



FREEDOM FROM RELIGION FOUNDATION

P.O. Box 750 • Madison WI 53701 • (608) 256-8900 • www.ffrf.org

December 10, 2010

Eileen Queener
Director
Hawkins County Library System
407 E Main St
Rogersville TN 37857

Re: Display of Cross on Government Property

Dear Ms. Queener:

I am writing on behalf of a concerned Hawkins County resident and taxpayer, and other Tennessee members of the Freedom From Religion Foundation (“FFRF”) who object to the display of a cross on public property. FFRF is a nationwide nonprofit organization, which works to protect the constitutional principle of separation between state and church. We represent over 16,000 members across the country, including nearly 200 in Tennessee.

It is our information and understanding that Church Hill Public Library (“Library”) is a branch of the Hawkins County Library System. Our complainant informs us that the Library has a light decoration in the shape of a Christmas tree on the roof. The tree is topped with a large red Latin cross. This tree and cross is obviously illuminated at night — visible for all library patrons, Hawkins County residents and visitors to see.

It is unlawful for Church Hill Public Library to display a Christian cross on the roof of its building. The display of this patently religious symbol on public property confers government endorsement of Christianity, a blatant violation of the Establishment Clause. Hawkins County Library System must take immediate action to remove this display from the library’s roof.

First and foremost, 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 has held displays of Latin crosses on public property to be an unconstitutional endorsement of religion. *See, e.g., Buono v. Norton*, 371 F.3d 543, 550 (9th Cir. 2004); *Carpenter v. City and County of San Diego*, 93 F.3d 627,632 (9th Cir. 1996); *Friedman v. Bd. of County Comm'rs*, 781 F.2d 777, 778 (10th Cir. 1985)(en banc); *ACLU v. Rabun County 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...” *Allegheny* at 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.*

No court of final resort has ever upheld the government’s permanent display of a Latin cross on public land as constitutional. The inherent religious significance of the Latin cross is undeniable and is not disguisable. No secular purpose, no matter how sincere, will detract from the overall message that the Latin cross stands for Christianity and the overall display promotes Christianity.

Secondly, a Latin cross is not a permissible Christmas decoration. In *ACLU v. St. Charles*, 794 F.2d 265 (7th Cir. 1986), cert. denied, 479 U.S. 961 (1986), the Seventh Circuit prohibited the city of St. Charles from displaying an illuminated Latin cross on the top of the city’s fire department as a part of its annual Christmas display. *Id.* at 267. The court reasoned that this powerful sectarian symbol was not a traditional decoration for the holiday season, but instead was an unmistakable symbol of Christianity. *Id.* at 271. It stated, “when prominently displayed on a public building that is clearly marked as and known to be such, the cross dramatically conveys a message of government support for Christianity...” *Id.* Thus, the court held this display constituted an endorsement of religion, particularly Christianity, which is prohibited by the Establishment Clause of the First Amendment. *Id.* at 270-271.

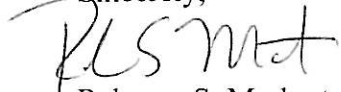
Like the Latin cross in *ACLU v. St. Charles*, which violated the Establishment Clause, the Church Hill Public Library cross also violates the Establishment Clause. The public library is clearly marked as “Church Hill Public Library” which allows all passersby to identify it as a county building. Its hosting of a powerful sectarian symbol cannot be seen as a traditional decoration of the holiday season, but instead can only be a message of government support for Christianity. Given that the cross is prominently displayed on the

roof of the library, and can be seen by many passersby, particularly at night when it is illuminated, a reasonable observer could only conclude that Hawkins County Library System supports and approves its religious message.

The Library cross unabashedly creates the perception of government endorsement of Christianity. It conveys the message to the twenty-six percent of the U.S. population who are not Christians that they are not “favored members of the political community.” *Allegheny v. ACLU of Pittsburgh*, 492 U.S. 573, 594. The cross has an exclusionary effect, making non-Christian and non-believing residents of Hawkins County political outsiders.

We ask you to remove the cross from Library property immediately or direct the display be moved to a more appropriate private location. We would also appreciate a prompt response from you, in writing, informing us of the steps the Hawkins County Library System will take to resolve this matter. Our complainant awaits action.

Sincerely,

A handwritten signature in black ink, appearing to read 'RSM', written over the typed name.

Rebecca S. Markert
Staff Attorney

cc: Maureen McDaniel, Manager, Church Hill Public Library