

FREEDOM FROM RELIGION *foundation*

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

June 22, 2015

SENT VIA U.S. MAIL AND EMAIL
mike@poellinger.com

The Honorable Mike Poellinger, Mayor
315 Main Street
P.O. Box 142
La Crescent, MN

Re: Display of Cross on Government Property

Dear Mayor Poellinger:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) to object to the display of a cross on public property. We were contacted by a concerned local resident. FFRF is a national nonprofit organization with over 22,500 members across the country, including over 500 members in Minnesota. FFRF's purpose is to protect the constitutional principle of separation between state and church.

We have received a report that a large cross is erected at 802 Stoney Point Road. Our complainant informs us that this religious symbol sits on City of La Crescent property. Apparently, the fixture is both a cross and a star, and the two can be lit separately. Ur complainant reports that the cross is lit up during the Easter holiday and the star at Christmas. Please find enclosed several photo of the cross.

If these allegations are true, they raise serious constitutional concerns. A cross cannot be displayed on City property to celebrate Easter.

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 have held displays of Latin crosses on public property to be an unconstitutional endorsement of religion. *See, e.g., Trunk v. San Diego*, 629 F.3d 1099 (9th Cir. 2011), *cert. denied*, 132 S.Ct. 2535 (2012); *Buono v. Norton*, 371 F.3d 543, 550 (9th Cir. 2004); *Carpenter v. City and Cnty. of San Diego*, 93 F.3d 627, 632 (9th Cir. 1996); *Friedman v. Bd. of Cnty. Comm’rs*, 781 F.2d 777, 778 (10th Cir. 1985) (en banc); *ACLU v. Rabun Cnty. 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” *Cnty. of Allegheny v. ACLU of Pittsburgh*, 492 U.S. 573, 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.*

The government’s permanent display of a Latin cross on public land is unconstitutional. 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 that the display promotes Christianity. The display of this patently religious symbol on public property confers government endorsement of Christianity, a blatant violation of the Establishment Clause.

The cross unabashedly creates the perception of government endorsement of Christianity. It conveys the message to non-Christians, including the one in five Americans who are not religious, that they are not “favored members of the political community.”¹ *Allegheny*, 492 U.S. at 594. The cross has an exclusionary effect, making non-Christian and non-believing residents of La Crescent political outsiders.

Likewise, we have concerns over the star that is allegedly illuminated during the Christmas holiday season. That it is in the same location as the cross - indeed it is mounted as part of the same structure - seems to suggest that the City is celebrating the religious aspect of the Christmas holiday, which is another violation of the First Amendment. The Supreme Court has stated: “The government may acknowledge Christmas as a cultural phenomenon, but under the First Amendment it may not observe it as a Christian holy day by suggesting people praise God for the birth of Jesus.” *Allegheny v. American Civil Liberties Union, Greater Pittsburgh Chapter*, 492 U.S. 573, 601 (1989).

¹ “Nones on the Rise: One-in-Five Adults Have No Religious Affiliation,” Pew Research Center, The Pew Forum on Religion & Public Life (October 9, 2012), *available at* <http://www.pewforum.org/Unaffiliated/nones-on-the-rise.aspx>

We ask you to remove the cross and star from city property immediately or direct the display be moved to a more appropriate private location. Please inform us in writing of the steps you are taking to resolve this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'RSM:kd', written in a cursive style.

Rebecca Markert
Staff Attorney

RSM:lkd

Enclosures





