



City of Campbell
c/o Mark J. Kolmacic, Law Director
351 Tenney Avenue
Campbell, Ohio 44405
Fax: (330) 750-2980

May 7, 2010- Sent via facsimile and U.S. Mail

Dear Mr. Kolmacic:

I am writing to you in regards to a complaint our office received alleging that on Saturday, April 17, 2010 the City of Campbell required local residents to pay a \$480.00 fee in order to hold a public rally on public property. In addition to the fee for the rally, on the day of the rally, the City required protestors to move the location of their protest a number of times. There is ample authority for the proposition that imposing an arbitrary fee for public speech violates the First Amendment of the United States Constitution. Therefore, under the circumstances unique to this situation, we believe that these actions were calculated to suppress the protestors' speech and violated their constitutional rights.

In the case of *Forsyth County, Ga v. Nationalist Movement*, 505 U.S. 123 (1992), the United States Supreme Court ruled that requiring a fee for public speaking constitutes an unconstitutional prior restraint on speech. Although the Court acknowledged that a city may impose limited permit requirements on individuals who want to speak in public, the cost of the permit may not be unreasonably high nor may the cost be based on the content of the speech. In summary, a city may not impose an arbitrary fee for public speaking simply because the city does not approve of the speaker's message. Imposition of such a fee would be a clear violation of the speaker's First Amendment, constitutional rights.

In spite of the clear prohibition against unconstitutional "prior restraint," Campbell required a group of individuals to pay a \$480.00 fee as a condition for holding a public rally on public property. If the City of Campbell wishes to impose fees for police costs, it must do so on an objective, non-discriminatory basis. According to the U.S. Supreme Court, if a city desires police protection, there must be a neutral standard in place to determine the cost. The same neutral standard must be used for any group wishing to hold a rally on city property. The Court in *Forsyth*, explained that, "[s]peech cannot be financially burdened, any more than it can be punished or banned, simply because it might offend a hostile mob." Arbitrarily assigning a fee to one group but not to another is in direct

AMERICAN CIVIL
LIBERTIES UNION
OF OHIO FOUNDATION
4506 CHESTER AVENUE
CLEVELAND, OH 44103-3621
T/216.472.2220
F/216.472.2210
WWW.ACLUOHIO.ORG
contact@acluohio.org





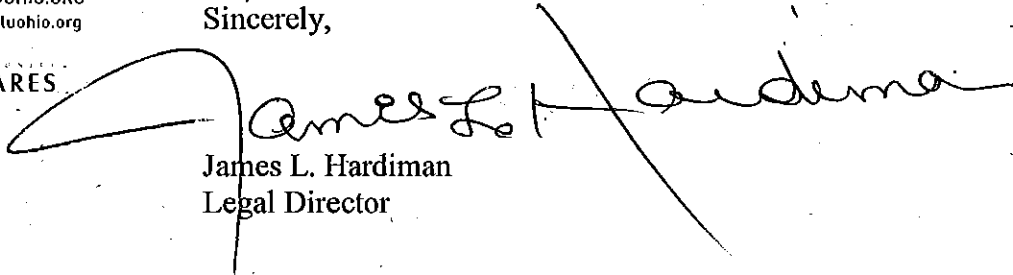
violation of the Supreme Court's holding in *Forsyth* and would be in violation of the First Amendment.

Recently, we requested copies of Campbell's ordinances pertaining to public speech and permit fees. In your reply, you indicated that Campbell does not have an ordinance setting forth an objective permit fee calculation. Because the city lacks a constitutional ordinance requiring a fee for speech on public property, we request that the \$480.00 fee that was improperly imposed upon the protestors on April 17, 2010 be immediately returned.

Of course, should you wish to discuss this matter in greater detail, feel free to contact me at your convenience. Otherwise, I trust that this letter will be accepted in the spirit in which it was intended so that issues of this nature are not permitted to create unnecessary future problems.

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contact@acluohio.org

Sincerely,



James L. Hardiman
Legal Director