

FREEDOM FROM RELIGION *foundation*

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February 18, 2021

SENT VIA EMAIL & U.S. MAIL: robert.fenton@fema.dhs.gov

Robert J. Fenton, Jr.
Senior Official Performing the Duties of FEMA Administrator
Office of the Administrator
500 C St., SW
Washington, DC 20472

Re: Unconstitutional federal grant to build new church building in Versailles, KY

Dear Mr. Fenton:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) regarding serious constitutional concerns over the Federal Emergency Management Agency's reported decision to approve a grant of about \$1.2 million to construct a new church building in Versailles, Kentucky. FFRF is a national nonprofit organization with more than 33,500 members across the country. Our purposes are to protect the constitutional principle of separation between state and church, and to educate the public on matters relating to nontheism.

It is our understanding that the City of Versailles recently voted to annex land from the First Baptist Church in Versailles in order to build a new church building that will also function as a tornado shelter.¹ We understand that FEMA has tentatively approved a grant of approximately \$1.2 million in order to construct the new church building, and that the building and land will be owned by the First Baptist Church, but that the church would agree to public use of the building during an emergency.²

We have submitted a Freedom of Information Act request regarding this matter, but we are writing to ask that the Federal Emergency Management Agency immediately revoke the grant to the City of Versailles and/or First Baptist Church for the construction of a new church building.

It is unconstitutional for the Federal Emergency Management Agency to direct federal funds to be used to build a new church that will be used for religious worship. The Establishment Clause of the First Amendment prohibits the government from funding religious worship. *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); *Tilton v. Richardson*, 403 U.S. 672, 689 (1971) (holding that a 20-year ban on religious use of a taxpayer-funded building did not go far enough to ensure the grant would not advance religion); *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) (holding that a grant to a private religious school was unconstitutional). FEMA may not use public resources to fund a church building that will be used for religious worship.

In *Wirtz*, a federal court struck down a city's donation of land to a religious school in exchange for public use of athletic facilities that the school planned on building on the land. The court explained that "Governmental

¹ Jack Brammer, *This Kentucky city plans to build a church with public money. Objections raised.*, Lexington Herald Leader, <https://www.kentucky.com/news/local/counties/woodford-county/article249279410.html>

² *Id.*

programs or actions that provide special benefits to specific religious entities are impermissible... For governmental aid to religious institutions to be seen, for constitutional purposes, as not ‘endorsing’ religion, either the state’s payments must reach religious institutions only indirectly through programs of purely private choice or religious institutions must be getting nothing more than [...] secular governmental services or supplies on the same terms and conditions as anyone else as part of a neutral program.” *Id.* at 1059 (internal citations omitted).

The Federal Emergency Management Agency must revoke this unconstitutional grant immediately. In addition to the apparent constitutional problems with such a grant, we request that FEMA review the grant to ensure that the applicants have not misled the agency on the purpose of the grant. Please inform us in writing of the steps taken to correct this egregious constitutional violation.

Sincerely,

A handwritten signature in blue ink, appearing to read "Chris Line", with a long horizontal flourish extending to the right.

Christopher Line
Staff Attorney
Freedom From Religion Foundation

Cc: Gracia B. Szczech, Regional Administrator, via gracia.szczech@fema.dhs.gov