

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

CITIZENS FOR COMMUNITY VALUES, INC.,	:	
	:	
Plaintiff,	:	Case No.: 08-cv-428
	:	
vs.	:	
	:	
UNION TOWNSHIP, OHIO,	:	
	:	
Defendant.	:	
	:	

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**VERIFIED COMPLAINT FOR DECLARATORY JUDGMENT,  
PRELIMINARY AND PERMANENT INJUNCTIONS, AND DAMAGES**

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COMES NOW, Citizens for Community Values, by and through its attorneys, and respectfully requests this Court to issue a declaratory judgment, preliminary and permanent injunctions, damages, and costs and fees for violating its federal and state constitutional rights. The Defendant, Union Township, Ohio (hereinafter the “Township”), is prohibiting Plaintiff from engaging in expressive activities in a generally-available public forum due solely to the religious viewpoint of those activities. In support thereof, Plaintiff alleges the following:

**JURISDICTION AND VENUE**

1. This civil rights action under 42 U.S.C. § 1983 raises federal claims under the First and Fourteenth Amendments to the United States Constitution and a state claim under Section 7, Article I of the Ohio Constitution.

2. This Court has original jurisdiction over the federal law claims by operation of 28 U.S.C. §§ 1331 and 1343 and has supplemental jurisdiction over the state law claim pursuant to 28 U.S.C. § 1367.

3. This Court has authority to issue the requested injunctive relief under 28 U.S.C. § 1343, the requested declaratory relief under 28 U.S.C. §§ 2201-02, the requested damages under 28 U.S.C. § 1343, and costs and attorneys' fees under 42 U.S.C. § 1988.

4. Venue is proper under 28 U.S.C. § 1391 in the United States District Court for the Southern District of Ohio because a substantial part of the events giving rise to the claim occurred within the District.

#### PARTIES

5. Plaintiff Citizens for Community Values (CCV) is a nonprofit charitable, educational and religious corporation organized under the laws of the State of Ohio whose purposes are to promote Judeo-Christian moral values, to reduce destructive behaviors contrary to those values through education, active community partnership, and individual empowerment, and to influence public policy at the local, state and national levels.

6. To this end, Plaintiff offers seminars and other educational events in communities throughout Ohio.

7. Defendant Union Township, Clermont County, Ohio is a body politic and corporate organized under the Constitution and laws of the State of Ohio. In fulfilling its duties, the Township acts by and through various commissions and public officials, including without limitation the Board of Trustees, Township Clerk, Township Administrator, and their various agents, employees and appointees.

8. In July, 2004, the Township opened the doors to its Civic Center, which houses Township administration, the West Clermont Local School District administration, Clermont Senior Services, a United States Post Office, a gymnasium, a 400-car Park and Ride, six meeting rooms, and an amphitheatre.

## FACTUAL ALLEGATIONS

### *Background*

9. Plaintiff sincerely believes: that the Bible is the inspired Word of God and as such is the source of, among other things, all ethical standards governing the affairs of men; that the God of the Bible is sovereign over all areas of life, including the socio-political order; and, finally, that the Bible teaches that Christian pastors have a duty to preach and teach the foregoing truths and that Christians in general have a duty to participate in the political process.

10. Consistent with and in an effort to practice its sincere religious beliefs, Plaintiff holds “Politics and the Pulpit” events at public meeting places in Ohio.

11. Plaintiff’s “Politics and the Pulpit” presentation includes four elements: (1) a discussion of what the Bible teaches regarding political involvement by Christians, pastors, and churches; (2) a discussion of the current status of the law regarding political involvement by Christians, pastors, and churches; (3) a time of prayer to petition God for guidance on the church’s proper role in the political process; and (4) a time of singing praise and giving thanks to God for the freedom we have in this country to participate in the political process.

12. In anticipation of the Ohio presidential primary election in March of 2008, Plaintiff scheduled and planned to hold a series of four Politics and the Pulpit events throughout southwest Ohio.

13. Two of these events took place—one in Dayton, Ohio on February 26, 2008 (at the Dayton Public Library), and the other in West Chester, Ohio on February 28, 2008 (at the West Chester Public Library). Plaintiff intended to hold two other Politics and the Pulpit events around the same time at a public venue in Upper Arlington (in Franklin County) and at the Union Township Civic Center.

14. Plaintiff is planning similar events in anticipation of the general election in November of 2008 and desires to hold such an event at, among other venues, the Union Township Civic Center. The event at the Civic Center would be for the benefit of Plaintiff's many supporters in Union Township.

*The Township's Rejection of CCV's Request to Use a Meeting Room*

15. On February 19, 2008, David Miller, Vice-President of Public Policy for Plaintiff, contacted Martha Brown, Executive Assistant to the Township Administrator, and requested to use a meeting room for Plaintiff's Politics and the Pulpit event. In the course of their discussion, Brown expressed concerns that allowing Plaintiff to host its event in the Civic Center, a government building, might violate the "separation of church and state."

16. On the following day Miller sent Brown an email in which he provided additional details about the event Plaintiff desired to hold. Brown responded the same day by email informing Miller that the Township could not accommodate his request.

17. On February 21, 2008, Miller sent Brown another email, asking for more information about the Township's concerns and if there were any changes Plaintiff might make that would allow the event to be accommodated. Brown responded the following day, "No, I have checked with our board and this is not something we can accommodate." She offered no further explanation for the denial of his request.

18. Plaintiff was unable to locate a policy governing the use of the meeting rooms on the Township's website. So, on April 4, 2008, Miller sent Brown a public records request, asking for any written policies concerning the use of the Township's meeting rooms in the Civic Center, and information about other individuals and groups that have used the rooms.

19. On April 14, 2008, Brown wrote to inform Miller that there was no written policy to address his request. She did not provide any information as to other groups that had used the facilities.

20. Miller sent a second request for those records on April 16, 2008.

21. In response to this second request for records of use by other groups, Brown wrote Miller on April 21, 2008, saying, "We do not require a rental form for our meeting rooms. Each request that we receive for the use of a meeting room is screened thoroughly when we receive the request." She then added, "Since this is a government facility we do have guidelines we follow; we do not permit any group to use our facility for any "for profit" events; the facility can not be used for any church or religious activity." She indicated that the meeting rooms were used on a regular basis for Civic Group meetings only and that although they received many requests, they did not have "party rooms." A copy of the letter is attached as Exhibit A.

### LEGAL ALLEGATIONS

22. All alleged acts of the Township, by and through its officers, agents, servants, employees, and persons acting at its behest, were done and continue to be done under the color and pretense of state law.

23. As alleged in greater detail below, the Township's meeting room policy, as applied to Plaintiff, violates Plaintiff's federal and state constitutional rights.

24. As a direct result of the Township's violation of Plaintiff's federal and state constitutional rights, as alleged below, Plaintiff is suffering irreparable harm for which there is no adequate remedy at law.

25. As a direct result of the Township's violation of Plaintiff's federal and state constitutional rights, as alleged below, Plaintiff is entitled to recover nominal and compensatory damages.

### FIRST CLAIM FOR RELIEF

#### *Violation of Plaintiff's Right to the Freedom of Speech Under the First Amendment to the United States Constitution*

26. The allegations contained in all preceding paragraphs are incorporated herein by reference.

27. The Township has intentionally made its meeting rooms generally available to civic and other groups for a broad range of speech that is fully protected by the First Amendment.

28. Religious speech, including the speech that occurs at Plaintiff's presentation, is protected speech under the First Amendment.

29. The Township's policy and enforcement thereof:

- a. Single out religious speech for discriminatory treatment;
- b. Condition access to generally-available public facilities on the content of the applicant's speech;
- c. Discriminate against speech on the basis of the speaker's viewpoint;
- d. Restrain constitutionally-protected speech in advance of its expression, with virtually no standards to guide the discretion of Township officials charged with enforcing the policies; and
- e. Chill the speech of Plaintiff and other individuals and organizations subject to the policy.

30. The Township has no compelling reason that would justify denying Plaintiff or other religious speakers access to generally-available public meeting rooms solely on the basis of the viewpoint and content of its speech.

31. Accordingly, the Township's policy and its enforcement thereof violate Plaintiff's right to the freedom of speech under the First Amendment to the United States Constitution, as applicable to the states under the Fourteenth Amendment.

## SECOND CLAIM FOR RELIEF

### *Violation of Plaintiff's Right to the Free Exercise of Religion Under the First Amendment to the United States Constitution*

32. The allegations contained in all preceding paragraphs are incorporated herein by reference.

33. Plaintiff desires to meet for religious expression and activity motivated by its sincere religious beliefs.

34. The Township's policy and its enforcement thereof selectively imposes a substantial burden on Plaintiff's religious beliefs by restricting its access to a generally-available public forum based upon the religious nature of its beliefs, speech, and conduct.

35. The Township has no compelling reason that would justify denying Plaintiff, or any other organization, equal access to a generally-available public forum solely on the basis of their religious beliefs, speech, and conduct.

36. Accordingly, the Township's policy and its enforcement thereof violate Plaintiff's rights to the free exercise of religion under the First Amendment to the United States Constitution, as applicable to the states under the Fourteenth Amendment.

### THIRD CLAIM FOR RELIEF

#### *Violation of Plaintiff's Right to the Equal Protection of the Law Under the Fourteenth Amendment to the United States Constitution*

37. The allegations contained in all preceding paragraphs are incorporated herein by reference.

38. The Equal Protection Clause of the Fourteenth Amendment requires the government to treat similarly-situated persons equally.

39. Upon information and belief, the Township has allowed similarly-situated persons and organizations to use meeting rooms to engage in a wide variety of speech activities, but has refused to allow Plaintiff the same access, solely because of the religious nature of Plaintiff's speech.

40. The Township has no compelling reason that would justify excluding Plaintiff from these generally-available public meeting rooms solely on the basis of the religious nature of Plaintiff's speech.

41. Accordingly, the Township's policy and its enforcement thereof violate Plaintiff's rights to the equal protection of the laws under the Fourteenth Amendment to the United States Constitution.

#### FOURTH CLAIM FOR RELIEF

*Violation of Plaintiff's Right to the Due Process of Law Under  
the Fourteenth Amendment to the United States Constitution*

42. The allegations contained in all preceding paragraphs are incorporated herein by reference.

43. The Township's policy is vague and lacks sufficient objective standards to cabin the discretion of Township officials.

44. The complete lack of objective standards allows the Township to enforce the policy in an *ad hoc* and discriminatory manner based on the content or viewpoint of speech.

45. The Township cannot articulate a compelling reason that would justify excluding Plaintiff from a generally-available public forum solely on the basis of Plaintiff's religious expression.

46. Accordingly, the Township's policy and its enforcement thereof violate Plaintiff's right to due process under the Fourteenth Amendment to the United States Constitution.

#### FIFTH CLAIM FOR RELIEF

*Violation of Plaintiff's Religious Freedom Rights  
Under Article I, Section 7 of the Ohio Constitution*

47. The allegations contained in all preceding paragraphs are incorporated herein by reference.

48. Pursuant to Article I, Section 7 of the Ohio Constitution, the free exercise of religion is a guaranteed right and shall not be subject to discrimination by the government.

49. Plaintiff's desire to meet for religious expression and activity is motivated by its sincerely-held religious beliefs.

50. The Township's enforcement of its policy imposes a substantial burden on Plaintiff's religious beliefs by restricting its access to a generally-available public forum based upon the religious nature of its beliefs, speech, and conduct.

51. The Township has no compelling reason that would justify denying Plaintiff, or any other organization, equal access to a generally-available public forum solely on the basis of its religious beliefs, speech, and conduct.

52. Accordingly, the Township's policy and its enforcement thereof violate Plaintiff's rights to the free exercise of religion under Article I, Section 7 of the Ohio Constitution.

#### PRAYER FOR RELIEF

WHEREFORE, Plaintiff Citizens for Community Values prays for judgment against Defendant and respectfully request this Court to:

A. Preliminarily and permanently enjoin the enforcement of the Township's meeting room policy to the extent it violates Plaintiff's federal and state constitutional rights;

B. Declare that the Township's meeting room policy is facially unconstitutional and violates Plaintiff's rights as guaranteed under the First and Fourteen Amendments to the United States Constitution, and Article I, Section 7 of the Ohio Constitution;

C. Declare that the Township's meeting room policy is unconstitutional as applied to Plaintiff, and violates Plaintiff's rights guaranteed under the First and Fourteenth Amendments to the United States Constitution and Article I, Section 7 of the Ohio Constitution;

D. Award Plaintiff nominal and compensatory damages arising from the acts of the Township;

E. Award Plaintiff its costs and expenses of this action, including reasonable attorneys fees, in accordance with 42 U.S.C. § 1988 and other applicable law;

F. Grant any other relief that the Court deems equitable, just, and proper;

G. Adjudge, decree, and declare the rights and other legal relations of the parties to the subject matter here in controversy, in order that such declarations shall have the force and effect of final judgment; and

H. Retain jurisdiction of this matter as necessary to enforce the Court's orders.

Respectfully submitted,

/s/ David R. Langdon

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\*Pending admission *pro hac vice*

VERIFICATION

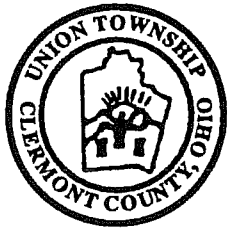
Pursuant to 28 U.S.C. § 1746, I, the undersigned, declare under penalty of perjury that:

1. I am a citizen of the United States and a resident of the State of Ohio;
2. I am an agent for Citizens for Community Values, the Plaintiff in this action, and am authorized to speak on behalf of that organization; and
3. I have read the foregoing Verified Complaint and the facts as alleged are true and correct.

Dated this 23 day of June, 2008

  
\_\_\_\_\_  
David Miller

# EXHIBIT A



# Union Township

Only Township Nationally Accredited in both Police and Fire

4350 Aicholtz Rd. • Union Township, Ohio 45245 • (513) 752-1741 • (513) 752-5732 Fax • www.union-township.oh.us



*Trustees*

Robert McGee  
Barb Wiedenbein  
Matthew Beamer

April 21, 2008

*Fiscal Officer*

Ronald B. Campbell

David Miller

*Administrator*

C. Doug Walker

Citizens For Community Values  
11175 Reading Road, Suite 103  
Cincinnati, Ohio 45241

*Law Director*

Lawrence E. Barbieri

RE: Public Records Request

Thank you for your letter,

Consistent with our open records mission statement we are first and foremost here to serve the interests of the people. It is the mission and intent to at all times to fully comply with and abide by both the spirit and the letter of Ohio's Open Records Act and Open Meetings Act.

The facility rental forms are completed by coaches who use our gym. We do not require a rental form for our meeting rooms. Each request that we receive for the use of a meeting room, is screened thoroughly when we receive the initial request.

Since this is a government facility we do have guidelines we follow; we do not permit any group to use our facility for any "for profit events"; the facility can not be used for any church or religious activity.

Our meeting rooms are used on a regular basis for Civic Group meetings only. We do not have party rooms (we get a lot of request).

Mr. Miller you are welcome to stop into my office to view the meeting room(s) calendar, which has been in effect since July 2004.

Sincerely,

Martha Brown  
Executive Assistant to the Administrator