

FREEDOM FROM RELIGION *foundation*

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February 11, 2021

SENT VIA EMAIL & U.S. MAIL: btraugott@versaillesky.com

The Honorable Brian Traugott
Mayor, City of Versailles
196 South Main Street
Versailles, KY 40383

Re: Unconstitutional Financial Support of Church and **Open Records Request**

Dear Mayor Traugott:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) regarding serious constitutional concerns over the City's intention to annex church property in order to build a new church building on the property. FFRF is a national nonprofit organization with more than 33,500 members across the country, including members and a local chapter in Kentucky. Our purposes are to protect the constitutional principle of separation between state and church, and to educate the public on matters relating to nontheism.

A concerned Versailles resident and taxpayer has raised concerns about the City's decision to spend city and federal funds to build a new church building on church property. It is our understanding that the City intends to annex 21.633 acres of land owned by First Baptist Church in order to build a new structure that would function as both a church and a severe weather shelter.

It is unconstitutional for the City of Versailles to partner with a church to expend taxpayer funds in order to build a new structure for the church's worship services. We understand the City's desire to build a severe weather shelter, but this purported secular goal does not excuse the fact that the government is building a new church building that will be used for religious worship, which violates taxpayers' right to secular use of government funds. It is also unconstitutional to use federal grant funds for this purpose, given that the severe weather shelter would also serve as the church's sanctuary, directing federal funds directly to support 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). The City of Versailles may not use public resources to support a church, in this case, rather just supporting the church, it intends to build a new church building for congregants.

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 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).

We request written assurances that the City of Versailles will not go through with this unconstitutional project and will not use public resources to financially support churches so that we may notify our local complainant that this matter has been resolved. Please respond to the Open Records Request that follows as soon as possible.

Open Records Request

Pursuant to Kentucky's Open Records Act (KRS §§ 61.870-61.884), I request copies of the following since January 1, 2020:

- 1) Any contracts or agreements between the City and First Baptist Church regarding this project;
- 2) Any communications, including email, between City representatives and representatives of the First Baptist Church regarding this project;
- 3) Any applications, proposals, or similar documents submitted to the City by First Baptist Church or its representatives regarding this project;
- 4) A copy of the grant request submitted by the City to the Federal Emergency Management Agency for this project;
- 5) Any other records related to the City's annexation of land owned by First Baptist Church and the building of a severe weather shelter/new church on the land.

Please respond as soon as possible to this request. If you choose to deny this request, please respond with a written explanation of the denial including any references to statutory exemptions or other case law upon which you rely. If any records are available in electronic format (preferred), they may be emailed to chris@ffrf.org. Thank you for your time and attention to this matter.

Sincerely,



Christopher Line
Staff Attorney
Freedom From Religion Foundation

Cc: Gracia B. Szczech, via gracia.szczech@fema.dhs.gov
Robert J. Fenton, Jr. via robert.fenton@fema.dhs.gov