



December 17, 2018
VIA ELECTRONIC AND U.S. MAIL

Providence Place
Attn: Timothy A. Zaricznyj
800 5th Ave Suite 1200
Seattle, WA 98104
timothy.zaricznyj@providence.org

Re: Censorship of Religious Speech at Providence Place:

Dear Mr. Zaricznyj:

A current resident at Providence Place in Chehalis Washington contacted Alliance Defending Freedom regarding her desire to say Merry Christmas, sing Christmas carols that include the words Christ and Christmas, set up traditional Christmas decorations, hang Christmas cards with religious messages next to her secular cards on her apartment door, and to be able to replace her Mezuzah on her door frame. By way of introduction, Alliance Defending Freedom defends the rights of citizens to exercise their religious liberties, and that includes the right to pray and engage in religious speech in public. This resident, alerted Alliance Defending Freedom to the religious discrimination taking place at Providence Place through its new policy banning any Christian religious reference in any Christmas decoration, celebration, or Christmas card. We write to inform you that this censorship of religious expression of residents is not required by the Constitution, nor by Providence Place's receipt of government funding.

The relevant facts are as follows. Providence Place is a Catholic non-profit, independent living apartment complex subsidized by the Department of Housing and Urban Development (HUD). The resident, lives in Providence Place and desires to express her religious beliefs by saying Merry Christmas to other residents and singing Christmas Carols containing religious references in the public common areas. She also desires to display her Christmas cards with religious messages alongside her secular Christmas cards on the door to her apartment, a common practice in this building. The resident also desires to replace her small Mezuzah on her door frame, which she has been ordered to remove by the building manager, Ms. Katrina Newman. As Christmas approached, Ms. Newman informed the residents that the Fair Housing Act prohibited residents from saying Merry Christmas, singing Christmas carols that reference Christ, or displaying any decorations referencing the Christian religion during the holiday season. Interestingly, Ms.

Newman permitted a Menorah in the public space “because it was cultural expression.” Ms. Newman also informed the residents who are in the habit of displaying their Christmas cards on their apartment doors, that no cards with any religious reference could be displayed. The resident is concerned that she will be punished or even evicted from Providence Place for engaging in private religious expression and celebration.

It is our opinion that Providence Place’s belief that it is required to suppress religious speech under the Fair Housing Act is incorrect and unwise. The Establishment Clause states, “*Congress shall make no law respecting an establishment of religion....*” U.S. Const. amend. I. The Establishment Clause is a restriction on *government*, not on *private speakers*. Because Providence Place is a private, non-profit corporation—not a government controlled entity—it is not bound by the Establishment Clause’s prohibition on the government endorsement of religion. Indeed, Providence Place is free to allow the residents to engage in religious discussion and prayer.

Furthermore, HUD does not prohibit discussion about religion in the facilities to which it provides funding. Over 15 years ago, then HUD Secretary Mel Martinez publically affirmed that it is not HUD’s policy “to discriminate against people of faith by barring the use of religious symbols to celebrate faith-based events.” Sec. Martinez continued, “HUD’s policy, which follows prevailing case law, is that religious displays as well as non-religious symbols are permissible in common areas of public housing sites....” Statement of HUD Secretary Mel Martinez, Dec. 20, 2001, *available at* <https://archives.hud.gov/news/2007/2007-11-13.pdf>. HUD reaffirmed this policy on November 13, 2007, when it issued a press release stating:

The U.S. Department of Housing and Urban Development continues to strongly support and respect the display of all religious symbols on properties receiving HUD assistance. We discourage anyone from interfering in the free exercise of religion and prohibiting residents from celebrating the joys of the season.

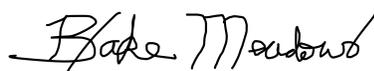
Available at <https://archives.hud.gov/news/2007/2007-11-13.cfm> (emphasis added).

Simply because the government provides a benefit with public funds does not mean that all “mention or religion or prayer” must be whitewashed from the use of the benefit. Thus, in *Church on the Rock v. City of Albuquerque*, 83 F.3d 1273, 1280 (10th Cir. 1996), the Tenth Circuit Court of Appeals struck down a policy at a Senior Center that restricted religious speech, holding that “the Establishment Clause does not compel the City to bar sectarian instruction and religious worship from its Senior Centers.”

The actions of Providence Place employees are also likely improper under federal and state anti-discrimination laws, such as the federal Civil Rights Act, 42 U.S.C. § 2000a, that prohibits places of public accommodation from restricting access to services or limiting services based on a person's religion.. 42 U.S.C. § 2000a(b)&(c) defines a place of public accommodation as an establishment involved in interstate commerce that includes the service of food that has traveled in commerce. Providence Place meets this definition. Likewise, the Washington State Law Against Discrimination, RCW § 49.60.030 *et seq.*, prohibits discriminating against an individual based upon her religion in “[t]he right to engage in real estate transactions without discrimination.” Officials at Providence Place likely violate these laws when they prohibit the residents at Providence Place from saying Merry Christmas or referring to their religion in holiday activities and celebrations.

In sum, neither federal law nor the U.S. Constitution require Providence Place to prohibit its residence from celebrating Christmas or other holidays. Providence Place is a private, non-profit organization, and it is free to recognize and permit religious expression at the facility. The right thing to do out of respect for the senior citizens—many of whom fought or saw their spouses fight in wars to defend our nation and the freedoms upon which it is built—is to remove the ban on religious holiday expression. Given that your justifications for disallowing religious holiday expression directly contradict the position of HUD on the permissibility of Christmas displays, we hope that this letter will clear up these issues and that you will do away with this terrible policy, We ask that you respond to this letter and provide written confirmation by December 21, 2018 that you have restored the freedom of the residents to say Merry Christmas, sing Christmas carols that include the words Christ and Christmas, set up traditional Christmas decorations, and hang Christmas cards with religious messages.

Sincerely,



Blake W. Meadows
Legal Counsel

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