

# FREEDOM FROM RELIGION *foundation*

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July 6, 2017

**SENT VIA EMAIL AND U.S. MAIL:  
bmartens@ci.corcoran.mn.us**

Brad Martens  
City Administrator  
8200 County Rd. 116  
Corcoran, MN 55340

Re: Religious programming at City community center

Dear Mr. Martens:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) to alert you to constitutional concerns regarding religious programming at a City-owned community center. FFRF is a national nonprofit organization with more than 29,000 members across the country, including more than 500 members in Minnesota. FFRF's purposes are to protect the constitutional principle of separation between state and church and to educate the public on matters relating to nontheism.

A concerned local resident and taxpayer contacted us to report that the City of Corcoran worked with Maple Hill Estates and Mobile Hope, a local Christian ministry, to secure a Community Development Block Grant through Hennepin County in order to build a community center. We understand that the community center, known as "Hope Center," is owned by the City of Corcoran, but is operated by Mobile Hope.<sup>1</sup>

We understand that many religious events are regularly held at Hope Center.<sup>2</sup> Mobile Hope's website mentions the 2012 "CDBG Grant Award!" as a notable moment in the church's history prior to the 2015 opening of the community center.<sup>3</sup>

The contract between the City and Mobile Hope regarding the community center, titled "AGREEMENT FOR COMMUNITY CENTER PROGRAM MANAGEMENT AND FACILITY CONSTRUCTION" and signed on March 26, 2015, states that "f) The percentage of time the space is used for non-

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<sup>1</sup> [mobilehopemn.org/corcoran-site.html](http://mobilehopemn.org/corcoran-site.html).

<sup>2</sup> See [mobilehopemn.org/](http://mobilehopemn.org/) and [facebook.com/MobileHopeMN/](https://www.facebook.com/MobileHopeMN/).

<sup>3</sup> [mobilehopemn.org/our-history.html](http://mobilehopemn.org/our-history.html).

inherently religious activities must be greater or equal to the percentage of total cost borne by CDBG funding based on the anticipated CDBG funding of \$225,000 (public contribution), and a total build out budget of \$346,078.76 (including the \$18,078.76 contributed between 2012 and 2013 by the City), the anticipated percentage of inherently religious activities may not exceed thirty-five (35) percent of total activity hours.”

Section 2 of the same contract states that “the City must approve the activity list seasonally until five years after the expiration of the Subrecipient Agreement identified in the Community Center Financial and Access Agreement.” Section 5 states that “The City will pay initially for all costs related to the community center construction,” and that “Mobile Hope will be responsible to reimburse the city through donations,” but does not list a payment schedule or interest rate on these funds owed to the City by Mobile Hope.

There are a number of serious constitutional problems with this arrangement between the City and Mobile Hope. First, the community center is a City-owned facility and may not be used for religious activities or to promote religion unless a private party is renting space at the community center and paying the City a reasonable rental rate for use of the space.

In managing the community center, Mobile Hope is carrying out a government function and may not include activities that the City could not itself include, regardless of Mobile Hope’s promise to reimburse the City for 35% of the cost of the facility. The City may not allow a ministry to hold religious activities in a City-owned community center for an amount of time proportional to the ministry’s contribution to the project, because it is still a City-owned building.

Second, even if such a scheme were permissible, the 35% limit far exceeds the church’s contribution to this project because it excludes only the CDBG grant, but not the City’s initial contributions or unreimbursed City payments. There is no justification for treating City funding as though it were private church funding that is not subject to the First Amendment.

Finally, the City’s oversight of the community center’s religious programming is problematic because it entangles the City with church activities. The five-year limit on the City’s oversight is also problematic because it appears that Mobile Hope will no longer be held accountable to its promise to limit religious activities once the City’s oversight ends.

Events at the City’s community center are City-sponsored events and must be secular. The City’s arrangement with Mobile Hope flies in the face of the

Establishment Clause of the First Amendment to the U.S. Constitution and the Minnesota Constitution. The City must disentangle itself from this arrangement with Mobile Hope. The simplest solution would be to prohibit any religious programming or religious promotion at Hope Center unless Mobile Hope rents space at the center for privately sponsored religious events. This must be done on the same term available for other rentals by private groups. If Mobile Hope is unwilling to manage the City's community center in an entirely secular fashion, the City must either replace Mobile Hope as the center's managing organization or sell the facility to Mobile Hope.

The Establishment Clause of the First Amendment prohibits the government from financially supporting churches. *See, e.g., Comm. For Pub. Educ. & 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); *Wirtz v. City of S. Bend*, 813 F.Supp.2d 1051, 1068 (N.D. Ind., 2011) (“A well-informed and reasonable nonadherent would see the below-market transfer as a direct endorsement of a particular religion.”). The City appears to endorse religion when it allows a ministry to promote religion or hold religious programming at a City-owned and government-funded facility outside of a rental arrangement.

Specifically, the government may not fund projects for buildings used for religious purposes. *See 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); *see also Nyquist*, 413 U.S. at 777 (striking down repair grants meant to renovate parochial schools because the buildings were used for sectarian purposes); *Hunt v. McNair*, 413 U.S. 734 (1973) (upholding government construction bond only because the bond-financed buildings were barred from being used for religious activities). Regardless of whether the City has a secular purpose in funding construction of a community center, that funding is unconstitutional if the buildings will be used to advance religion outside the rental scenario described above.

In *Tilton v. Richardson*, the Supreme Court struck down government funding of a building on a private university because the university's promise not to use the building for religious purposes expired after 20 years. Here, Mobile Hope is *already* using the City's community center for religious purposes, and the City has agreed to oversee its own building's activities for only a certain period of time. This is unconstitutional, even if Mobile Hope limits the center to 35% religious programming and has reimbursed the City for 35% of the center's total cost.

The Minnesota Constitution also prohibits the City from financially assisting churches: “nor shall any man be compelled to attend, erect or support any place of worship, or to maintain any religious or ecclesiastical ministry, against his consent.” Minn. Const. art. I, § 16. When the City contributes taxpayer funds toward a facility that will be managed by a Christian ministry, which the City allows to promote Christianity as part of the facility’s scheduled programming, it unconstitutionally compels taxpayers to support that ministry.

The City must take immediate steps to ensure that its community center is not used to promote religion as part of the center’s ordinary, non-rental use. The City might rent space at the center to Mobile Hope, or any other nonprofit, for privately sponsored religious events, but the City may not continue allowing Mobile Hope to operate the community center as though it were a church-owned facility. Please respond in writing with the steps taken to correct this serious violation so that we may notify our local complainant that this matter has been resolved.

Sincerely,

A handwritten signature in blue ink, appearing to read "Ryan D. Jayne".

Ryan D. Jayne, Esq.  
*Elaine & Eric Stone Legal Fellow*  
*Freedom From Religion Foundation*