



December 22, 2009

| | |
|--|---|
| <p>Bob Plaisted, Mayor 212 W. Main Street Inverness, FL 34450 <u>VIA FAX# 352-726-0607 and U.S. Mail</u></p> <p>Frank DiGiovanni, City Manager 212 W. Main Street Inverness, FL 34450 <u>VIA FAX# 352-726-0607 and U.S. Mail</u></p> | <p>Marti Consuegra, Council Member Jacquie Hepfer, Council Member Ken Hinkle, Council Member Cabot McBride, Council Member Tom Johnson, Council Member 212 W. Main Street Inverness, FL 34450 <u>VIA FAX# 352-726-0607 and U.S. Mail</u></p> |
|--|---|

RE: Legality of Nativity Display

Dear Mayor, City Manager and Council Members:

It has come to our attention that the City of Inverness has altered its tradition of setting up a Nativity display, and we write to encourage your observance of the Christmas holiday and restore Inverness's tradition of having a Christmas Nativity display in front of City Hall.

Our organization, the Alliance Defense Fund ("ADF"), is a not-for-profit legal alliance of more than 1,300 attorneys and like-minded organizations that educate the public and the government about important constitutional rights, particularly *Our First Liberty* - religious freedom. ADF also litigates in the defense of these rights, and has frequently defended cities and other governmental entities that properly accommodate events and symbols associated with Christmas.

Historically, cities and towns across America, like Inverness, have celebrated the Christmas season by erecting Nativity displays on public property. In recent years, select groups hostile to our Nation's traditions have spread misconceptions about the constitutionality of Christmas displays. But you can be assured that the acknowledgement of the Christmas holiday – through a Nativity display – is a constitutionally-protected activity. The City is free to erect any such display regarding Christmas, and place it on public property, regardless of the demands of a disgruntled individual or religiously-hostile group that may oppose such action.

The Supreme Court has long recognized that a municipality offends no constitutional principle in acknowledging the Christmas holiday. In *Lynch v. Donnelly*, for instance, the High Court upheld that the government's display of a nativity scene on public property as constitutional when displayed for legitimate secular purposes, which included the celebration of

the Christmas season and depiction of its origins. There, the City of Pawtucket, Rhode Island, erected a Christmas display that included a Santa Claus house, reindeer, a Christmas tree, along with a nativity scene. The Court found that the city could display these things – all provided at the government’s expense – without violating the First Amendment. 465 U.S. 668, 679, 681 (1984). As the Supreme Court admonished, the First Amendment “affirmatively mandates accommodation, not merely tolerance, of all religions, and forbids hostility toward any.” *Id.*

Unfortunately, it appears as though unfounded beliefs about Christmas celebrations may have led you to consider self-censorship of the perfectly legal Nativity display. It is our firm opinion that the City of Inverness need not fear legal liability for erecting and placing a Nativity display on public grounds. The presence of a Nativity display would not endorse religion.

We hope that this letter will encourage the City of Inverness to join the countless cities and towns across the country who will be participating in Christmas celebrations with full confidence this year. If ADF can provide you with any further information or assistance, or if you receive any threat of litigation to which we may be able to help you respond, please contact us. As a not-for-profit legal organization, our services are provided *pro bono*.

We thank you for your attention to this matter, and for your dedicated public service.

Sincerely yours,

Nathan W. Kellum

NWK/mk