

# FREEDOM FROM RELIGION *foundation*

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***Sent via U.S. Mail and email***

[Jim.Boxold@dot.state.fl.us](mailto:Jim.Boxold@dot.state.fl.us) [rick.howard@cityoforlando.net](mailto:rick.howard@cityoforlando.net)

Mr. Jim Boxold  
Secretary, Florida Department of Transportation  
605 Suwannee Street  
Tallahassee, Florida 32399-0450

Mr. Rick Howard  
City of Orlando  
Director of Public Works  
P.O. Box 4990  
Orlando, FL 32802-4990

Re: Illegal, unpermitted painting on road retaining wall

Messrs. Boxhold and Howard:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) to ask you to remove an illegal sign from government property. FFRF is a national nonprofit organization with more than 23,000 members, including more than 1,000 members in Florida and a local chapter, the Central Florida Freethought Community, based in Orlando. We protect constitutional separation between state and church. And work to educate the public about nontheism.

It is our understanding that the Holy Land Experience has decided to permanently alter government property to further its religious mission. Holy Land has painted the retaining wall that turns the corner from Interstate 4 to Conroy Road. We understand that this interchange and retaining wall are government property maintained by the Florida Department of Transportation. We also understand that Holy Land sought no permits or permission to put up the mural as required by § 479 Florida Statutes.

The mural also features religious imagery, namely an angel, painted to help further the Holy Land's stated religious goal: "demonstrate the 'greatest commandments' of our Lord Jesus Christ as set forth in Matthew 22:37-39 . . . and to fulfill the Great Commission of Jesus Christ as set forth in Matthew 28:19, 'Therefore go and make disciples of all nations, baptizing them in the name of the Father and the Son and the Holy Spirit, and teaching them to obey everything I have commanded you.'"<sup>1</sup> The message seems to be two angels—god's agents—unrolling a scroll that signifies existence or the world. In other words, the message of the mural is that god created all—an inescapably religious message.

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<sup>1</sup> <http://www.holylandexperience.com/about/mission.html>

Holy Land's goal is to convert people to its particular brand of Christianity; it cannot annex and deface government property to further that goal.

Pursuant to 23 U.S.C.A. § 131(r)(2); §§ 479.156, 479.07 Florida Statutes, notify the Holy Land that the mural must be removed. If the Holy Land does not comply, we request that the FDOT or the City of Orlando remove it. Under 23 U.S.C.A. § 131(r)(2) "The owner of the removed sign, display, or device shall be liable to the State for the costs of such removal."

If the mural is allowed to remain, this inaction could be considered a violation of the Establishment Clause of the First Amendment. It is a violation of the Constitution if governments enforce ordinances selectively, by removing secular non-permitted or otherwise nonconforming signs, but not removing religious ones. The First Amendment "requires the state to be a neutral in its relations with groups of religious believers and non-believers." *Everson v. Board of Ed.*, 303 U.S. 1, 18 (1947). Governments breach that constitutionally-mandated neutrality if they were to give preferential treatment to signs erected by religious organizations.

Treating religious signs differently than other businesses and nonprofit messages also violates Free Speech rights. It is well settled that the government cannot discriminate among messages based on content without surviving "strict scrutiny." See *Metromedia, Inc., v. City of San Diego*, 453 U.S. 490 (1981); See also, *Rosenberger v. Rector and Visitors of Univ. of Va.*, 515 U.S. 819, 829 (1995). In *Metromedia*, an ordinance included a list of exempt signs based on their content, one such category was signs displaying religious symbols. *Id.* at 514. The plurality of justices struck down these exemptions as unconstitutional content-based discrimination. Likewise, giving special treatment to church signs, while removing other signs, is unconstitutional.

Please inform us of what steps FDOT and the City of Orlando are taking to remove Holy Land's illegal attempt to promote its religion on government property.

Sincerely,



Andrew L. Seidel  
Staff Attorney  
Freedom From Religion Foundation

Cc:  
Ms. Noranne Downs  
Florida Department of Transportation  
District Five Secretary  
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DeLand, Florida 32720