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August 29, 2014

Via Fax – 985-777-5602

And E-mail

Mayor Mayson H. Foster
City of Hammond
P. O. Box 2788
Hammond, LA 70404-2788

Dear Mayor Foster:

The undersigned and this law firm represent the Republican Party of Louisiana. We read your letter of August 25, 2014, which we read with great interest. That letter is attached as Exhibit A.

Your letter states that the City has an Ordinance that requires a \$250 deposit before placing signs within the city. We are unclear whether this Ordinance applies to private property, but it seems to apply to all political signs, whether in the public right-of-way or on private property. We believe this Ordinance presents an unlawful infringement on the private speech of citizens who wish to express their opinions within the Parish limits. We have been successful in convincing the governments of St. Tammany Parish, Covington and Mandeville that similar ordinances are unconstitutional.¹

After reading your letter, we found in the Hammond Ordinances:

Sec. 3-28. Temporary signs.

(c) It should be noted that this article allows many types of temporary signs that do not need approval from the building official. An example would be a business that announces a special sale with a temporary sign on their building or on an approved pole or mobile sign. Such signs do not need prior approval. Real estate, contractor signs, and **political campaign signs are also examples of temporary signs that do not need prior**

¹ See “St Tammany Parish will cease enforcement of ‘unconstitutional’ sign regulations,” *The Times-Picayune / NOLA.com*,

http://www.nola.com/politics/index.ssf/2014/08/st_tammany_parish_will_cease_e.html.

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written approval from the city when installed according to the guidelines of this article.

(d) Political campaign signs are all considered temporary and must be removed within twenty (20) days after an election. These signs are not allowed on public right-of-way, public buildings, public parks, utility poles, or on public trees and may at any time be removed from the public property by the city. **Before signs are installed prior to an election each candidate which seeks to install signs within Hammond's corporate limits will post a two hundred fifty dollar (\$250.00) bond with the zoning clerk at City Hall. Such bond will be held by the city in escrow and returned to the candidate within five (5) working days after the election if the candidate removes his own campaign signs within twenty (20) days. (*emphasis ours*).**

We write today to request that you immediately agree to suspend enforcement of this Ordinance to ensure that your citizens' First Amendment rights to both speak and receive political speech is protected.

If we do not receive satisfactory evidence from you within 10 days, we will consider imminent legal action.

The Ordinance is an unconstitutional content-based political speech regulation. The Ordinance requires that any person who seeks to display a political sign must first ask the Parish for a temporary sign permit and pay a fee. The ordinance also improperly targets the sizes of “political signs,” a clear content-based restriction.

The Ordinance is likely unconstitutional under the U.S. and Louisiana Constitutions, which provide broad protections for political speakers. Political speech “occupies the highest rung of the hierarchy of First Amendment values, and is entitled to special protection.”²

However vaguely worded the Ordinance, the U.S. Supreme Court agrees that Hammond may, consistent with the First Amendment, regulate political signs on public land.³ However, the Court noted that the “availability of alternative channels of communication”⁴ is an important aspect of this regulatory power. The Ordinance burdens the private speaker’s ability to access those alternative channels of communication—their own private property.

Given the upcoming 2014 Federal and 2015 Louisiana elections, we are greatly concerned that the Ordinance at issue is a content-based regulation that directly burdens “the speech of private citizens on private property.”⁵ The Supreme Court has stated that these types of regulations on political speech are strongly presumed to be unconstitutional

² *Connick v. Myers*, 461 U.S. 138, 145 (1983).

³ *Members of the City Council of the City of Los Angeles v. Taxpayers for Vincent*, 466 U.S. 789 (1984).

⁴ *Id.* at 815.

⁵ *Ladue v. Gilleo*, 512 U.S. 43, 58 (1994) (O’Connor, J. concurring).

and are subject to strict scrutiny.⁶ The U.S. Supreme Court has said that political speech on private property is an “unusually cheap and convenient” method, which is particularly useful for “persons of modest means or limited mobility.”⁷ In *City of Ladue v. Gilleo*, the Supreme Court said that even a content-neutral ordinance which banned signs on private property was subject to strict scrutiny and presumptively invalid.⁸

Further, we do not believe that the City’s proffered interest, litter, qualifies as a “compelling government interest.”⁹ The right of freedom of speech “has a broad scope,” but “the privilege may not be withdrawn even if it creates the minor nuisance for a community of cleaning litter from its streets.”¹⁰ A review of the case law shows that the Supreme Court has ruled consistently that a political speaker “cannot be punished for acting without a permit.”¹¹

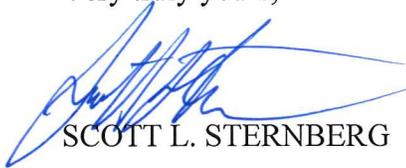
We do not believe that the City of Hammond can show a compelling public interest to justify this content-based restriction on speech. Litter will not suffice.

These are just a few of the difficulties we see with this Ordinance. The Ordinance’s intentions may be noble, but it overtly infringes on the rights of citizens.

We urge you to review the jurisprudence and repeal this law at your next Council meeting. In the meantime, we respectfully request you agree, in writing, to suspend enforcement of the Ordinance. We are confident you will take the necessary steps.

Thank you for your understanding in this matter. Please feel free to contact the undersigned at any time.

Very truly yours,



SCOTT L. STERNBERG

cc: Jason P. Doré, Executive Director of the Republican Party of Louisiana

⁶ *Federal Election Com’n v. Wisconsin Right to Life, Inc.*, 551 U.S. 449, 464 (2007).

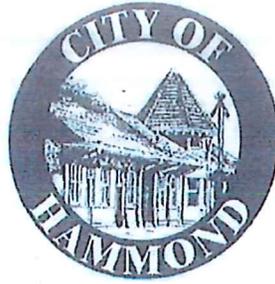
⁷ *Ladue v. Gilleo*, 512 U.S. 43, 58 (1994).

⁸ *Id.*

⁹ The law must be the least restrictive means of advancing that interest.

¹⁰ *Martin v. City of Struthers, Ohio*, 319 U.S. 141, 143, 63 S.Ct. 862, 863, 87 L.Ed. 1313 (1943); *Douglas v. City of Jeannette*, 319 U.S. 157, 63 S.Ct. 882, 87 L.Ed. 1324 (1943)

¹¹ *Schneider v. State of New Jersey, Town of Irvington*, 308 U.S. 147, 165, 60 S.Ct. 146, 152, 84 L.Ed. 155 (1939).



Mayson H. Foster
Mayor

August 25, 2014

To all candidates for the various offices for the election on November 4, 2014:

We thank you for agreeing to put your name up for public office. Having been through this myself on many occasions, I am familiar with the time and resources it takes to run for office. I have always found that whether successful or not, meeting the people provides great rewards.

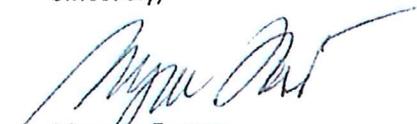
The purpose of this letter is to remind you that IF you place signs inside the city limits of the City of Hammond, we have an ordinance that governs the placement of those signs. No signs can be put on city rights of way. To determine the right of way, if there is a sidewalk where the sign is going, it should be placed on the inside of the sidewalk. If there is no sidewalk, the right of way can generally be determined by "eyeballing" the power poles and placing the sign on the inside of the pole. The DDD and Historic District have limits as well.

The City also has an ordinance that requires a DEPOSIT of \$250 to receive a permit to place signs in the city. At the end of the campaign, you may request a return of your deposit once your signs are picked up throughout the city. If you are in a run-off, there is no need for an additional deposit. This ordinance allows for the continued litter-free environment for which we strive in the city.

We will start enforcing the above ordinances immediately. If you have a sign that is picked up by our code enforcement division, it will be destroyed. Please have your deposit paid and notify your sign-holders of where they can be placed.

Should you have any questions regarding our ordinance, please do not hesitate to contact my office at 277-5601 or the permit office at 277-5655. Good luck and work hard.

Sincerely,



Mayson Foster
Mayor

