

FREEDOM FROM RELIGION *foundation*

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November 5, 2014

SENT VIA U.S. MAIL & EMAIL TO: tommuller@lehighcounty.org

Mr. Thomas Muller
Lehigh County Executive
17 South 7th St.
Allentown, PA 18101

RECEIVED

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EXECUTIVE OFFICE
LEHIGH COUNTY

Re: Unconstitutional County Seal

Dear Mr. Muller:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) to notify you that the Lehigh County seal violates the Constitution. FFRF is a nationwide nonprofit organization that works to protect the constitutional principle of separation of church and state. FFRF represents more than 21,000 members across the country, including nearly 700 members in Pennsylvania and a state chapter.

We understand that the Lehigh County Seal prominently features a Latin cross in its center. We understand the seal is used by the County for official business and is featured in County facilities and publications.

The inclusion of a Latin cross on the official County Seal violates the Establishment Clause of the First Amendment. The Establishment Clause, "at the very least, prohibits government from appearing to take a position on questions of religious belief or from 'making adherence to a religion relevant in any way to a person's standing in the political community.'" *County of Allegheny v. American Civil Liberties Union*, 492 U.S. 573, 594 (1989) (quoting *Lynch v. Donnelly*, 465 U.S. 668, 687 (1984)). The County's inclusion of the cross signals an endorsement of Christianity.

Federal courts have ruled that similar seals violate the Establishment Clause. The Lehigh County Seal is akin to numerous other unconstitutional municipal seals and logos:

- *Robinson v. City of Edmond*, 68 F.3d 1226 (10th Cir. 1995) (City seal containing Latin cross in one quadrant violated Establishment Clause);
- *Ellis v. City of La Mesa*, 990 F.2d 1518 (9th Cir. 1993) (City insignia depicting "well-known local feature" containing a Latin Cross violated the No Preference Clause of the California Constitution);
- *Harris v. City of Zion*, 927 F.2d 1401 (7th Cir. 1991) (Cities' seals that included a Latin cross violated Establishment Clause);
- *Foremaster v. City of St. George*, 882 F.2d 1485 (10th Cir. 1989) (Finding that Establishment Clause challenge to city logo depicting Mormon Temple could proceed; suit was later settled after the City had substantially stopped using the logo);
- *Friedman v. Board of County Com'rs of Bernalillo County*, 781 F.2d 777 (10th Cir. 1985) (Latin cross with Spanish motto meaning "With This We Conquer" on county seal violated Establishment Clause);

EXHIBIT

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- *Webb v. City of Republic, Mo.*, 55 F. Supp. 2d 994 (W.D. Mo. 1999) (City seal with religious fish symbol in one quadrant violated Establishment Clause);
- *American Civil Liberties Union of Ohio, Inc. v. City of Stow*, 29 F.Supp.2d 845 (N.D. Ohio 1998)(Finding city seal containing Latin cross in one quadrant violated Establishment Clause).

Any claims of historical or cultural significance to the Latin cross on the Lehigh County Seal do not relieve the County of its constitutional obligations. In *Harris*, the City of Rolling Meadows seal was designed by a student who "drew the things she saw in Rolling Meadows," including a local church on the seal. 972 F.2d at 1403. In striking it down, the Seventh Circuit Court of Appeals addressed the problem with such endorsement:

The images on the seal are not just neutral snapshots of the community; they are charged with endorsement...the Rolling Meadows seal does promote the selected images it depicts. To any observer, the Rolling Meadows seal expresses the city's approval of those four pictures of city life-its flora, its schools, its industry and commercial life, and its Christianity.

Id. at 1412. The Court concludes, "The Latin cross on the Rolling Meadows seal is surely a sectarian display. As such, we hold that it endorses Christianity in violation of the first amendment." *Id.* at 1413. In the same case, the Court found that the City of Zion seal could not be absolved because the City claimed that it commemorated the historical origins of the City. The court said, "No appeal to history can abate that message when the images in the seal are abstract symbols of a particular Christian sect. The Establishment Clause, at the very least, 'prohibits government from appearing to take a position on questions of religious belief.'" *Id.* at 1415 (quoting *County of Allegheny*, 465 U.S. 573, 594). In *Ellis*, the court wrote that even though the City simply sought "to represent a well-known local feature identifiable with La Mesa...This secular purpose does not...lessen the preference the insignia exhibits for Christianity." 990 F.2d at 1518,1528.

It makes no difference what justification the County provides for including the cross on the Lehigh County Seal. Courts addressing similar depictions have found that the inclusion of a Latin cross on government seals and logos violates the Establishment Clause.

We urge the County to immediately discontinue using this seal and to develop a new seal that is both constitutional and representative of all citizens. We request a written response outlining what steps the County is taking to comply with constitutional dictates.

Sincerely,



Patrick C. Elliott
Staff Attorney

PCE:jki