



May 19, 2016

TRANSMITTED BY EMAIL AND CERTIFIED MAIL

Rick Horvath, Barbara Langhenry, Gary Singletary, and Nancy Kelly
City of Cleveland Department of Law
601 Lakeside Ave., Room 106
Cleveland, Ohio 44114

Dear Mr. Horvath, Ms. Langhenry, Mr. Singletary, and Ms. Kelly:

Political party nominating conventions are important fora for individuals and organizations to assemble and express their points of view on issues they care about – in other words, to engage in quintessential, protected First Amendment activity. We write on behalf of three clients, Organize Ohio, Citizens for Trump and John Penley (“Free Speech/Safe Space for Protestors”), who wish to exercise their First Amendment rights at Cleveland’s Republican National Convention (the “RNC”) this July. Organize Ohio and Citizens for Trump have applied for parade permits under the City of Cleveland’s Code of Ordinances, Section 411.05 (the “Parade Ordinance”). Organize Ohio submitted its permit application to the City on March 16, 2016, and Citizens for Trump submitted its application on April 25, 2016. Although 1 and 2 months, respectively, have passed, the City has taken no action either to grant or to deny either of these applications, or to grant or deny any of the other (approximately three, we believe) RNC-related parade permit applications submitted to the City, one of which was submitted on February 11, 2016 – three and a half months ago. Instead, Organize for Ohio and Citizens for Trump have been informed by your staff that no action will be taken until two weeks prior to the convention. Similarly, John Penley submitted a request for a permit application on March 14, 2016, and has yet to receive an application or an indication of when the City will respond to his request.

Our clients submitted their applications well in advance of the RNC because they require sufficient time to plan and prepare for peaceful, safe, and orderly First Amendment activities that will be in compliance with any permit restrictions prescribed by the City. Organize Ohio requires time to prepare for the responsible management of approximately 3,000 to 5,000 marchers, and to communicate with and arrange transportation and support for these marchers. Citizens for Trump must enter into contracts for a sound system, the installment of a stage, sanitary facilities, electrical work, hotels, buses, and horse supplies for the rally it is planning. Citizens for Trump anticipates 104 cars/trucks, 100 motorcycles, 4 horses, and at least 5,000 participants. John Penley needs to properly organize his activity, including security, and to give ample notification to protestors regarding the availability of a safe space, especially for disabled and senior protestors.

The City’s decision to delay the granting or denial of permit applications for another seven weeks threatens to stymie the efforts of these organizations and individual, given their need for advance planning, and will severely hinder, if not

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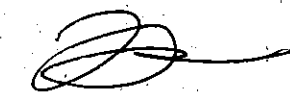


entirely prevent, them from carrying out their constitutionally-protected activities. The delay will also deny them the ability to challenge the City's decisions, if necessary, under the Parade Ordinance or in the courts, because at that late date, there may not be time to bring a challenge. See *Bl(a)ck Tea Society v. City of Boston*, 378 F.3d 8, 15 (1st Cir. 2004) (noting that the last minute timing of the suit sharply limited the remedial options available to the District Court, even though the challenged regulation imposed a substantial burden on free expression).

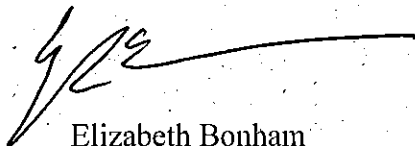
At some time – soon – the City's delay in processing the permit applications will have gone on so long that it will operate as a constructive denial of the permits. Such a prior restraint on speech offends the First Amendment. See *Utah Animal Rights Coalition v. Salt Lake City Corp.*, 371 F.3d 1248, 1261 (10th Cir. 2004); *Service Employee Intern. Union v. City of Los Angeles*, 114 F.Supp.2d 966, 970-71 (C.D.Ca. 2000); *Grossman v. City of Portland*, 33 F.3d 1200, 1205-6 (9th Cir. 1994) (all noting, in the context of political demonstrations, unreasonable delay in permitting schemes unconstitutionally limits speech); see generally *FW/PBS, Inc. v. City of Dallas*, 493 U.S. 215 (1990); *Riley v. National Federation of the Blind of North Carolina, Inc.*, 487 U.S. 781 (1988) (both noting that licensing schemes operate as unconstitutional prior restraints unless they require reasonably timely decision-making); Cf. *The Coalition to March on the RNC and Stop the War v. The City of St. Paul, Minn.*, 557 F.Supp.2d 1014, 1022 (D. Minn. 2008) (warning against a "security creep" that "would come, by increments, to overwhelm the First Amendment" if cities planning conventions increasingly subordinate speech to security planning). The City's need to ensure security at the RNC does not automatically justify action or inaction that curtails First Amendment rights: "Security is not a talisman that the government may invoke to justify *any* burden on speech (no matter how oppressive)." See *Bl(a)ck Tea Society v. City of Boston*, 378 F.3d 8, 12 (1st Cir. 2004) (emphasis in original).

We have been bringing this matter to your attention regularly, including at a meeting in your offices on April 20, 2016, at a meeting at Jones Day on April 29, and in several telephone conversations. Unfortunately, after nearly a month of discussion, it appears we are still on a timetable that threatens to deny our clients' their First Amendment rights. In order to prevent such an unconstitutional deprivation of our clients' rights, we strongly urge the City to issue its permit decisions to our clients on or before June 1, 2016. Otherwise, we will be forced to seek a remedy in court.

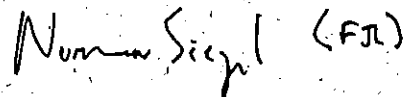
Yours truly,



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