

FREEDOM FROM RELIGION *foundation*

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

March 6, 2020

SENT VIA EMAIL & U.S. MAIL: Mayor@slcgov.com

The Honorable Erin Mendenhall
Mayor, Salt Lake City
451 South State St. Rm. 306
Salt Lake City, UT 84111

Re: Unconstitutional Religious Preference

Dear Mayor Mendenhall:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) regarding a serious constitutional violation that has been proposed in Salt Lake City. FFRF is a national nonprofit organization with more than 30,000 members across the country, including members in Utah. Our purposes are to protect the constitutional principle of separation of state and church, and to represent the rights and views of nonbelievers.

A concerned local resident has reported that as part of your State of the City address on March 2, 2020, you announced an agreement between the City, the Church of Jesus Christ of Latter-day Saints, and the Utah Transit Authority (UTA) that would allow members of the church to receive a special benefit from the City and the UTA because of their membership in the church. It is our understanding that every ticket to the church's General Conference will double as a ticket for public transportation, allowing members of the church to ride the bus for free while attending this church event.

While expanding transit accessibility and affordability for Salt Lake City residents is an admirable endeavor, extending this benefit to members of the Church of Jesus Christ of Latter-day Saints in order to facilitate their attendance at a church event shows favoritism to Mormons and excludes the nonreligious and members of all other religions. This is a clear violation of the Establishment Clause of the First Amendment. This discrimination based on religion is also a violation of both federal and state civil rights law.

The Supreme Court has long held that the Establishment Clause "mandates government neutrality between religion and religion, and between religion and nonreligion." *McCreary Cty., Ky. v. Am. Civil Liberties Union of Ky.*, 545 U.S. 844, 860 (2005); *Wallace v. Jaffree*, 472 U.S. 38, 53 (1985); *Epperson v. Ark.*, 393 U.S. 97, 104 (1968); *Everson v. Bd. of Educ. of Ewing*, 330 U.S. 1, 15-16 (1947). The City's agreement with the Utah Transit Authority and the Church of Jesus Christ of Latter-day Saints to give a financial benefit to members of the church and to aid the church in holding a church event conveys a message to non-Mormons that they are not "favored members of the community." *Cty. of Allegheny v. Am. Civil Liberties Union Greater Pittsburgh Ch.*, 492 U.S. 573, 595 (1989).

As Mayor, you serve a diverse population that consists of not only Mormons, but also other religious and nonreligious citizens. We hope you will agree that the City must be even-handed and avoid any appearance of bias toward some citizens, or hostility toward others. Extending a benefit to the church and its members needlessly alienates the non-Mormon and nonreligious citizens in Salt Lake City, turning them into political outsiders in their own community.

Dan Barker and Annie Laurie Gaylor, *Co-Presidents*

Giving free bus rides to members of the Church of Jesus Christ of Latter-day Saints violates the 14th Amendment, Title III of the Civil Rights Act of 1964, and Utah's civil rights law. Utah's law states in relevant part, "All persons within the jurisdiction of this state are free and equal and are entitled to full and equal accommodations, advantages, facilities, privileges, goods and services in all business establishments and in all places of public accommodation... without discrimination on the basis of race, color, sex, pregnancy, religion, ancestry or national origin." Utah Code Ann. § 13-7-3 (West). This practice denies non-Mormon citizens the right to "full and equal" enjoyment of the City's transportation services.

In order to comply with the Establishment Clause, the Civil Rights Act, and respect the constitutional rights of all Salt Lake City residents, the City cannot extend a financial benefit to the members of a specific church to support a church event. Please respond to the following open records request so that we can better understand the extent of the agreement between the City, the Utah Transit Authority, and the Church of Jesus Christ of Latter-day Saints.

Open Records Request

Pursuant to the Utah Government Records Access and Management Act, § 63-2-101 et seq., we hereby request a copy of the following:

- 1) Any contracts or agreements between the City and the Utah Transit Authority or the Church of Jesus Christ of Latter-day Saints related to the "Tickets for Transit" program;
- 2) Any communications, including emails, between representatives of the City, and representatives of the Utah Transit Authority or the Church of Jesus Christ of Latter-day Saints related to the "Tickets for Transit" program;
- 3) Any financial records pertaining to expenses and costs related to the "Tickets for Transit" program;
- 4) Any other records related to the "Tickets for Transit" program;

Please be aware that Utah law "favor[s] public access when, in the application of this act, countervailing interests are of equal weight..." Utah Code Ann. § 63G-2-102(3)(e).

I respectfully request a response within ten days. If all or any part of this request is denied, I request a written statement of the grounds for the denial. If your agency does not maintain these public records, please provide the names and addresses of the proper custodians of these records. If any records are available in electronic format, you may email them to records@ffrf.org

If I can provide any clarification that will help expedite your attention to my request, please contact me at (608) 256-8900. Thank you for your time and attention to this matter.

Sincerely,



Christopher Line
Staff Attorney
Freedom From Religion Foundation

Cc: Carlton Christensen, Chair, UTA Board of Trustees [via boardoftrustees@rideuta.com](mailto:boardoftrustees@rideuta.com)