

THE RUTHERFORD INSTITUTE

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INTERNATIONAL OFFICE
CENTRAL AND EASTERN EUROPE
Budapest, Hungary

October 15, 2012

Via E-mail, U.S. Mail and Facsimile

Mr. Craig Tindall
Glendale City Attorney
5850 W. Glendale Ave., Suite 450
Glendale, AZ 85301

Re: *Interference with Mildred Ramirez' Civil Liberties*

Dear Mr. Tindall:

Mildred Ramirez has authorized The Rutherford Institute¹ to intercede on her behalf in regards to a series of unlawful and unconstitutional interventions with her free exercise and private property rights by City officials. City officials have repeatedly ordered Ms. Ramirez to cease using her property to offer food to the hungry, and their orders are based upon an unsustainable interpretation of your City Code. We demand that you immediately correct this travesty by educating all City employees on the Code's proper application and assuring Ms. Ramirez that the City will fully respect her free exercise and private property rights under the First and Fourteenth Amendments to the United States Constitution.

For several years, Ms. Ramirez has collected donations from area grocers and distributed them to needy families on her private, residential property. Ms. Ramirez is motivated to this charitable work by her Christian faith and her compassion for suffering families. Recently, however, she has begun to face harassment by City officials, who have ordered her to discontinue her acts of charity. The officials have cited Ms. Ramirez for violating City Code § 25-21 (f), which provides:

No person shall place and/or store furniture, except furniture designed and placed for outdoor use, household equipment, appliances, construction or landscape material, cardboard material, plastic material, debris or any

¹ The Rutherford Institute is a non-profit civil liberties organization that provides free legal representation to individuals whose civil rights are threatened or infringed.

similar materials in a location that is visible to a person standing upon any public street or sidewalk.

This provision is obviously inapplicable to Ms. Ramirez for at least two reasons. First, it is clear that this section is intended to prohibit the long-term or indefinite *storage* of the listed materials outdoors—not the temporary use of items outside as tools for a specific purpose. Second, the items Ms. Ramirez places outside her home for a few hours each day are not, under these circumstances, properly encompassed within this provision. Neither the food itself nor the cooler and shelves used to hold the food until it is taken by hungry Glendale residents is akin to “furniture,” “household equipment,” “appliances,” “material” or “debris,” the outdoor storage of which creates a nuisance. Were the provision properly interpreted as City officials have applied it to Ms. Ramirez, then it could also be used to outlaw tables used for occasional lemonade stands and yard sales, as well as items regularly used outdoors in residential neighborhoods—garden hoses, lawn tools, watering cans, signage, picnic blankets and baskets, children’s toys, bicycles, etc.

Today, for the first time, the City Inspector also cited Ms. Ramirez’ charitable giving as being an “illegal home occupation,” an “illegal land use,” and as unlawfully lacking a “business license.” Despite the fact that these other laws were mentioned today for the very first time, they were all listed on Ms. Ramirez’ “Final Notice” of violation. These charges are ludicrous. Ms. Ramirez’ gifting of donated food items to hungry Glendale families is not a “business,” but rather an act of charity motivated by her religious beliefs. It therefore does not require a license under City Code § 21.1-330. Likewise, Ms. Ramirez’ exercise of her religious beliefs by giving food to those in need is not an “occupation,” and thus cannot be an “illegal home occupation” under § 7.304 of the City’s Zoning Ordinance.

Finally, the Inspector’s charge that Ms. Ramirez is maintaining an “illegal land use” appears to be based on an assumption that Glendale residents are prohibited from doing anything on their private property—including exercising their religious faith—that is not specifically envisioned and permitted by the City’s zoning code. Such a position is too preposterous to be seriously maintained in a free society.

City officials have undertaken a level of intrusion with Ms. Ramirez’ private property rights that constitutes a violation of the Fourteenth Amendment. Moreover, because Ms. Ramirez’ conduct is a manifestation of her sincerely-held religious beliefs, it is protected by the First Amendment to the United States Constitution, Arizona’s Freedom of Religious Exercise Act, A.R.S. § 41-1493.01, and the Religious Land Use and Institutionalized Persons Act, 42 U.S.C. § 2000cc *et seq.* This unjustified order by a City official requiring Ms. Ramirez to cease lawful activity undertaken in exercise of her religious faith constitutes a substantial burden on her religious exercise that is not the least restrictive means of furthering any compelling government interest. Indeed, it is unclear that the order serves any legitimate interest whatever.

At this time, on behalf of Ms. Ramirez, we demand that you take the following actions immediately to rectify the grievous wrong committed by City officials:

- Issue a formal, written apology to Ms. Ramirez for the unwarranted interference with her foundational civil rights;
- Assure her, in writing, that no City officials will interfere in the future with her charitable distribution of food; and
- Require that all law enforcement officials in the City undergo training on proper enforcement of the City's Code, including training to ensure that officials will pay proper regard to citizens' exercise of First Amendment rights.

It is beyond comprehension that local government officials would interfere with citizens performing such a basic act of charity as giving food to the hungry in your City, and The Rutherford Institute will take any and all means necessary to ensure that the citizens of Glendale are liberated from the ever-tightening jaws of what appears to be a growing police state.

Please be aware that if we are forced to undertake legal action on Ms. Ramirez' behalf, your City will be liable for attorney's fees, as well as civil damages. I hope you will thoughtfully consider whether this is the type of battle the City wishes to fight. In light of the chilling effect that continues to impair Ms. Ramirez' religious exercise, we require your response by the close of business on Friday, October 19, 2012.

Sincerely yours,



John W. Whitehead
President

THE RUTHERFORD INSTITUTE

cc: Robert Walecki, Glendale City Prosecutor
Mildred Ramirez