

# FREEDOM FROM RELIGION *foundation*

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

January 20, 2017

**SENT VIA EMAIL AND U.S. MAIL:**  
**countycounsel@placer.ca.gov**

Valerie D. Flood  
Placer County Counsel  
175 Fulweiler Avenue  
Auburn, CA 95603

Re: Unconstitutional donation of land

Dear Ms. Flood:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) to alert you to serious constitutional concerns regarding Placer County's contemplated land donation to Placer Rescue Mission (PRM). FFRF is a national nonprofit organization that works to protect the constitutional principle of separation between state and church. FFRF represents more than 26,000 members across the country, including more than 3,000 members in California and a local chapter, Greater Sacramento Chapter of FFRF.

A concerned local taxpayer contacted us to report that the Placer County is considering donating 26 acres of land to PRM for it to construct a "campus shelter."<sup>1</sup> While it is laudable to combat homelessness in Placer County, and the County may anticipate that the campus shelter will save the County money, PRM is a church<sup>2</sup> and the campus shelter will include a chapel. We write to inform the County that donating land to PRM would violate both the Establishment Clause of the U.S. Constitution and the California Constitution.

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

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<sup>1</sup> *See* [comstocksmag.com/web-only/how-campus-shelter-might-combat-homelessness](http://comstocksmag.com/web-only/how-campus-shelter-might-combat-homelessness).

<sup>2</sup> PRM regularly refers to itself as a "church," describes its goal to "minister the Love of Jesus to those who suffer from mental illness," etc. *See* [facebook.com/PlacerRescueMission/](https://www.facebook.com/PlacerRescueMission/).

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 Supreme Court struck down a government construction grant to a religious college because the 20-year ban on using the newly constructed facilities for sectarian instruction or religious instruction did not go far enough to ensure the grant would not advance religion. *Tilton v. Richardson*, 403 U.S. 672, 689 (1971). Placer County may not give property to a church for less than fair market value, donating valuable real estate directly to the church, especially when the church will use the land to build a chapel and promote religion to campus residents.

The California Constitution also explicitly prohibits the County from donating real estate to churches. Art. XVI, § 5 states that “Neither the Legislature, **nor any county . . . shall ever make an appropriation, or pay from any public fund whatever, or grant anything to or in aid of any religious sect, church, creed, or sectarian purpose . . . nor shall any grant or donation of personal property or real estate ever be made . . . for any religious creed, church, or sectarian purpose whatever**” (emphasis added). The Ninth Circuit, in reviewing California state appellate cases, applied this restriction “regardless of the government’s secular purpose.” *Paulson v. City of San Diego*, 294 F.3d 1124, 1131 (9th Cir. 2002).

County property should never be transferred to religious institutions for less than fair market value. Once the government enters into the religion business, conferring endorsement and preference for one religion over others, it strikes a blow at religious liberty, forcing taxpayers of all faiths and of no religion to support a particular expression of worship.

We request a written response with assurances that Placer County will not donate land to PRM, or any other church, so that we may notify our local complainant that this matter has been resolved. Thank you for your attention to this important issue.

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*