be a needed priority and therefore respectfully request this support. This will make a positive impact on the life and future of the church, its members, and community residents.

Adopt-A-Landmark Funds would also boost additional expansion at the church which will provide for the following services:

- Additional administrative offices for choir rehearsal and dressing rooms, a memorial wing and museum, full sized gymnasium and state of the art dining facility and commercial kitchen;
- After School Tutoring Ministry which will provide one-on-one tutoring services and afterschool activities for all ages;

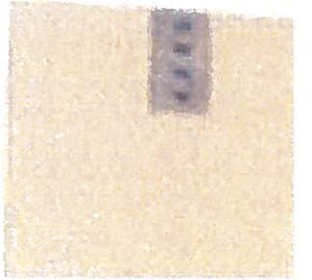
FCD understands the responsibility it has to God and man to ensure accountability and stewardship of funds. FCD has a mature and hard-working board that has demonstrated business acumen. The church has implemented new software/hardware to assist with the delivery of internal controls. The work conducted by First Church of Deliverance is indeed vital.

We will endeavor to continue to work in partnership with the Department of Planning and Development and the City of Chicago on our ongoing restoration/preservation efforts to ensure we uphold the prestigious landmark status for FCD and the broader community.

Sincerely,

Rev. James R. Bryson Jr.

Reverend James R. Bryson, Jr.
Pastor



Citywide Adopt-a-Landmark Fund Project Summary

Property Address: **4315 S. Wabash**
 Landmark: **First Church of Deliverance**
 Ward: **3**
 Property Owner: **First Church of Deliverance**
 Primary Contact: **Pastor James R. Bryson Jr.**
 Grant: **\$228,000**
 Total Project Cost: **\$550,745.10**
 Scope of Work: **Exterior masonry repair/replacement, window repair/replacement, mural/door restoration**

Funding Priorities

(Established by DPD and approved by CCL):

Projects that have not been completed and that address exterior envelope issues	Yes. Exterior masonry repairs and window replacement to match historic configuration
Properties that are individually designated as Chicago Landmarks	Yes
Projects that leverage additional project investment such that the requested Adopt-a-Landmark funds fill financing gaps	Owner has funds for the remainder of the project costs, Adopt-a-Landmark grant will fill the gap
Projects that will have a positive, catalytic impact on the community in which they are located. The impact may be in the form of new permanent jobs created, commercial leasing to new businesses, providing new services (e.g. soup kitchen, adult education/training, after school programs, child care services), etc.	Anticipate being able to expand and re-engage after school programs, increase feeding program and expanding housing services
Projects that address /prevent further deterioration of the subject property's structural and architectural integrity caused by natural misfortune (storm damage, fire, flooding, etc.), or buildings that are situationally threatened as determined on a case-by-case basis	Project will address ongoing exterior wall and water infiltration condition issues
Projects that will rehabilitate vacant or underutilized buildings to make them ready for occupancy or improve their occupancy. This may include an interior and exterior scope of work with Adopt-a-Landmark funds to be used for qualified exterior work	Existing occupied church, project will improve attendance and programming with safety compliance
Projects that are "shovel ready" and will be completed in 2 years	Project will start in 2018, estimated completion by March 2019
Projects that are located within special Qualified Investment Areas	Yes
Adopt-a-Landmark Fund requests that do not exceed \$250,000	\$228,000

WHEREAS, First Church of Deliverance is especially valuable in the cultural heritage of the United States and, in particular, that of the African-American community for its significant role in the development and promulgation of gospel music, and further, for its association with composer-choral arranger-music publisher Kenneth Morris, one of the most influential figures in gospel music; and

WHEREAS, First Church of Deliverance has featured prominently in the history of Christian broadcasting, being a pioneer in using the medium of radio to further its religious mission; and

WHEREAS, The founder and pastor of First Church of Deliverance, the Reverend Clarence Cobbs, was one of the most popular and inspirational ministers of his day, becoming the most widely followed radio preacher in Chicago and the United States; and

WHEREAS, The 1939 design of First Church of Deliverance is one of the premier examples of Art Moderne architecture in Chicago and a rare application of the Art Moderne style for an ecclesiastical structure; and

WHEREAS, The design of First Church of Deliverance is the work of Walter T. Bailey, the first African-American architect registered in Illinois and, further, the work of the well-known African-American artist Fred Jones is featured prominently in the interior; now, therefore,

Be It Ordained by the City Council of the City of Chicago:

SECTION 1. The First Church of Deliverance, located at 4315 South Wabash Avenue, Chicago, Illinois, and legally described as:

Lots 7 and 10 in Block 2 in L. W. Stone's Subdivision of the east 20 acres of the north 30 acres of the west half of the southwest quarter of Section 3, Township 38 North, Range 14, East of the Third Principal Meridian, in Cook County, Illinois (Permanent Index Numbers: 20-3-301-005 and 006),

is hereby designated in its entirety, along with the property on which it stands, as a Chicago landmark. The significant historical and architectural features that make an essential contribution to the qualities and characteristics by which the First Church of Deliverance meets four of the criteria for landmark designation are all exterior aspects of the building (not including the Children's Church, 4317 South Wabash Avenue) and two interior murals, in the entry foyer and behind the main altar.

SECTION 2. The Commission on Chicago Landmarks is hereby directed to create a suitable plaque appropriately identifying said landmark and to affix the plaque to the property designated as a Chicago landmark in accordance with the provisions of Section 2-120-610 (3) of the Municipal Code of Chicago.