

FREEDOM FROM RELIGION *foundation*

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November 12, 2015

SENT VIA U.S. MAIL AND EMAIL

Htowell@cra.countyservice.net

Hannah Towell
Craighead County Assessor
511 Union St Ste 130
Jonesboro, AR 72401

Re: Unconstitutional Display of Crosses in County Assessor's Office

Dear Ms. Towell:

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 23,000 members across the country, including members in Arkansas. FFRF's purpose is to protect the constitutional principle of separation between state and church.

It is our understanding that the Craighead County Assessor's office has numerous crosses on display. These crosses are visible at customer windows and contain proselytizing messages. Two of these crosses face the public view and are inscribed with a bible verse, John 3:16 ("For God so loved the world that he gave his one and only son that whoever believes in him shall not perish but have eternal life."), and adds at their bases "He loves. He gave. We believe. We live." Other displays include messages among the crosses such as "With God all things are possible," and "Amazing Grace." Please find enclosed pictures of this extensive religious display.

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).

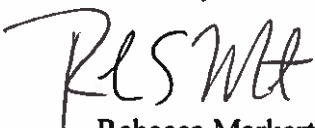
A majority of federal courts have held displays of Latin crosses on public property to be an unconstitutional endorsement of religion. *See, e.g., Trunk v. San Diego*, 629 F.3d 1099 (9th Cir. 2011), *cert. denied*, 132 S.Ct. 2535 (2012); *Buono v. Norton*, 371 F.3d 543, 550 (9th Cir. 2004); *Carpenter 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.* This is certainly so in the case of crosses displayed in the office of a County Assessor, especially when they include proselytizing messages such as John 3:16.

Furthermore, federal courts have upheld restrictions on the display of religious iconography in government offices and buildings because such restrictions exist to avoid an Establishment Clause violation. The Ninth Circuit Court of Appeals has stated the, "government has a greater interest in controlling what materials are posted on its property than it does in controlling the speech of the people who work for it." *Tucker v. Department of Education*, 97 F.3d 1204, 1214 (9th Cir. 1996); *see also Berry v. Department of Social Services*, 447 F.3d 642, 651 (9th Cir. 2006) ("materials posted on the walls of the corridors of government offices may be interpreted as representing the views of the state.")

In *Berry*, the court upheld restrictions on displays of religious materials in work spaces, even private cubicles or offices, because public access to the area could cause someone to "reasonably interpret the presence of visible religious items as a government endorsement of religion." *Berry*, 447 F.3d at 652. The court concluded that "[d]isplaying the Bible implicitly endorses a religious message and it is precisely that message which the Department reasonably seeks to avoid." *Id.* The courts have recognized that "the state has a legitimate interest, for example, in preventing the posting of crosses or Stars of David in the main hallways, by the elevators, or in the lobbies, and in other locations throughout its buildings. Such a symbol could give the impression of impermissible government support of religion." *Tucker*, 97 F.3d at 1216.

We ask you to remove the crosses from the County Assessor's office immediately. Please inform us in writing of the steps you are taking to resolve this matter.

Sincerely,



Rebecca Markert
Staff Attorney

Enclosures











09/12/20

