

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

DOUGLAS MARSHALL,

Plaintiff,

v.

CITY OF WARREN and  
JAMES R. FOUTS, in his individual  
capacity and in his official capacity as  
mayor of Warren,

Defendants.

---

**COMPLAINT**

Plaintiff Douglas Marshall states as follows for his Complaint against  
Defendants City of Warren and its mayor James R. Fouts:

**Introductory Statement**

1. When the government opens a forum for private speech, it must treat viewpoints equally, and it is strictly forbidden from favoring religious expression over non-religious speech.

2. In this case, the government has opened a forum in which religious speech is allowed but Plaintiff's atheist speech is prohibited. This is unconstitutional viewpoint discrimination.

3. Plaintiff therefore brings this civil rights action under the First and Fourteenth Amendments to the United States Constitution, as enforceable through 42 U.S.C. § 1983, seeking a declaratory judgment, injunctive relief, and damages.

**Parties, Jurisdiction, and Venue**

4. Plaintiff Douglas Marshall (“Marshall”) is a resident of the city of Warren, which is located in Macomb County, Michigan.

5. Defendant City of Warren (“Warren”) is a municipal corporation located in Macomb County and organized under the laws of the State of Michigan.

6. Defendant James R. Fouts (“Mayor Fouts”) is the mayor of Warren. Mayor Fouts is named as a defendant in this matter in both his individual and official capacities.

7. Mayor Fouts has final authority to establish municipal policy with respect to the actions taken by him against Plaintiff as described in this Complaint.

8. Jurisdiction is proper under 28 U.S.C. § 1331 because this is a civil action arising under the Constitution and laws of the United States.

9. Venue is proper under 28 U.S.C. § 1391(b)(2) because a substantial part of the events or omissions giving rise to Plaintiff’s claims occurred within this judicial district.

### **Factual Allegations**

#### **The City Hall Atrium Is Available for Public Use**

10. Warren's municipal government is housed in the Warren Civic Center, also commonly known as City Hall.

11. The Civic Center has a large atrium which is open to the public.

12. Warren has written policies governing reserved use of the atrium and other space in the Civic Center. (*See* Ex. A, Civic Center Facilities Rental Policies and Rules.)

13. The policies state that the atrium space is available for reserved use by a wide variety of groups and individuals, including civic organizations and Warren residents. (*Id.*, ¶ 1.)

14. The policies provide that the atrium "may be reserved for most types of functions or activities EXCEPT . . . [a]ny private event charging a fee or admission" and "[w]hen there is sale of merchandise, products or services (unless otherwise approved by the DDA/TIFA Director)." (*Id.*, ¶ 5.)

15. The policies list four criteria to be considered when granting or denying a request to use space: "(a) What is the nature of the meeting? (b) Is membership to the group open to all persons without regard to race, color, sex, religion, or physical handicap? (c) Would content of the meeting/activity interfere with the rights of the general public or proprietary functions of the Warren

Downtown Development Authority or the City of Warren? (d) Is the renter of the facility 21 years of age and willing to take responsibility for damages incurred during the time designated on the Rental Application?” (*Id.*, ¶ 4.)

16. Individuals and groups wishing to use space in the atrium must complete a Civic Center Facilities Rental Application.

17. The application asks for contact information, a description of the activity, and expected attendance, among other things. (*See* Ex. B, Civic Center Facilities Rental Application.)

### **The “Prayer Station”**

18. Since at least 2009, Pastor Darius Walden has applied to use space in the atrium on behalf of the Tabernacle. (*See* Ex. C, Walden Civic Center Facilities Rental Applications.)

19. The Tabernacle is a Pentecostal ministry located in Warren and affiliated with the Church of God.

20. In his applications, Pastor Walden requested space in the atrium for a “prayer station.” (*Id.*)

21. Warren has been granting Pastor Walden and/or the Tabernacle permission to use space in the atrium for the prayer station since 2009 per their request.

22. The prayer station consists of a folding table with two chairs, religious literature on display, and an overhead banner that says “PRAYER STATION.” (See Ex. D, Photograph of Prayer Station.)

23. Volunteers operate the prayer station in the atrium four days a week from 9 a.m. to 3 p.m.

24. Volunteers who operate the prayer station distribute religious pamphlets, offer to pray with passersby, and discuss their religious beliefs with people who approach the station.

### **The Proposed “Reason Station”**

25. Plaintiff Douglas Marshall is a resident of Warren.

26. Mr. Marshall periodically goes to the Civic Center and enters its atrium in the regular course of his personal and civic affairs, including to pay his property taxes and his water bill, and to pick up and drop off his absent voter ballot. When Mr. Marshall enters the atrium, he ordinarily encounters the prayer station there. Mr. Marshall also regularly pays property taxes to Warren, which support Warren’s ongoing operation and maintenance of the Civic Center’s atrium.

27. Mr. Marshall is an atheist.

28. For Mr. Marshall, atheism is a deeply and sincerely held viewpoint that occupies a place in his life parallel to that occupied by God in traditionally religious persons.

29. As an atheist, Mr. Marshall does not believe in a god, and he promotes what he describes as reason and freethought as an alternative to religious belief.

30. Mr. Marshall wishes to set up a “reason station” in the Civic Center atrium. Similar in size, structure and function to the prayer station, the reason station would consist of a folding table and chairs, an identifying sign, and atheist literature on display and available to the public. Mr. Marshall and other volunteers who operate the reason station would offer to have philosophical discussions with passersby who express an interest in atheism and freethought.

31. Some of the literature Mr. Marshall wishes to distribute at the reason station would come from the Freedom From Religion Foundation, a 501(c)(3) non-profit organization of which he is a member. The mission of the Freedom From Religion Foundation includes educating the public about nontheism.

32. Mr. Marshall does not intend for his reason station to disrupt the prayer station in any way.

33. On April 9, 2014, Mr. Marshall submitted a Civic Center Facilities Rental Application to Warren. (*See* Ex. E, Marshall Civic Center Facilities Rental Application.)

34. Mr. Marshall included his name, address, phone number, and email on the application. (*Id.*)

35. He requested atrium space for a “reason station.” (*Id.*)

36. The application requests reserved space in the atrium two days a week from 11:00 a.m. to 3:00 p.m. (*Id.*)

37. In all material respects, Mr. Marshall's application is identical to Pastor Walden's applications, except that where Pastor Walden's applications seek use of the atrium for a "prayer station," Mr. Marshall's application seeks use of the atrium for a "reason station." (*Compare* Ex. E *with* Ex. C.)

### **Mayor Fouts Rejects the Reason Station**

38. On or about April 17, 2014, Mr. Marshall received a letter from Mayor Fouts dated April 15, 2014.

39. In the letter, Mayor Fouts denied Mr. Marshall's request to use space in the atrium.

40. Mayor Fouts's letter states in full:

Dear Mr. Marshall:

The City of Warren through the Downtown Development Authority has received your request to use space in the atrium. It is my understanding that you are affiliated with Freedom from Religion, a group that has objected to the Nativity Scene, the Prayer Station in the atrium and the Annual Day of Prayer in front of city hall.

All of these events are allowed because of the right to freedom of religion constitutional amendment. We cannot and will not restrict this right for any religion to use the atrium, as long as the activity is open to all religions.

Freedom from Religion is not a religion. It has no tenets, no place of worship and no congregation. To my way of thinking, your group is strictly an anti-religion group intending to deprive all organized religions of their constitutional freedoms or at least discourage the practice of religion. The City of Warren cannot allow this.

Also, I believe it is your group's intention to disrupt those who participate in the Prayer Station which would also be a violation of the freedom of religion amendment.

For these reasons, I cannot approve of your request.

Sincerely,

/s/ James R. Fouts

James R. Fouts  
Mayor of Warren

(Ex. F, Letter from Mayor Fouts, emphases in original.)

41. Defendants' decision to deny the reason station while allowing the prayer station caused Mr. Marshall to perceive that Warren favors and endorses traditional religious beliefs over atheistic beliefs. Defendants' decision made Mr. Marshall feel unwelcome at the Civic Center, an outsider in the community, a second-class citizen in Warren, and a disfavored member of a religious minority group. Mr. Marshall further objects to his tax payments supporting the operation and maintenance of a facility that Defendants control in a discriminatory manner that advances traditional religious beliefs over atheistic beliefs. Defendants' decision made and continues to make Mr. Marshall feel discriminated against,



offended, angry, upset, and sad. Defendants' conduct thus harmed and continues to harm Mr. Marshall.

42. On April 18, 2014, Americans United for Separation of Church and State, one of the legal organizations representing Mr. Marshall, sent a letter to Mayor Fouts and Warren City Attorney David Griem (copying the Warren City Council) explaining in detail that Mayor Fouts's denial of Mr. Marshall's application was plainly unconstitutional, notifying the mayor that failure to reverse his decision would likely lead to litigation, and asking for a response within thirty days. (Ex. G, Letter from Americans United.) No response was received.

### **Causes of Action**

#### **Count 1**

#### **First Amendment – Free Speech Clause**

#### **42 U.S.C. § 1983**

43. The First Amendment to the United States Constitution prohibits abridgement of the freedom of speech and expression. The First Amendment is incorporated against the States by the Fourteenth Amendment. Persons violating the First Amendment under color of state law are liable at law and in equity under 42 U.S.C. § 1983.

44. Defendants have imposed and are imposing a content- and viewpoint-based restriction on Plaintiff's speech in violation of the Free Speech Clause of the First Amendment.

**Count 2**  
**First Amendment – Establishment Clause**  
**42 U.S.C. § 1983**

45. The First Amendment to the United States Constitution prohibits government laws, policies and actions respecting the establishment of religion.

46. Under the Establishment Clause, the government is prohibited from favoring one religion over another religion.

47. Additionally, the Establishment Clause prohibits the government from favoring religion over nonreligion, or favoring religious belief over disbelief.

48. By prohibiting Plaintiff from reserving and using atrium space because his belief system “is not a religion” (Ex. F), while allowing similarly situated religious groups and persons to reserve and use atrium space “because of the right to freedom of religion” (*id.*), Defendants have favored and are favoring religion over nonreligion, and religious belief over disbelief, in violation of the Establishment Clause of the First Amendment.

**Count 3**  
**(In the Alternative to Counts 1 and 2)**  
**First Amendment – Establishment Clause**  
**42 U.S.C. § 1983**

49. Plaintiff believes that the prayer station is properly classified as private speech in a public forum.

50. Because the prayer station is private speech, Plaintiff does not challenge Defendants' authority to allow the prayer station to operate in the atrium; he merely seeks equal access to the forum to express his nonreligious viewpoint.

51. However, if the Court concludes that the prayer station is government speech, then, as an alternative to Counts 1 and 2, the prayer station violates the Establishment Clause because its purpose is primarily religious, its principal or primary effect advances and endorses religion, and/or it fosters an excessive government entanglement with religion.

### **Relief Requested**

For the reasons set forth above, Plaintiff requests that this Court:

- A. Enter judgment in favor of Plaintiff and against Defendants;
- B. Declare, pursuant to 28 U.S.C. § 2201, that Defendants' denial of Plaintiff's request to reserve and use atrium space for a "reason station" violates Plaintiff's rights under the First Amendment;
- C. Enter preliminary and permanent injunctions requiring Defendants to allow Plaintiff's "reason station" on terms no less favorable than those provided to the persons and groups who operate the "prayer station";
- D. Award Plaintiff compensatory damages, or in the alternative nominal damages, for violations of his First Amendment rights;
- E. Award Plaintiff costs and attorneys' fees pursuant to 42 U.S.C. § 1988; and
- F. Grant or award such other relief as the Court may deem just, equitable or appropriate under the circumstances.

Respectfully submitted,

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Dated: July 23, 2014

## **INDEX OF EXHIBITS**

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Exhibit A

Civic Center Facilities Rental Policies and Rules



## Civic Center Facilities Rental Policies and Rules

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1. The Warren Civic Center facilities (Conference Center, Atrium, and Meeting Rooms) shall be available for reserved use by the following individuals and/or groups in accordance with the fees listed on the *Civic Center Facilities Reservation Fees* document:

- (a) The City of Warren.
- (b) Government Agencies serving the City of Warren, including Warren Consolidated Schools, Warren Woods Public Schools, Van Dyke Public Schools, East Detroit Public Schools, Center Line Public Schools, Macomb County and the State of Michigan.
- (c) Warren Community Service Groups, Civic Organizations, who are a registered 501c3 non-profit group or organization, agencies, associations and businesses whose events are **NOT open to the general public** (informational sessions for existing customers, employee training, annual meeting, etc.). **If the purpose is other than listed, the event is considered a "special event" and a fee will be charged.** (See "Facilities Reservation Fees" form for available hours and fees.) **FACILITIES MAY NOT BE USED FOR SOLICITATION PURPOSES.**
- (d) Warren residents.
- (e) Non-resident individuals, groups, agencies, associations, and businesses.

2. Fees – Special Considerations

- (a) Groups "a" – "c" shall be exempt from fees if the event is held during regular city hall hours. **If the event is NOT held during regular city hall hours, (see "Facilities Reservation Fees" form for available hours and fees) there will be a minimum charge of \$85.00/hr. for the 1<sup>st</sup>. Floor Conference Room and minimum charge of \$160.00/hr. for the Atrium.** In the case of a *\*Special Event*, the group is subject to **regular resident rental and use fees.** Evening, weekend and holiday rental rates are subject to staff availability and will be reviewed on a case by case basis.

**\*A Special Event includes, but is not limited to: ANY type of a party (birthday, graduation, holiday, reunion, etc.), shower, banquet, wedding, special event, etc.**

3. Timeline for Submitting Requests

- (a) Applications for one time use (see (b) for continual reserved use) by Groups "a" – "d" will be accepted up to one (1) year prior to the date requested. Reservation applications will be processed on a first come, first serve basis. **Applications must be submitted to the DDA/TIFA Director in the DDA at least two (2) weeks prior to the date requested.** The DDA/TIFA Director can not guarantee that action will be taken on an application submitted after this time. **No reservations will be accepted over the phone or by email.**
- (b) The Warren Civic Center Facilities (Conference Center, Atrium and Meeting Rooms) will be available for continual reserved use on a weekly, bi-weekly or monthly basis. Groups "a" – "d" will be allowed to schedule for the upcoming year beginning in November of the current year. All dates must be listed on the *Rental Application* at the time of application. Dates not included on the application will result in the need for a secondary application with new security deposit.
- (c) Applications from Group "e" (non-residents) will be accepted up to ninety (90) days prior to the date requested.

3/25/11



4. The DDA/TIFA Director or her designee shall use the following criteria when determining whether to grant permission for use of the facility:
  - (a) What is the nature of the meeting?
  - (b) Is membership to the group open to all persons without regard to race, color, sex, religion, or physical handicap?
  - (c) Would content of the meeting/activity interfere with the rights of the general public or proprietary functions of the Warren Downtown Development Authority or the City of Warren?
  - (d) Is the renter of the facility 21 years of age and willing to take responsibility for damages incurred during the time designated on the *Rental Application*?
5. The Warren Civic Center Facilities may be reserved for most types of functions or activities **EXCEPT** as follows:
  - (a) Any private event charging a fee or admission
  - (b) When there is sale of merchandise, products or services (unless otherwise approved by the DDA/TIFA Director). *To request approval for this activity, groups must be a non-profit Warren community organization providing a public service to the Warren community*
6. **Renter MUST check in at the time of the function.**
7. **Smoking is prohibited throughout the entire Warren Civic Center Facility, with the exception of outdoor areas.**
8. **Alcoholic beverages are prohibited throughout the entire Warren Civic Center Facilities, except for the Atrium.** Alcoholic beverages may be allowed in the Atrium by permission of the DDA/TIFA Director and shall be confined to that space (State of Michigan Liquor License is required).
9. All rentals must start and end on time to allow for tear down and set up, especially when the facilities have reached their maximum capacity.
10. If an event is catered, the caterer must provide the following items 30 days prior to the event (if reservations are made less than 30 days prior, items are due with the application):
  - (a) Copy of caterer's State of Michigan License.
  - (b) Proof of liability Insurance Rider for \$1 million, listing the Warren Downtown Development Authority, and the City of Warren as "Additional Insured".
  - (c) If these items are not received, the caterer will not be allowed to set up or serve.
11. All advertising (except that incidental to programs) and all sale of merchandise or other materials, is forbidden on premises, unless specific approval is obtained prior to event.
12. A Facilities Attendant shall be on duty during all hours of building operation and groups and/or persons and attendees of events must guarantee responsiveness to directives from the staff person. All accidents must be reported to the Facilities Attendant immediately.
13. **Decorating – Decorations may be put up but must be removed entirely at the end of the event.** Helium-filled balloons and large entertainment equipment are prohibited from being used inside the Warren Civic Center Facility, unless specific approval is obtained prior to the event. **ABSOLUTELY NO BALLOONS INSIDE THE ATRIUM!** Transparent, one-sided tape may be used, but must be entirely removed from walls, windows, counters, furniture, tables and chairs when event has ended. No items shall be tacked by nails, push pins, hangers, thumb tacks or "sticky tack" onto walls, windows, or woodwork. Damage to walls, windows, counters, furniture, tables and chairs may result in loss of security deposit.
14. Fire Prevention Regulations:



- (a) The use of open flames such as lighted candles, etc., are strictly prohibited. Electrical extensions and decorations must be without exposed wires and UL approved. The use of open flames for cooking shall be allowed upon prior approval.
- (b) The placement of posters, banners and any "major" decorations within the Warren Civic Center Facility will require prior approval. **Absolutely NO double sided-tape, confetti, or "sparkles" may be used in a rental facility within the Civic Center Building.**
- (c) Corridors, exits and stairways must be free of obstructions at all times. Exits are to be lighted when rooms are in use.

15. **Normal clean-up shall be performed by the renter.** A basic guideline is that the rental area is left in the same condition in which it was received. Leaving the rental area in an unacceptable manner will affect the renter's ability to rent in the future and forfeiture of Security Deposit.

Clean-up includes the following:

- (a) Removal of all materials brought in by the renter or attendees of the event.
- (b) Removal of all decorations.
- (c) Placement of all trash in plastic trash bags for disposal.
- (d) Wiping down of all tables and chairs.
- (e) Cleaning of any spills and messes – see Building Attendant for assistance and supplies.

16. **Except for use of restrooms, groups shall be restricted to the room assigned.**
17. Use of the facilities outside of the Warren Civic Center Facility is restricted to the parking facilities and City Square, unless specific approval is obtained prior to the event from the DDA/TIFA Director. Groups shall be responsible for control of the parking structure (please discuss with the DDA/TIFA Director as to the renter's responsibilities in this regard). No group will be allowed to charge attendees of an event for parking within the Warren Civic Center or parking structure.
18. The Warren Downtown Development Authority, the City of Warren and the DDA/TIFA Director shall have jurisdiction in all matter relating to the use of the Civic Center Building.
19. The Warren Downtown Development Authority, the City of Warren and the DDA/TIFA Director reserve the right to move events around as deemed necessary.
20. **Assurances** – The renter shall be responsible for assuming: Orderly behavior by attendees of the event; Financial responsibility for any damages due to the use of the facilities; Responsiveness to directives, rules and regulations of the Warren Downtown Development Authority and the City of Warren regarding the use of the facilities; That all activities are of the nature suitable for presentation in a public building; That the activity is lawful and in conformity with local, State and Federal laws and ordinances; That the renter is responsible for any police and security protections which may be required for the activity or event.
21. **Insurance will be required for the following rentals:**

***Events open to the public:*** Businesses, 501c3's, and organizations renting any Warren Civic Center Facility shall provide liability insurance in the amount of \$1,000,000.00 for General Aggregate; \$1,000,000.00 Personal & Adv. Injury; \$1,000,000.00 Each Occurrence; \$100,000.00 Fire Damage (Any one fire); and \$10,000.00 Medical Expense (Any one person); and must list the Warren Downtown Development Authority, and the City of Warren as "Additional Insured". ***A Certificate of Insurance must be presented to the DDA/TIFA Director at the time of Application. Failure to provide a Certificate of Insurance will result in the cancellation of facility reservations and reimbursement of security deposit and fees which are not retained as administrative cancellations fees.***

*Private Events:* Weddings, showers, parties, practices, etc., rented by a person or group will require a copy of the renter's "homeowners" or "renter's insurance" policy in the amount of five hundred thousand dollars (\$500,000.00) combined single limit.

*Rentals for the purpose of providing instruction to the public:* Individual(s) or group(s) renting space in the Warren Civic Center Facility for the purpose of providing instruction to the public, must provide a certificate of insurance for general liability in the amount of \$1,000,000.00 with the Warren Downtown Development Authority and the City of Warren listed as "Additional Insured". *If Alcoholic Beverages are to be sold, or if tickets are sold to an event that is serving alcoholic beverages, or alcoholic beverages are provided at no cost to attendees: A special liquor permit from the State of Michigan is required if liquor is sold or provided at no cost. If alcoholic beverages are provided by a caterer, the caterer must have a liquor license permit from the State of Michigan. Additionally, the provider of the alcoholic beverages must provide a separate Liquor Liability Insurance Policy in the amount of \$1,000,000.00 combined single limit with the Warren Downtown Development Authority and the City of Warren listed as "Additional Insured".*

22. Security Deposits, Rental Fee Payment, and Refunds – *Security Deposit is \$250.00 per room rental. (See "Rental Policies and Rules" for guidelines regarding facility clean up). Rental fees must be paid in full 30 days prior to rental. An un-received deposit or final balance WILL RESULT IN FORFEITURE OF YOUR SPACE. Refunds due to applicant cancellations will be processed as follows: 30 days or more prior to event = refund less 15% administrative fee; less than 30 days prior to event = refund of 50%; less than 15 days prior to event = NO REFUND.*
23. Additional Fees – There will be an additional \$10.00 per hour fee for "Weekend Hour" activities for rental of the Atrium and Conference Center. Meeting Rooms are only available from Monday – Friday from 8:30 a.m. – 5:00 p.m. and will not be available during "Weekend Hour" activities.

Please call 574-4676 or 574-4529 for further information.

Exhibit B

Civic Center Facilities Rental Application





# WARREN Civic Center Facilities Rental Application (574-4676)

Name \_\_\_\_\_ Title \_\_\_\_\_ Organization \_\_\_\_\_

Address \_\_\_\_\_ City \_\_\_\_\_ Zip Code \_\_\_\_\_

Phone: (home) \_\_\_\_\_ (work) \_\_\_\_\_

(cell) \_\_\_\_\_ (fax) \_\_\_\_\_

Email: \_\_\_\_\_ Expected Attendance \_\_\_\_\_

Room/Facility requested & type of activity: \_\_\_\_\_

## Dates and Times Requested:

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

## Special Equipment Fees:

TV/VCR/DVD \$15.00/day  
 OH Projector \$15.00/day  
 Screen \$ 5.00/day  
 Podium w/ Mic \$25.00/day  
 PC Cart \$25.00/day  
 Internet Access \$ 5.00/day  
 Platform/Stage \$20.00/day

## Additional Fees:

Kitchen Access \$30.00/day  
 Weekend Rental \$10.00/hr  
 (Circle Items Needed)

(Note: Additional days should be placed on a blank sheet of paper and attached to this application)

## Room Set-Up Selection (Circle One) (See attached Set-up Sheet)

Conference – U-Shape Style  
 # of Chairs \_\_\_\_\_, # of Tables \_\_\_\_\_

Conference – Square Table Style  
 # of Chairs \_\_\_\_\_, # of Tables \_\_\_\_\_

Dining/Banquet Style  
 # of Chairs \_\_\_\_\_, # of Tables \_\_\_\_\_

Theater Style  
 # of Chairs \_\_\_\_\_, # of Tables \_\_\_\_\_

Classroom Style  
 # of Chairs \_\_\_\_\_, # of Tables \_\_\_\_\_

Other \_\_\_\_\_  
 # of Chairs \_\_\_\_\_, # of Tables \_\_\_\_\_

Will Food Be Served? YES \_\_\_ NO \_\_\_ Catered? YES \_\_\_ NO \_\_\_ (License and Insurance Required)  
 Will Alcohol Be Served? YES \_\_\_ NO \_\_\_ If Yes, by whom \_\_\_\_\_ (Liquor License Required)  
 Will You Require Use of the Kitchen? YES \_\_\_ NO \_\_\_  
 Will You Require Communications Assistance? YES \_\_\_ NO \_\_\_

I hereby made this application for the use of a Warren Civic Center Building facility on the date and hours stated. I also verify that the information on the application is true and I have read and agree to abide by the rental policy pertaining to the use of said facility as adopted by the Warren Downtown Development Authority. I also agree to the fee charged, and shall be responsible pertaining to the use of the facility in accordance with the rental policy. I have read and agree to the Warren Civic Center Building Rental Policies and Rules which were provided to me at the time that my rental application was submitted.

**ALSO NOTE:** The renter will be held responsible and charged a fee for any missing equipment such as cables, after use of any of the rooms. I further agree to indemnify, defend and save harmless the Warren Downtown Development Authority and the City of Warren, its officers, agents and employees from and against all loss or exposure (including costs and attorney fees) by reason of liability imposed by law upon the Warren Downtown Development Authority and the City of Warren, its officers, agents and employees for damages because of bodily injury, including death at any time resulting therefrom, sustained by any person or persons, or on account of damage to property including loss of use thereof, arising out of or in consequence of the performance of this application, whether such injuries to persons or damage to property is due or claimed to be due to the negligence of the contractor, the Warren Downtown Development Authority, the City of Warren, its officers, agents and employees, excepting only such injury or damage as shall have been occasioned by the sole negligence of the Warren Downtown Development Authority, the City of Warren, its officers, agents, and employees.

SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

APPLICANTS DRIVERS LICENSE# \_\_\_\_\_ (Must be 21 years of age or older)

Exhibit C

Walden Civic Center Facilities Rental Applications



# WARREN Civic Center Facilities Rental Application

Name Darius Walden Title Pastor Organization The Tabernacle  
 Address 14205 12 mile City Warren Zip Code 48098  
 Phone: (home) 586 [REDACTED] (work) 586 778 5130  
 (cell) 586 [REDACTED] (fax) \_\_\_\_\_  
 Email: thetabernacle.vtc@gmail.com Expected Attendance \_\_\_\_\_  
 Type of Activity prayer station

## Dates and Times Requested:

TUE, THUR, FRI 9AM-3PM

Special Equipment Fees	
TV/VCR/DVD	\$15.00/day
OH Projector	\$15.00/day
Screen	\$ 6.00/day
Podium w/ Mic	\$25.00/day
PC Cart	\$25.00/day
Internet Access	\$ 5.00/day
Platform/Stage	\$20.00/day
Additional Fees:	
Kitchen Access	\$30.00/day
Weekend Rental	\$10.00/hr
(Circle Items Needed)	

(Note: Additional days should be placed on a blank sheet of paper and attached to this application)

## Room Set-Up Selection (Circle One)

Conferences - U-Shape Style      Conference - Round Table Style      Dining Style  
 # of chairs \_\_\_\_\_ # of Tables \_\_\_\_\_      # of Chairs \_\_\_\_\_ # of Tables \_\_\_\_\_      # of Chairs \_\_\_\_\_ # of Tables \_\_\_\_\_  
 Theater Style      Classroom Style      Other  
 # of Chairs \_\_\_\_\_ # of Tables \_\_\_\_\_      # of Chairs \_\_\_\_\_ # of Tables \_\_\_\_\_      # of Chairs \_\_\_\_\_ # of Tables \_\_\_\_\_

Room/Facility Requested: Atrium - 3-5' S.F. area

Will Food Be Served? YES \_\_\_\_\_ NO ☒      Catered? YES \_\_\_\_\_ NO ☒ (License and Insurance Required)  
 Will Alcohol Be Served? YES \_\_\_\_\_ NO ☒      If Yes, by whom? \_\_\_\_\_ (Liquor License Required)  
 Will You Require Use of the Kitchen? YES \_\_\_\_\_ NO ☒

I hereby make this application for the use of a Warren Civic Center Building facility on the date and hours stated. I also verify that the information on the application is true and I have read and agree to abide by the rental policy pertaining to the use of said facility as adopted by the Warren Downtown Development Authority. I also agree to the fee charged, and shall be responsible pertaining to the use of the facility in accordance with our rental policy. I have read and agree to the Warren Civic Center Building Rental Policies and Rules which were provided to me at the time that my rental application was submitted.

I further agree to indemnify, defend and save harmless the Warren Downtown Development Authority and the City of Warren, its officers, agents and employees from and against all loss or exposure (including costs and attorney fees) by reason of liability imposed by law upon the Warren Downtown Development Authority and the City of Warren, its officers, agents and employees for damages because of bodily injury, including death at any time resulting therefrom, sustained by any person or persons, or on account of damage to property including loss of use thereof, arising out of or in consequence of the performance of this application, whether such injuries to persons or damage to property is due or claimed to be due to the negligence of the contractor, the Warren Downtown Development Authority, the City of Warren, its officers, agents and employees, excepting only such injury or damage as shall have been occasioned by the sole negligence of the Warren Downtown Development Authority, the City of Warren, its officers, agents, and employees.

SIGNATURE: Darius Walden DATE: 1-8-2009

APPLICANTS DRIVERS LICENSE# [REDACTED] (Must be 21 years of age or older)





## Civic Center Facilities Rental Application (574-4676)

Name Darius Walden Title Pastor Organization The Tabernacle / Evangel Temple Church of God  
 Address 14205 12 Mile Rd City Warren Zip Code 48098  
 Phone: (home) [REDACTED] (work) 586 778 5130  
 (cell) Same as home (fax) \_\_\_\_\_

Email: TheTabernacle.yt@gmail.com Expected Attendance 10-15

Type of Activity Prayer Station (Voluntary)

Dates and Times Requested: (in the atrium)

6/15/2009 - 12/31/2009

Tues, Thursdays, Fridays

9:00 AM - 3:00 PM

**Special Equipment Fees:**

TV/VCR/DVD \$15.00/day  
 OH Projector \$15.00/day  
 Screen \$ 5.00/day  
 Podium w/ Mic \$25.00/day  
 PC Cart \$25.00/day  
 Internet Access \$ 5.00/day  
 Platform/Stage \$20.00/day

**Additional Fees:**

Kitchen Access \$30.00/day  
 Weekend Rental \$10.00/hr  
 (Circle Items Needed)

(Note: Additional days should be placed on a blank sheet of paper and attached to this application)

**Room Set-Up Selection (Circle One)**

Conference – U-Shape Style

# of Chairs \_\_\_\_\_, # of Tables \_\_\_\_\_

Conference – Square Table Style

# of Chairs \_\_\_\_\_, # of Tables \_\_\_\_\_

Dining/Banquet Style

# of Chairs \_\_\_\_\_, # of Tables \_\_\_\_\_

Theater Style

# of Chairs \_\_\_\_\_, # of Tables \_\_\_\_\_

Classroom Style

# of Chairs \_\_\_\_\_, # of Tables \_\_\_\_\_

Other \_\_\_\_\_

# of Chairs \_\_\_\_\_, # of Tables \_\_\_\_\_

Room/Facility Requested: \_\_\_\_\_

Will Food Be Served? YES \_\_\_\_\_ NO ☒ Catered? YES \_\_\_\_\_ NO ☒ (License and Insurance Required)  
 Will Alcohol Be Served? YES \_\_\_\_\_ NO ☒ If Yes, by whom? \_\_\_\_\_ (Liquor License Required)  
 Will You Require Use of the Kitchen? YES \_\_\_\_\_ NO ☒

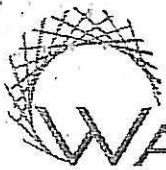
I hereby made this application for the use of a Warren Civic Center Building facility on the date and hours stated. I also verify that the information on the application is true and I have read and agree to abide by the rental policy pertaining to the use of said facility as adopted by the Warren Downtown Development Authority. I also agree to the fee charged; and shall be responsible pertaining to the use of the facility in accordance with the rental policy. I have read and agree to the Warren Civic Center Building Rental Policies and Rules which were provided to me at the time that my rental application was submitted.

I further agree to indemnify, defend and save harmless the Warren Downtown Development Authority and the City of Warren, its officers, agents and employees from and against all loss or exposure (including costs and attorney fees) by reason of liability imposed by law upon the Warren Downtown Development Authority and the City of Warren, its officers, agents and employees for damages because of bodily injury, including death at any time resulting therefrom, sustained by any person or persons, or on account of damage to property including loss of use thereof, arising out of or in consequence of the performance of this application, whether such injuries to persons or damage to property is due or claimed to be due to the negligence of the contractor, the Warren Downtown Development Authority, the City of Warren, its officers, agents and employees, excepting only such injury or damage as shall have been occasioned by the sole negligence of the Warren Downtown Development Authority, the City of Warren, its officers, agents, and employees.

SIGNATURE: Darius Walden DATE: 6-24-2009

APPLICANTS DRIVERS LICENSE# [REDACTED] (Must be 21 years of age or older)





# WARREN Civic Center Facilities Rental Application (574-4676)

Name Darius Walden Title PASTOR Organization The Tabernacle Church  
 Address 14205 12 mile Rd City Warren Zip Code 48088  
 Phone: (home) [REDACTED] (work) 586 778 5130  
 (cell) same (fax) 586 778 8445  
 Email: TheTabernacle.y@gmail.com Expected Attendance 10-15  
 Room/Facility requested & type of activity: Atrium - prayer station (voluntary)

## Dates and Times Requested:

7/1/2011 - 7/1/2012

## Special Equipment Fees:

TV/VCR/DVD \$15.00/day  
 OH Projector \$15.00/day  
 Screen \$ 5.00/day  
 Podium w/ Mic \$25.00/day  
 PC Cart \$25.00/day  
 Internet Access \$ 5.00/day  
 Platform/Stage \$20.00/day

## Additional Fees:

Kitchen Access \$30.00/day  
 Weekend Rental \$10.00/hr  
 (Circle Items Needed)

(Note: Additional days should be placed on a blank sheet of paper and attached to this application)

## Room Set-Up Selection (Circle One) (See attached Set-up Sheet)

Conference – U-Shape Style

# of Chairs \_\_\_\_\_, # of Tables \_\_\_\_\_

Conference – Square Table Style

# of Chairs \_\_\_\_\_, # of Tables \_\_\_\_\_

Dining/Banquet Style

# of Chairs \_\_\_\_\_, # of Tables \_\_\_\_\_

Theater Style

# of Chairs \_\_\_\_\_, # of Tables \_\_\_\_\_

Classroom Style

# of Chairs \_\_\_\_\_, # of Tables \_\_\_\_\_

Other \_\_\_\_\_

# of Chairs \_\_\_\_\_, # of Tables \_\_\_\_\_

Will Food Be Served? YES \_\_\_\_\_ NO ☒ Catered? YES \_\_\_\_\_ NO ☒ (License and Insurance Required)  
 Will Alcohol Be Served? YES \_\_\_\_\_ NO ☒ If Yes, by whom \_\_\_\_\_ (Liquor License Required)  
 Will You Require Use of the Kitchen? YES \_\_\_\_\_ NO ☒  
 Will You Require Communications Assistance? YES \_\_\_\_\_ NO ☒

I hereby made this application for the use of a Warren Civic Center Building facility on the date and hours stated. I also verify that the information on the application is true and I have read and agree to abide by the rental policy pertaining to the use of said facility as adopted by the Warren Downtown Development Authority. I also agree to the fee charged, and shall be responsible pertaining to the use of the facility in accordance with the rental policy. I have read and agree to the Warren Civic Center Building Rental Policies and Rules which were provided to me at the time that my rental application was submitted.

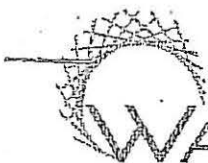
ALSO NOTE: The renter will be held responsible and charged a fee for any missing equipment such as cables, after use of any of the rooms.

I further agree to indemnify, defend and save harmless the Warren Downtown Development Authority and the City of Warren, its officers, agents and employees from and against all loss or exposure (including costs and attorney fees) by reason of liability imposed by law upon the Warren Downtown Development Authority and the City of Warren, its officers, agents and employees for damages because of bodily injury, including death at any time resulting therefrom, sustained by any person or persons, or on account of damage to property including loss of use thereof, arising out of or in consequence of the performance of this application, whether such injuries to persons or damage to property is due or claimed to be due to the negligence of the contractor, the Warren Downtown Development Authority, the City of Warren, its officers, agents and employees, excepting only such injury or damage as shall have been occasioned by the sole negligence of the Warren Downtown Development Authority, the City of Warren, its officers, agents, and employees.

SIGNATURE: [Signature] DATE: 7-13-2011

APPLICANTS DRIVERS LICENSE# [REDACTED] (Must be 21 years of age or older)





## Civic Center Facilities Rental Application (574-4676)

Name DARIUS WALDEN Title PASTOR Organization The TabernacleAddress 14205 12 mile City Warren Zip Code 48088Phone: (home) [REDACTED] (work) 586 778 5130(cell) same (fax) 586 778 8446Email: [REDACTED] Expected Attendance 6Warrentabernacle@gmail.comRoom/Facility requested & type of activity: atrium space for prayer stationDates and Times Requested:Tues, Wed, Thur, Fri9am - 3pmNovember 2013 - November 2014Special Equipment Fees:

TV/VCR/DVD \$15.00/day

OH Projector \$15.00/day

Screen \$ 5.00/day

Podium w/ Mic \$25.00/day

PC Cart \$25.00/day

Internet Access \$ 5.00/day

Platform/Stage \$20.00/day

Additional Fees:

Kitchen Access \$30.00/day

Weekend Rental \$10.00/hr

(Circle Items Needed)

(Note: Additional days should be placed on a blank sheet of paper and attached to this application)

Room Set-Up Selection (Circle One) (See attached Set-up Sheet)

Conference - U-Shape Style

# of Chairs \_\_\_\_\_, # of Tables \_\_\_\_\_

Conference - Square Table Style

# of Chairs \_\_\_\_\_, # of Tables \_\_\_\_\_

Dining/Banquet Style

# of Chairs \_\_\_\_\_, # of Tables \_\_\_\_\_

Theater Style

# of Chairs \_\_\_\_\_, # of Tables \_\_\_\_\_

Classroom Style

# of Chairs \_\_\_\_\_, # of Tables \_\_\_\_\_

Other \_\_\_\_\_

# of Chairs \_\_\_\_\_, # of Tables \_\_\_\_\_

Will Food Be Served? YES \_\_\_\_\_ NO ☒ Catered? YES \_\_\_\_\_ NO ☒ (License and Insurance Required)

Will Alcohol Be Served? YES \_\_\_\_\_ NO ☒ If Yes, by whom \_\_\_\_\_ (Liquor License Required)

Will You Require Use of the Kitchen? YES \_\_\_\_\_ NO ☒

Will You Require Communications Assistance? YES \_\_\_\_\_ NO ☒

I hereby made this application for the use of a Warren Civic Center Building facility on the date and hours stated. I also verify that the information on the application is true and I have read and agree to abide by the rental policy pertaining to the use of said facility as adopted by the Warren Downtown Development Authority. I also agree to the fee charged, and shall be responsible pertaining to the use of the facility in accordance with the rental policy. I have read and agree to the Warren Civic Center Building Rental Policies and Rules which were provided to me at the time that my rental application was submitted.

ALSO NOTE: The renter will be held responsible and charged a fee for any missing equipment such as cables, after use of any of the rooms.

I further agree to indemnify, defend and save harmless the Warren Downtown Development Authority and the City of Warren, its officers, agents and employees from and against all loss or exposure (including costs and attorney fees) by reason of liability imposed by law upon the Warren Downtown Development Authority and the City of Warren, its officers, agents and employees for damages because of bodily injury, including death at any time resulting therefrom, sustained by any person or persons, or on account of damage to property including loss of use thereof, arising out of or in consequence of the performance of this application, whether such injuries to persons or damage to property is due or claimed to be due to the negligence of the contractor, the Warren Downtown Development Authority, the City of Warren, its officers, agents and employees, excepting only such injury or damage as shall have been occasioned by the sole negligence of the Warren Downtown Development Authority, the City of Warren, its officers, agents, and employees.

SIGNATURE: [Signature] DATE: 11/13/2013

APPLICANTS DRIVERS LICENSE# \_\_\_\_\_ (Must be 21 years of age or older)

Exhibit D

Photograph of Prayer Station



Exhibit E

Marshall Civic Center Facilities Rental Application





# WARREN Civic Center Facilities Rental Application (574-4676)

Name Douglas Marshall Title Resident Organization \_\_\_\_\_  
 Address [REDACTED] City Warren Zip Code 48093  
 Phone: (home) (586) [REDACTED] (work) ~  
 (cell) (586) [REDACTED] (fax) —  
 Email [REDACTED]@AOL.com Expected Attendance 6

Room/Facility requested & type of activity: Atium space For Reception Station

## Dates and Times Requested:

Tuesday & Thursday  
11 AM To 3 PM  
May 1, 2014 To April 30, 2015

## Special Equipment Fees:

TV/VCR/DVD \$15.00/day  
 OH Projector \$15.00/day  
 Screen \$ 5.00/day  
 Podium w/ Mic \$25.00/day  
 PC Cart \$25.00/day  
 Internet Access \$ 5.00/day  
 Platform/Stage \$20.00/day

## Additional Fees:

Kitchen Access \$30.00/day  
 Weekend Rental \$10.00/hr  
 (Circle Items Needed)

(Note: Additional days should be placed on a blank sheet of paper and attached to this application)

## Room Set-Up Selection (Circle One) (See attached Set-up Sheet)

Conference – U-Shape Style  
 # of Chairs \_\_\_\_\_, # of Tables \_\_\_\_\_

Conference – Square Table Style  
 # of Chairs \_\_\_\_\_, # of Tables \_\_\_\_\_

Dining/Banquet Style  
 # of Chairs \_\_\_\_\_, # of Tables \_\_\_\_\_

Theater Style  
 # of Chairs \_\_\_\_\_, # of Tables \_\_\_\_\_

Classroom Style  
 # of Chairs \_\_\_\_\_, # of Tables \_\_\_\_\_

Other \_\_\_\_\_  
 # of Chairs \_\_\_\_\_, # of Tables \_\_\_\_\_

Will Food Be Served? YES \_\_\_\_\_ NO ✓ Catered? YES \_\_\_\_\_ NO ✓ (License and Insurance Required)  
 Will Alcohol Be Served? YES \_\_\_\_\_ NO ✓ If Yes, by whom \_\_\_\_\_ (Liquor License Required)  
 Will You Require Use of the Kitchen? YES \_\_\_\_\_ NO ✓  
 Will You Require Communications Assistance? YES \_\_\_\_\_ NO ✓

I hereby made this application for the use of a Warren Civic Center Building facility on the date and hours stated. I also verify that the information on the application is true and I have read and agree to abide by the rental policy pertaining to the use of said facility as adopted by the Warren Downtown Development Authority. I also agree to the fee charged, and shall be responsible pertaining to the use of the facility in accordance with the rental policy. I have read and agree to the Warren Civic Center Building Rental Policies and Rules which were provided to me at the time that my rental application was submitted.

ALSO NOTE: The renter will be held responsible and charged a fee for any missing equipment such as cables, after use of any of the rooms.

I further agree to indemnify, defend and save harmless the Warren Downtown Development Authority and the City of Warren, its officers, agents and employees from and against all loss or exposure (including costs and attorney fees) by reason of liability imposed by law upon the Warren Downtown Development Authority and the City of Warren, its officers, agents and employees for damages because of bodily injury, including death at any time resulting therefrom, sustained by any person or persons, or on account of damage to property including loss of use thereof, arising out of or in consequence of the performance of this application, whether such injuries to persons or damage to property is due or claimed to be due to the negligence of the contractor, the Warren Downtown Development Authority, the City of Warren, its officers, agents and employees, excepting only such injury or damage as shall have been occasioned by the sole negligence of the Warren Downtown Development Authority, the City of Warren, its officers, agents, and employees.

SIGNATURE: Douglas Marshall DATE: 4/9/2014

APPLICANTS DRIVERS LICENSE# \_\_\_\_\_ (Must be 21 years of age or older)

Exhibit F

Letter from Mayor Fouts



**OFFICE OF THE MAYOR**

ONE CITY SQUARE, SUITE 215  
WARREN, MI 48093-6726  
(586) 574-4520  
[www.cityofwarren.org](http://www.cityofwarren.org)

April 15, 2014

Mr. Douglas Marshall

[REDACTED]  
Warren, MI 48093

Dear Mr. Marshall:

The City of Warren through the Downtown Development Authority has received your request to use space in the atrium. It is my understanding that you are affiliated with Freedom from Religion, a group that has objected to the Nativity Scene, the Prayer Station in the atrium and the Annual Day of Prayer in front of city hall.

All of these events are allowed because of the right to freedom of religion constitutional amendment. We cannot and will not restrict this right for any religion to use the atrium, as long as the activity is open to all religions.

Freedom from Religion is not a religion. It has no tenets, no place of worship and no congregation.

To my way of thinking, your group is strictly an anti-religion group intending to deprive all organized religions of their constitutional freedoms or at least discourage the practice of religion. The City of Warren cannot allow this.

Also, I believe it is your group's intention to disrupt those who participate in the Prayer Station which would also be a violation of the freedom of religion amendment.

For these reasons, I cannot approve of your request.

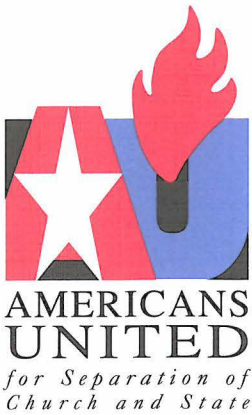
Sincerely,

A handwritten signature in blue ink, appearing to read "James R. Fouts".  
James R. Fouts  
Mayor of Warren

Exhibit G

Letter from Americans United





1301 K Street NW

Suite 850, East Tower

Washington, DC 20005

(202) 466-3234 phone

(202) 466-3353 fax

americansunited@au.org

www.au.org



April 18, 2014

James Fouts, Mayor (mayor@cityofwarren.org)  
David Griem, City Attorney  
City of Warren  
One City Square  
Warren, MI 48093

**RE: Unconstitutional viewpoint discrimination**

Dear Mr. Fouts and Mr. Griem:

We have received a complaint regarding Mayor Fouts' rejection of Douglas Marshall's application to erect a "Reason Station" in the atrium of the Warren City Hall. Mayor Fouts has allowed religious "Prayer Stations" to be erected in the same space and has publicly stated that any religion or ethnic group would be permitted to set up a station in the space. *See* Christina Hall, *Warren mayor says atheist can't put up 'reason station' inside city hall*, Detroit Free Press, April 16, 2014, available at <http://www.freep.com> (last visited April 17, 2014). Yet, Mayor Fouts explained in a letter sent to Mr. Marshall that he rejected his application because of Mr. Marshall's previous objection to religious displays in the atrium and because of his affiliation with the Freedom From Religion Foundation, which the Mayor described as "an anti-religion group intending to deprive all organized religions of their constitutional freedoms or at least discourage the practice of religion," adding, "The City of Warren cannot allow this." Letter from James R. Fouts to Douglas Marshall (April 15, 2014), *copy on file with author* (emphasis in original). The Mayor's decision is an egregious violation of Mr. Marshall's constitutional rights. We ask that you rescind this decision and approve Mr. Marshall's use of space in the atrium.

The government may open a forum for private speech, but if it does so, it must treat religious and non-religious viewpoints equally. *See Good News Club v. Milford Cent. Sch.*, 533 U.S. 98, 106 (2001); *Lamb's Chapel v. Ctr. Moriches Union Free Sch. Dist.*, 508 U.S. 384, 392-94 (1993). When the government denies access to a public forum because it disagrees with the viewpoint of the private speech that will be expressed in the forum, the government has engaged in viewpoint discrimination in violation of the Free Speech Clause of the First Amendment. *Capitol Square Rev. & Advisory Bd. v. Pinette*, 515 U.S. 753, 761 (1995); *Rosenberger v. Rector and Visitors of Univ. of Va.*, 515 U.S. 819, 828-29 (1995). Mayor Fouts has openly admitted that he denied the application based on Mr. Marshall's associations and views on religion, plainly violating the First Amendment.

Perhaps Mayor Fouts believes that he has the right to deny Mr. Marshall's application under the U.S. Court of Appeals for the Sixth Circuit's decision in *Freedom from Religion Foundation v. City of Warren*, 707 F.3d 686 (6th Cir. 2013), which denied the Foundation's request to include a secular display in the City's holiday display. But such a belief would be incorrect, because the display at issue in *City of Warren* was not private speech in a public forum. 707 F.3d at 697. Rather, the holiday display was the government's own speech, which gave the government the right to edit,

censor, and otherwise control its content. *Id.* at 696-97. Mayor Fouts, in contrast, has declared that city hall is a public forum where any religion or ethnic group may set up a station. *See Hall, Warren mayor says atheist can't put up 'reason station' inside city hall, supra.* Mayor Fouts, therefore, is not controlling the content of government speech, but rather is unconstitutionally denying a private citizen access to a public forum on the basis of the citizen's views.<sup>1</sup>

Mayor Fouts' decision also provides preferential treatment to religion over non-religion in violation of the First Amendment's Establishment Clause. The government must remain neutral "between religion and religion, and between religion and non-religion." *Epperson v. Arkansas*, 393 U.S. 97, 104 (1968). Accordingly, in *Texas Monthly, Inc. v. Bullock*, 489 U.S. 1 (1989), the U.S. Supreme Court struck down a sales-tax exemption that was available exclusively to religious periodicals, explaining that when the government singles out religious organizations for "awards of assistance," the government "conve[y][s] a message of endorsement [of religion]" to slighted members of the community." *Id.* at 15 (plurality opinion) (internal brackets omitted) (quoting *Corp. of Presiding Bishop v. Amos*, 483 U.S. 327, 348 (1987)). Similarly, in *Estate of Thornton v. Caldor, Inc.*, 472 U.S. 703, 710 n.9 (1985), the Supreme Court struck down a state statute that provided Sabbath observers an absolute right not to work on their Sabbath, concluding that the statute represented an unconstitutional governmental preference for Sabbath observers over "other employees who have strong and legitimate, but non-religious, reasons for wanting" a particular day off. In contrast, the Supreme Court in *Walz v. Tax Comm'n*, 397 U.S. 664, 673 (1970), upheld the application of a property tax exemption to churches, because the statute did not single out religious organizations for special treatment; rather, the benefit was available to "a broad class of property owned by nonprofit, quasi-public corporations." Allowing religious groups the privilege of setting up manned stations in city hall while denying the same privilege to atheist groups plainly violates these Supreme Court decisions.

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<sup>1</sup> If the City were to instead contend that the contents of the atrium are the City's own speech, then the "Prayer Stations" would be clear violations of the Establishment Clause, which prohibits government bodies from sponsoring or promoting prayer. *See, e.g., Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290, 305 (2000) (striking down school-sponsored prayer at football games); *N.C. Civil Liberties Union v. Constangy*, 947 F.2d 1145, 1146 (4th Cir. 1991) (prohibiting judge from opening court with prayer); *Doe v. Vill. of Crestwood*, 917 F.2d 1476, 1478-79 (7th Cir. 1990) (prohibiting city from including Catholic mass in city festival); *Hall v. Bradshaw*, 630 F.2d 1018, 1019-22 (4th Cir. 1980) (prohibiting inclusion of prayer on map issued by state office); *Newman v. City of E. Point*, 181 F. Supp. 2d 1374, 1381-82 (N.D. Ga. 2002) (prohibiting city from sponsoring prayer breakfast).



Please approve Mr. Marshall's application. Alternatively, you may comply with the Constitution by closing the forum entirely, and barring the prayer stations and other private stations, tables, and booths from city hall. Please advise us within thirty days as to how you plan to proceed. Failure to remedy this constitutional violation within that time would very likely subject the city to expensive and time-consuming litigation. If you have any questions or would like to discuss this issue further, please contact Ian Smith at (202) 466-3234 or at [ismith@au.org](mailto:ismith@au.org).

Very truly yours,



Ayesha N. Khan, Legal Director

Alex J. Luchenitser, Associate Legal Director

Ian Smith, Staff Attorney

cc: Cecil St. Pierre, President ([cdspjr@yahoo.com](mailto:cdspjr@yahoo.com))  
Patrick Green, Vice President ([pgreen@cityofwarren.org](mailto:pgreen@cityofwarren.org))  
Scott Stevens ([scs425@wowway.com](mailto:scs425@wowway.com))  
Keith Sadowski ([ksadowski@cityofwarren.org](mailto:ksadowski@cityofwarren.org))  
Robert Boccomino ([boccomino2007@wowway.com](mailto:boccomino2007@wowway.com))  
Kelly Colegio ([kcolegio4@aol.com](mailto:kcolegio4@aol.com))  
Steven Warner ([sgwarner1@yahoo.com](mailto:sgwarner1@yahoo.com))  
Warren City Council  
Warren Community Center  
Second Floor  
5460 Arden  
Warren, MI 48092

