

# THE RUTHERFORD INSTITUTE

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December 21, 2012

Via E-mail and U.S. Mail

Todd Patrick, City Attorney  
City of Waynesboro  
Charles T. Yancey Municipal Building  
503 W. Main Street, Suite 204  
Waynesboro, VA 22980

**Re: *Christmas Tree Donations***

Dear Mr. Patrick,

The Rutherford Institute<sup>1</sup> was appalled to hear that Waynesboro officials have interfered with Christian Critzer's good-faith efforts to raise funds for breast cancer patients by collecting donations for Christmas trees at his home. We ask that you immediately correct this travesty by educating all City employees on the Code's proper application and assuring Mr. Critzer and his landlord that the City will refrain from interfering with his plan to help those battling this devastating illness.

Mr. Critzer, a Christmas tree farmer who lives with his wife and two children in Waynesboro, is relatively new to the area. His wife has recently completed treatment for breast cancer, and Mr. Critzer understandably desires to care for other families who are enduring the physical and emotional crisis of a cancer diagnosis. He set out to do this by ordering Christmas trees and offering them to neighbors or passersby in exchange for a donation. In fact, Mr. Critzer made the trees available without any donation for those who could not otherwise afford a tree. The donations collected were to be given to Martha Jefferson Hospital in Charlottesville to purchase wigs for breast cancer patients who have undergone chemotherapy. On November 27<sup>th</sup>, however, City officials issued a notice of violation to Mr. Critzer's landlord, alleging that Mr. Critzer was conducting an illegal "commercial retail" business at the residential property.

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

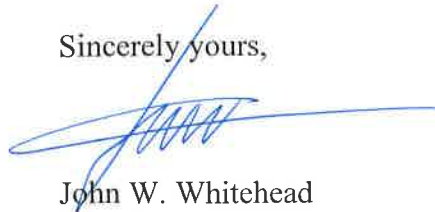
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Obviously, the charge that Mr. Critzer is operating a commercial retail business by giving away Christmas trees—or even collecting charity donations for them—is specious. The words “commercial” and “retail” both imply the sale of products for profit or other valuable consideration flowing to the seller. Because Mr. Critzer has offered the trees for free to those who cannot afford to pay, or in exchange for a voluntary, unspecified donation by those who can afford to pay, with any “profit” being given to the hospital, he cannot be said to be engaged in “commercial” or “retail” activities on the property.

City officials have not only overstepped the bounds of reason in their interpretation of the zoning ordinance; in an overzealous effort to enforce what they wrongly believed to be the “letter” of the governing administrative regulations, they have completely ignored the “spirit” of compassion and humanitarianism that is an essential ingredient in any healthy community. It is surprising that these considerations would have escaped the notice of zoning authorities during the Christmas season, of all times.

On behalf of Mr. Critzer, we ask that you advise City officials on the proper meaning of “commercial” and “retail” land uses and urge them to apply a modicum of good judgment in allocating their enforcement efforts. Please ensure that City officials refrain from taking any further actions against Mr. Critzer or his landlord as a result of his thoughtful efforts to care for cancer patients in such a tangible way.

Sincerely yours,



John W. Whitehead  
President

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