

THE RUTHERFORD INSTITUTE

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November 6, 2012

Via E-mail and U.S. Mail

Nicholas C. DiPiazza
Chief Deputy City Attorney
5850 W. Glendale Ave.
Suite 450
Glendale, AZ 85301

Re: *Interference with Millie Ramirez' Civil Liberties*

Dear Mr. DiPiazza,

I am in receipt of your letter, dated October 31, 2012. While you may have identified "alternatives" that you believe to be equally suited to Ms. Ramirez' desired means of religious exercise, these suggestions miss the mark: local government officials have no right to interfere with private religious beliefs by determining what forms of religious exercise might manifest the adherent's beliefs or fulfill her duties of conscience.

If you are indeed desirous of respecting Ms. Ramirez' First Amendment rights, and if your sole interest is in enforcing the City Code, then you should ensure that City officials and agents adopt a necessary limiting construction to Code § 25-21(f), applying it only to the inappropriate *storage* of indoor furniture and the like outdoors. This provision was surely not intended to preclude homeowners from actually using materials and equipment outdoors for specific purposes, as indicated by the explicit exception for outdoor furniture that is intended for outdoor use.

If, on the other hand, you insist upon interpreting this provision to mean that homeowners cannot use shelves and coolers in their driveways for specific purposes during the day where these materials are properly tended, maintained and stored indoors each night, then the provision suffers from unconstitutional vagueness and overbreadth and invites discriminatory enforcement.

As I pointed out in my last letter, Ms. Ramirez is not “storing” indoor materials outside, but rather is *using temporary, make-shift* shelves and coolers on her property as tools to accomplish her religious exercise. If your position is that her activities violate the City Code because she is “placing” these materials outdoors for limited periods of time, then I submit that you must also interpret the ordinance to preclude the temporary placement of boxes outside on a resident’s moving day, any number of “indoor” household items that are used outdoors during barbecues or yard parties, and shelves and tables used for yard sales, lemonade stands, etc.

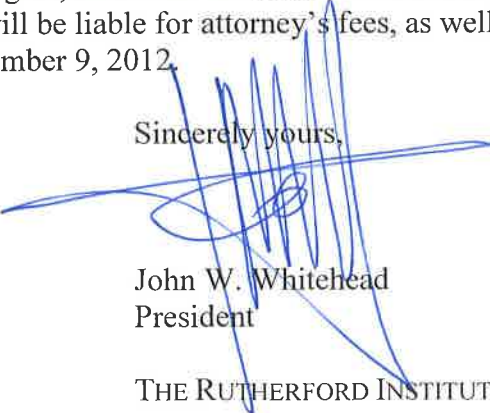
To the extent that prohibiting the outdoor *usage* of such materials has not been your City’s practice, this manner of application to Ms. Ramirez’ religious exercise presents a denial of her equal protection rights under the Fourteenth Amendment as well as an unlawful intrusion upon her property rights and a violation of her rights to free religious exercise under 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.*

At this time, on behalf of Ms. Ramirez, we repeat our previous demand that you remedy this situation immediately and provide Ms. Ramirez written assurance that she will be free from further harassment by City officials.

Finally, in the event that your objections to Ms. Ramirez’ charitable activities are based solely on her use of “shelves” and a “refrigerator” outdoors (as opposed to her giving away food, generally), please clarify this point. Ms. Ramirez may be willing to consider alternative display methods, as she is far less concerned with using any particular means of displaying the food items than with securing her right to simply offer the food itself to those in need.

I would remind you, once again, that if we are forced to undertake legal action on Ms. Ramirez’s behalf, your City will be liable for attorney’s fees, as well as civil damages. Please respond by November 9, 2012.

Sincerely yours,



John W. Whitehead
President

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cc: Doug Drury, Esq., Affiliate Attorney
Millie Ramirez