

**THE UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS
Boston Division**

LIBERTY COUNSEL, INC.,)
d/b/a Freedom Foundation, a Florida)
Not-For-Profit Corporation,)
)
Plaintiff,)
)
v.)
)
CITY OF LAWRENCE,)
MASSACHUSETTS,)
)
Defendant.)

CASE NO: _____

JUDGE: _____

VERIFIED COMPLAINT

For its VERIFIED COMPLAINT against Defendant CITY OF LAWRENCE, MASSACHUSETTS (“Defendant” or “City”), Plaintiff, LIBERTY COUNSEL, INC. d/b/a Freedom Foundation (“Liberty Counsel”), by and through counsel, alleges and avers as follows:

INTRODUCTION

1. In this civil action, Liberty Counsel seeks preliminary and permanent injunctive relief enjoining the City, its agents, servants, departments, divisions, and employees, and those acting in active concert and with actual notice thereof, from enforcing certain portions of the Lawrence Public Library Meeting Room Policy (“Policy”), and from acting in such a manner as to violate Liberty Counsel’s rights under the Free Speech Clause, Free Exercise Clause, and Establishment Clause of the First Amendment to the United States Constitution, and the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution, or to violate Liberty Counsel’s right to Freedom of Speech and Equal Protection under the Massachusetts Constitution.

2. Liberty Counsel also seeks a declaration that the Policy, both facially and as

applied, is unconstitutional and unlawful.

3. Liberty Counsel also seeks an award of nominal damages.

4. An actual controversy exists between the parties involving substantial constitutional issues in that the Policy, both facially and as applied, violates the Free Speech Clause, the Free Exercise Clause, and the Establishment Clause of the First Amendment to the United States Constitution, and the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.

JURISDICTION AND VENUE

5. This action arises under the First and Fourteenth Amendments to the United States Constitution, 42 U.S.C. § 1983, and Articles I, X, and XVI of the Declaration of Rights of the Massachusetts Constitution.

6. This Court has subject matter jurisdiction over Liberty Counsel's federal law claims pursuant to 28 U.S.C. §§ 1331 and 1343. This Court has subject matter jurisdiction over Liberty Counsel's state law claims pursuant to 28 U.S.C. § 1367.

7. This Court is authorized to grant declaratory relief to Liberty Counsel pursuant to the Declaratory Judgment Act, 28 U.S.C. §§ 2201-02, implemented through Fed. R. Civ. P. 57.

8. This Court is authorized to issue the preliminary and permanent injunctive relief requested by Liberty Counsel under Fed. R. Civ. P. 65.

9. This Court is authorized to grant Liberty Counsel's prayer for relief regarding costs, including reasonable attorney's fees, under 42 U.S.C. § 1988.

10. Venue is proper in this District under 28 U.S.C. § 1391(b), because the City is situated in this District, and a substantial part of the events or omissions giving rise to Liberty Counsel's claims occurred in this District.

PARTIES

11. Plaintiff, Liberty Counsel, is and was at all times relevant herein a Florida not-for-profit corporation headquartered in Maitland, Florida.

12. Defendant, City of Lawrence, is a municipality organized and authorized under and pursuant to the laws of Massachusetts with the authority to sue and be sued. Mass. Gen. Laws ch. 40, §§ 1-2 (2014). At all times relevant, the City was acting within the course and scope of its authority and under color of law. The City performed each and all of the acts alleged herein under the pretense of its statutes, ordinances, regulations, policies, customs, and uses.

ALLEGATIONS OF FACT

Liberty Counsel

13. Liberty Counsel is a non-profit education, advocacy, and legal defense organization which, advances religious freedom, the sanctity of human life, and family values from a Christian perspective.

14. Liberty Counsel uses the fictitious name “Freedom Foundation,” registered with the Florida Department of State, Division of Corporations, under registration number G97129000152. Liberty Counsel conducts some religious, educational, and advocacy programs under the “Freedom Foundation” name.

15. Liberty Counsel is recognized by the Internal Revenue Service as a 501(c)(3) organization and is not a political organization.

16. Liberty Counsel’s employees, volunteer members, and affiliate attorneys occasionally speak on behalf of the organization at meetings and events throughout the United States, including Massachusetts.

17. As part of its educational mission, Liberty Counsel conducts lectures throughout

the country in which its employees, volunteers, or affiliates teach on various topics, including but not limited to: cultural issues, current issues regarding family matters and religious freedom, church-state matters, the judicial system, American history, constitutional and civil rights issues, and the role of religion and Christianity in American government. In particular, Liberty Counsel promotes a Christian view of the founding of the United States of America.

18. Liberty Counsel also provides legal defense for individuals and groups who suffer civil liberties violations.

19. Liberty Counsel wishes to use the City's library meeting rooms ("meeting rooms") to host an educational and civic program on the founding and founders of America from a Christian perspective.

20. Liberty Counsel specifically applied to use the meeting rooms at Lawrence Public Library ("the Library") to host its educational and civic program.

21. Liberty Counsel's program would be open to the general public at no charge and without any for-profit or fundraising activities.

The Meeting Room Policy

22. The Library's Mission Statement, adopted by the Board of Trustees on September 20, 1994, states:

The freedom to pursue knowledge is a **foundation of our democracy**. The Lawrence Free Public Library, an essential public institution, strives to serve as an accessible and responsive information and literary center for all residents of the Lawrence community. Through its evolving collection of materials and an abiding concern for its customers, **the Library exists to preserve the free development and expression of ideas essential for an informed citizenry.**

(emphasis added). A copy of the Library's Mission Statement is attached hereto as Exhibit A and incorporated herein.

23. To facilitate this mission, the Library makes its meeting rooms available for

public use according to its written Policy. A copy of the Policy is attached hereto as Exhibit B and incorporated herein.

24. The Policy states that the purpose of the Library is “to provide every resident of the City of Lawrence with free access to a broad variety of material resources and to respond to informational, civic, and recreational needs.” (Ex. B at 1).

25. In pursuit of that purpose, “[t]he Library’s meeting rooms provide an opportunity for bringing together the resources of the Library and the activities of the community.” (*Id.*).

26. The Policy continues by stating that “[c]ommunity groups whose purposes are **non-profit, civic, cultural or educational are encouraged to use the Library’s meeting rooms** for group meetings when the rooms are not being used for their primary purpose—Library related activities.” (*Id.*) (emphasis added).

27. There is no fee charged for use of the meeting rooms, but activities occurring in the meeting rooms must be open to the public. (*Id.*).

28. The Policy specifically permits “[p]ublic educational programs sponsored by government or non-profit organizations.” (*Id.*).

29. The Policy expressly prohibits religious groups from using Library meeting rooms if their program includes expression of a religious viewpoint: “*Political and religious groups may use the Library’s meeting rooms for administrative purposes but shall not be allowed use for the sake of proselytizing, campaigning, or otherwise influencing people to a particular belief or point of view.*” (*Id.*) (bold emphasis added).

30. The Policy also expressly prohibits “religious services.” (*Id.* at 2).

31. The City has authorized non-profit clubs, groups, and organizations to use the Library’s meeting rooms for events that present a wide and diverse range of educational and

civic subjects to the public, including monthly concerts by outside musicians organized and hosted by the non-profit organization Friends of Lawrence Public Library; monthly meetings of the Friends of Lawrence Public Library Book Club, which is currently focusing on “Books About the American Experience;” a special event hosting a local author, Andrew Coburn, who came to present a discussion of his new book, “Spouses and Other Crimes,” which was also hosted by the Friends of Lawrence Public Library; and caucus meetings of both the Massachusetts Republican and Democrat Parties.

32. Upon information and belief, the City has authorized other non-profit clubs, groups, or organizations to use Library meeting rooms for events open to the public.

The Library’s Discriminatory Application of the Policy

33. Under the Policy, the City prohibited Liberty Counsel from presenting its educational and civic program in the Library because of its religious viewpoint.

34. Under the Policy, the City prohibited Liberty Counsel from presenting its educational and civic program in the Library because the program might influence people to a particular belief or viewpoint.

35. On July 16, 2013, Anita Staver, President of Liberty Counsel, signed a Lawrence Public Library Meeting Room Application (“2013 Application”) and faxed it to the appropriate parties at the Lawrence Public Library. A copy of the 2013 Application is attached hereto as Exhibit C and incorporated herein.

36. The 2013 Application requested permission to use an available meeting room at the Library on August 28, 2013, from 6:00 p.m. - 8:00 p.m., to present “[a]n educational and civic program that promotes a Christian view of the founding of America.” (Ex. C).

37. The 2013 Application also indicated that Liberty Counsel’s program would

include “prayer, singing of foundational era hymns and a presentation from a Christian viewpoint that encourages the return of our nation to its Christian values and ideals.” (*Id.*).

38. On July 16, 2013, the same day that Liberty Counsel submitted the 2013 Application, Anita Staver received a call from Maureen Nimmo, Director of the Library.

39. Director Nimmo informed Mrs. Staver that she had received Liberty Counsel’s application to use the meeting room, but stated that the Library’s Board of Trustees had established certain policies and practices that would prohibit Liberty Counsel from presenting its educational and civic program on the founding era from a Christian viewpoint.

40. Director Nimmo quoted the Policy to Mrs. Staver and stated that political and religious groups are permitted to use the meeting rooms solely for administrative meetings but not those meetings that espouse a particular religious viewpoint.

41. Director Nimmo informed Mrs. Staver that the Library simply could not permit religious organizations to have meetings where the group’s meetings could have an influential voice in the community.

42. Director Nimmo noted that the Policy would permit Liberty Counsel to have a meeting to discuss planning and logistics for the educational and civic program it was seeking to host, but that it could not actually host the program given its religious viewpoint and message.

43. Ms. Nimmo suggested to Mrs. Staver that Liberty Counsel look for facilities elsewhere in the community to host its educational and civic program.

44. On January 6, 2015, hoping that the City might have altered its position on use of its Library meeting rooms, Liberty Counsel again requested to use a meeting room at the Library and submitted a new application (“2015 Application”) to Director Nimmo. A copy of the 2015 Application is attached hereto as Exhibit D and incorporated herein.

45. Liberty Counsel's email transmitting the 2015 Application stated:

Ms. Nimmo:

I have attached an application to use a meeting room at Lawrence Public Library. We would like to use it on February 5, 2015 for our educational and civic program on the founding era of America.

As you might recall, in July of 2013, we spoke about Freedom Foundation using a meeting room at Lawrence Public Library. We applied in the summer of 2013 and hoped to use a meeting room for our educational and civic program on the Christian heritage of the country and foundations of America from a Christian perspective, which may include a prayer and short devotional from Scripture. Because we wanted to discuss the founding fathers' religious views, to quote sermons from the founding era, and to use Bible passages to encourage the attendees to advocate for a return of the nation to its Christian values and heritage, our application was denied for religious content.

When we spoke, you informed me that religious organizations can only use the meeting rooms for administrative meetings, but that we were not eligible to use them if our program contained what you termed an influential voice or proselytizing effect.

While the nature and religious viewpoint of our program has not changed, we are hoping that your and the library's position has changed, such that we could now be allowed to use the library meeting rooms for our education program on the nation's Christian heritage.

Thank you for your prompt consideration and attention. I look forward to hearing from you.

Happy New Year.

Anita Staver

A copy of the email communication transmitting the 2015 Application to Director Nimmo is attached hereto as Exhibit E and incorporated herein.

46. Neither Director Nimmo nor any other representative from the Library responded to Liberty Counsel's email or application to use the Library meeting room.

47. After waiting ten (10) days, Liberty Counsel contacted the Library again and resubmitted its 2015 Application via facsimile to the number listed on the application form. A

copy of the cover letter accompanying the resubmitted 2015 Application is attached hereto as Exhibit F and incorporated herein.

48. Again, no response was forthcoming from Director Nimmo or anyone from the Library.

49. On January 29, 2015, Liberty Counsel contacted the Library via telephone and finally spoke with Director Nimmo. Liberty Counsel inquired about the status of its applications, and was informed that it would not be able to host its civic and educational program because of the Board of Directors policies, which Director Nimmo said she was bound to follow, and which prohibit speech that seeks to influence towards a particular view or “proselytize.”

50. Liberty Counsel still wishes to use the Library’s meeting rooms to host its educational and civic program promoting a Christian view of the founding of America, but will continue to be denied access until the Policy is enjoined.

ALLEGATIONS OF LAW

51. The City knew or should have known that the Policy, both facially and as applied, is a blatant violation of Liberty Counsel’s constitutional rights.

52. The Policy, both facially and as applied, discriminates against Liberty Counsel on the basis of the content and viewpoint of Liberty Counsel’s program and speech.

53. The Policy, both facially and as applied, denies equal treatment to Liberty Counsel.

54. The Policy, both facially and as applied, shows hostility toward Liberty Counsel’s religious beliefs and message.

55. Liberty Counsel has suffered, is suffering, and will continue to suffer the denial of its constitutional rights because of the actions of the City, taken under color of law and pursuant

to the City's official Policy, customs, and practice.

56. Liberty Counsel has suffered, is suffering, and will continue to suffer actual, immediate, and irreparable injury and damage.

57. Liberty Counsel has no adequate remedy at law to correct the City's continuing deprivations of Liberty Counsel's most cherished constitutional liberties.

58. Liberty Counsel has suffered, is suffering, and will continue to suffer irreparable harm as a result of the City's actions because Liberty Counsel must divert its resources and efforts from its educational mission of civic education and legal defense to protect its own fundamental rights.

59. The violation and chilling of Liberty Counsel's constitutional rights is ongoing and will continue unless the Court grants the Declaratory and Injunctive Relief requested herein.

**COUNT I – VIOLATION OF LIBERTY COUNSEL'S RIGHT TO FREEDOM OF
SPEECH UNDER THE FIRST AMENDMENT TO THE UNITED STATES
CONSTITUTION**

60. Liberty Counsel hereby incorporates and adopts each and every allegation in the preceding paragraphs numbered 1 through 59.

61. The First Amendment to the United States Constitution, incorporated and made applicable to the states by the Fourteenth Amendment, protects Liberty Counsel's right to freedom of speech.

62. The City violated Liberty Counsel's right to free speech by adopting and enforcing the Policy, which prohibits organizations from presenting religious viewpoints on otherwise permissible subject matter in the City's library meeting rooms.

63. The Policy, both facially and as applied, is an unconstitutional content-based and viewpoint-based restriction on speech.

64. The City has denied Liberty Counsel the right to free speech by discriminating against Liberty Counsel on the basis of the religious content and viewpoint of its message.

65. The City violated Liberty Counsel's right to free speech by refusing to allow Liberty Counsel to reserve a Library meeting room to conduct an educational program from a Christian viewpoint, while the City permits other non-profit organizations to reserve the City's library meeting rooms and use them for non-religious discussions of cultural, civic, educational, and other issues.

66. The City violated Liberty Counsel's right to free speech by refusing to allow Liberty Counsel to reserve a Library meeting room to conduct an educational program from a Christian viewpoint because that would constitute trying to "influence people to a particular point of view," but all speech is necessarily and inherently aimed at influencing listeners to a particular point of view.

67. The City has no compelling interest to justify the content-based and viewpoint-based restrictions in its Policy.

68. The Policy, both facially and as applied, is not the least restrictive means to accomplish any compelling government purpose sought to be served.

69. The Policy, both facially and as applied, is irrational and unreasonable and imposes unreasonable and unjustifiable restrictions on constitutionally protected speech.

70. The Policy, both facially and as applied, does not leave open ample alternative channels of communication.

71. The City Library officials have been unconstitutionally vested with unbridled discretion to determine which organizations and uses are prohibited by the Policy, and which organizations and uses may obtain an exception from the Policy's prohibitions.

72. The City violated Liberty Counsel's right to free speech by adopting and enforcing the Policy which places unreasonable, arbitrary, vague, and ambiguous restrictions on organizations that wish to use the City's library meeting rooms to discuss otherwise permissible subjects from a religious perspective.

73. The Policy, both facially and as applied, is a prior restraint on speech.

74. The Policy is vague and overbroad.

75. The Policy, both facially and as applied, unconstitutionally chills and abridges not only Liberty Counsel's right to freely present information and meet with those who want to hear its message, but also the rights of third parties not before this Court that may wish to use the City's library meeting rooms for similar purposes.

76. The City's violation of Liberty Counsel's right to free speech has caused, is causing, and will continue to cause, Liberty Counsel to suffer undue and actual hardship and irreparable injury.

77. Liberty Counsel has no adequate remedy at law to correct the continuing deprivation of its most cherished constitutional liberties.

78. As a direct and proximate result of the City's continuing violations of Liberty Counsel's rights, Liberty Counsel has suffered, is suffering, and will continue to suffer injury, including but not limited to, the loss of its ability to exercise its constitutional rights without undue, unreasonable, and unconstitutional restrictions.

WHEREFORE, Liberty Counsel respectfully prays for relief against Defendants as hereinafter set forth in its prayer for relief.

COUNT II – VIOLATION OF LIBERTY COUNSEL’S RIGHT TO EQUAL PROTECTION UNDER THE FOURTEENTH AMENDMENT TO THE UNITED STATES CONSTITUTION

79. Liberty Counsel hereby incorporates and adopts each and every allegation in the preceding paragraphs numbered 1 through 59.

80. The Equal Protection Clause of the Fourteenth Amendment to the United States Constitution protects Liberty Counsel’s right to equal protection under the law.

81. The Policy, both facially and as applied, is an unconstitutional abridgement of Liberty Counsel’s affirmative right to equal protection, is not facially neutral, and specifically targets Liberty Counsel’s religious speech.

82. The Policy, both facially and as applied, is an unconstitutional abridgement of Liberty Counsel’s right to equal protection because the City is treating Liberty Counsel differently from other similarly situated groups solely on the basis of Liberty Counsel’s purpose and nature and the religious content and viewpoint of Liberty Counsel’s educational message.

83. The Policy, both facially and as applied, is an unconstitutional abridgement of Liberty Counsel’s affirmative right to equal protection because it is a viewpoint-based and content-based restriction on free speech, which creates two separate categories of groups and imposes disparate treatment on religious speech.

84. The Policy, both facially and as applied, is not supported by a compelling government interest sufficient to justify its enactment or enforcement against Liberty Counsel.

85. The Policy, both facially and as applied, is not the least restrictive means to accomplish any permissible government purpose sought to be served.

86. The Policy does not serve a significant governmental interest.

87. The Policy, both facially and as applied, is unreasonable and irrational and

imposes unreasonable and unjustifiable restrictions on constitutionally protected speech.

88. The Policy, both facially and as applied, unconstitutionally chills and abridges the right of Liberty Counsel to freely discuss educational, cultural, civic, and other issues from a religious perspective.

89. The City has caused, is causing, and will continue to cause, Liberty Counsel to suffer undue and actual hardship and irreparable injury.

90. Liberty Counsel has no adequate remedy at law to correct the continuing deprivations of its most cherished constitutional liberties.

91. As a direct and proximate result of the City's continuing violations of Liberty Counsel's rights, Liberty Counsel has suffered, is suffering, and will continue to suffer injury, including but not limited to, the loss of its ability to exercise its constitutional rights without undue, unreasonable, and unconstitutional restrictions.

WHEREFORE, Liberty Counsel respectfully prays for the relief against Defendants as hereinafter set forth in its prayer for relief.

COUNT III – VIOLATION OF THE ESTABLISHMENT CLAUSE OF THE FIRST AMENDMENT TO THE UNITED STATES CONSTITUTION

92. Liberty Counsel hereby incorporates and adopts each and every allegation in the preceding paragraphs numbered 1 through 59.

93. The Establishment Clause of the First Amendment, incorporated and made applicable to the states by the Fourteenth Amendment, prohibits the City from establishing a religion.

94. The Establishment Clause prohibits excessive government entanglement with religion.

95. The Establishment Clause prohibits the government from showing hostility

toward religion.

96. The Policy, both facially and as applied, permits the City to review the nature and purpose of the organization or group applying to use its library meeting rooms and to restrict or ban any organization or group it deems religious from using its library meeting rooms.

97. The Policy, both facially and as applied, permits the City to review the content of speech and restrict or ban any speech it deems religious from using its library meeting rooms.

98. The Policy, both facially and as applied, permits the City to place undue and unreasonable restrictions on uses that its officials deem a “proselytizing,” “influencing people to a particular belief or point of view,” and “religious services,” which terms are left undefined.

99. The Policy, both facially and as applied, demonstrates hostility toward those seeking to use the City’s library meeting rooms for an educational purpose involving religion.

100. The City’s limiting of expression subject to the City’s definition of “proselytizing,” “otherwise influencing people to a particular belief or point of view,” or “religious services” constitutes hostility toward religion.

101. The City’s limiting of expression subject to the City’s definition of “proselytizing,” “otherwise influencing people to a particular belief or point of view,” or “religious services” constitutes excessive entanglement with religion.

102. The City, through the Policy, both facially and as applied, has caused, is causing, and will continue to cause Liberty Counsel to suffer undue and actual hardship and irreparable injury.

103. Liberty Counsel has no adequate remedy at law to correct the continuing deprivations of its most cherished constitutional liberties.

104. As a direct and proximate result of the City’s continuing violations of Liberty

Counsel's rights, Liberty Counsel has suffered, is suffering, and will continue to suffer injury, including but not limited to, the loss of its ability to exercise its constitutional rights without undue, unreasonable, and unconstitutional restrictions.

WHEREFORE, Liberty Counsel respectfully prays for relief against Defendants as hereinafter set forth in its prayer for relief.

**COUNT IV – VIOLATION OF LIBERTY COUNSEL’S RIGHT TO FREE
EXERCISE OF RELIGION UNDER THE FIRST AMENDMENT TO THE
UNITED STATES CONSTITUTION**

105. Liberty Counsel hereby incorporates and adopts each and every allegation in the preceding paragraphs numbered 1 through 59.

106. The City's Policy and actions violate Liberty Counsel's right to free exercise of religion guaranteed by the First Amendment to the United States Constitution.

107. Liberty Counsel's religious beliefs are sincerely and deeply held.

108. The City's Policy and actions substantially burden Liberty Counsel's sincerely held religious beliefs.

109. The Policy, both on its face and as applied, is neither neutral nor generally applicable, and it specifically and discriminatorily targets religious groups and "religious services."

110. The City has permitted other non-profit, community organizations to use the meeting rooms, but has singled out Liberty Counsel for disparate treatment based solely on the religious nature of its program.

111. There is no compelling government interest sufficient to justify the City's Policy or actions.

112. The City's Policy and actions are not the least restrictive means to accomplish any

permissible government purpose sought to be served by the Policy.

113. The City's Policy and actions are not narrowly tailored.

114. There is no legitimate interest in prohibiting religious groups or "religious services" when other non-profit, community organizations are permitted to use the City's library meeting rooms for non-religious speech.

115. The City's Policy and actions fail to accommodate Liberty Counsel's sincerely held religious beliefs.

116. The City's violation of Liberty Counsel's right to free exercise of religion has caused, is causing, and will continue to cause, Liberty Counsel to suffer undue and actual hardship and irreparable injury.

117. Liberty Counsel has no adequate remedy at law to correct the continuing deprivations of its most cherished constitutional liberties.

118. As a direct and proximate result of the City's continuing violations of Liberty Counsel's rights, Liberty Counsel has suffered, is suffering, and will continue to suffer injury, including but not limited to, the loss of its ability to exercise its constitutional rights without undue, unreasonable, and unconstitutional restrictions.

WHEREFORE, Liberty Counsel respectfully prays for relief against Defendants as hereinafter set forth in its prayer for relief

**COUNT V – VIOLATION OF LIBERTY COUNSEL'S RIGHT TO FREE SPEECH
UNDER ARTICLE I, SECTION 14 OF THE MASSACHUSETTS CONSTITUTION**

119. Liberty Counsel hereby incorporates and adopts each and every allegation in the preceding paragraphs numbered 1 through 59.

120. The Policy violates Article XVI of the Declaration of Rights of the Constitution of Massachusetts, which protects Liberty Counsel's right to freedom of speech.

121. The City violated Liberty Counsel's right to free speech by adopting and enforcing the Policy, which prohibits organizations from presenting religious viewpoints on otherwise permissible subject matter in the City's library meeting rooms.

122. The Policy, both facially and as applied, is an unconstitutional content and viewpoint-based restriction on speech.

123. The City has denied Liberty Counsel the right to free speech by discriminating against Liberty Counsel on the basis of the religious content and viewpoint of its message.

124. The City violated Liberty Counsel's right to free speech by refusing to allow Liberty Counsel to reserve a library meeting room to conduct an educational program from a Christian viewpoint, while the City permits other nonprofit organizations to reserve meeting rooms and use them for non-religious discussions of cultural, civic, educational, and other issues.

125. The City has no compelling interest to justify the content-based and viewpoint-based restrictions in its Policy.

126. The Policy, both facially and as applied, is not the least restrictive means to accomplish any compelling government purpose sought to be served.

127. The Policy, both facially and as applied, is irrational and unreasonable and imposes unreasonable and unjustifiable restrictions on constitutionally protected speech.

128. The Policy, both facially and as applied, does not leave open ample alternative channels of communication.

129. The City Library officials have been unconstitutionally vested with unbridled discretion to determine which organizations and uses are prohibited by the Policy, and which organizations and uses may obtain an exception from the Policy's prohibitions.

130. The City violated Liberty Counsel's right to free speech by adopting and

enforcing the Policy which places unreasonable, arbitrary, vague, and ambiguous restrictions on organizations that wish to use the City's library meeting rooms to discuss otherwise permissible subjects from a religious perspective.

131. The Policy, both facially and as applied, is a prior restraint on speech.

132. The Policy is vague and overbroad.

133. The Policy, both facially and as applied, unconstitutionally chills and abridges not only Liberty Counsel's right to freely present information and meet with those who want to hear its message, but also the rights of third parties not before this Court that may wish to use the City's library meeting rooms for similar purposes.

134. The City's violation of Liberty Counsel's right to free speech has caused, is causing, and will continue to cause, Liberty Counsel to suffer undue and actual hardship and irreparable injury.

135. Liberty Counsel has no adequate remedy at law to correct the continuing deprivation of its most cherished constitutional liberties.

136. There is no adequate state remedy at law to cure the abridgment of Liberty Counsel's free speech rights.

137. As a direct and proximate result of the City's continuing violations of Liberty Counsel's rights, Liberty Counsel has suffered, is suffering, and will continue to suffer injury, including but not limited to, the loss of its ability to exercise its constitutional rights without undue, unreasonable, and unconstitutional restrictions.

WHEREFORE, Liberty Counsel respectfully prays for relief against Defendants as hereinafter set forth in its prayer for relief.

COUNT VI – VIOLATION OF LIBERTY COUNSEL’S RIGHT TO EQUAL PROTECTION UNDER ARTICLES I AND X OF THE DECLARATION OF RIGHTS OF THE MASSACHUSETTS CONSTITUTION

138. Liberty Counsel hereby incorporates and adopts each and every allegation in the preceding paragraphs numbered 1 through 59.

139. The Policy violates Articles I and X of the Constitution of Massachusetts, which provide for equal protection against discrimination.

140. The Policy, both facially and as applied, is an unconstitutional abridgement of Liberty Counsel’s affirmative right to equal protection, is not facially neutral, and specifically targets Liberty Counsel’s religious speech.

141. The Policy, both facially and as applied, is an unconstitutional abridgement of Liberty Counsel’s right to equal protection because the City is treating Liberty Counsel differently from other similarly situated groups solely on the basis of Liberty Counsel’s purpose and nature and the religious content and viewpoint of Liberty Counsel’s educational message.

142. The Policy, both facially and as applied, is an unconstitutional abridgement of Liberty Counsel’s affirmative right to equal protection because it is a viewpoint-based and content-based restriction on free speech, which creates two separate categories of groups and imposes disparate treatment on religious speech.

143. The Policy, both facially and as applied, is not supported by a compelling government interest sufficient to justify its enactment or enforcement against Liberty Counsel.

144. The Policy, both facially and as applied, is not the least restrictive means to accomplish any permissible government purpose sought to be served.

145. The Policy does not serve a significant governmental interest.

146. The Policy, both facially and as applied, is unreasonable and irrational and

imposes unreasonable and unjustifiable restrictions on constitutionally protected speech.

147. The Policy, both facially and as applied, unconstitutionally chills and abridges the right of Liberty Counsel to freely discuss educational, cultural, civic, and other issues from a religious perspective.

148. The City, through the Policy, both facially and as applied, has caused, is causing, and will continue to cause, Liberty Counsel to suffer undue and actual hardship and irreparable injury.

149. Liberty Counsel has no adequate remedy at law to correct the continuing deprivations of its most cherished constitutional liberties.

150. As a direct and proximate result of the City's continuing violations of Liberty Counsel's rights, Liberty Counsel has suffered, is suffering, and will continue to suffer irreparable injury, including but not limited to, the loss of its ability to exercise its constitutional rights without undue, unreasonable, and unconstitutional restrictions.

WHEREFORE, Liberty Counsel respectfully prays for relief against Defendants as hereinafter set forth in its prayer for relief.

PRAYER FOR RELIEF

WHEREFORE, Liberty Counsel prays for judgment as follows:

A. That this Court issue a preliminary and permanent injunction enjoining the City, together with its officers, agents, servants, employees, attorneys, and all other persons in active concert or participation with them, from enforcing the Policy in a manner that obstructs Liberty Counsel from freely exercising its constitutional rights, and further providing that:

(1) The City must allow Liberty Counsel to hold public meetings in Library meeting rooms without regard to Liberty Counsel's religious nature and purpose or the religious

viewpoint or content of Liberty Counsel's message, on the same terms and conditions as any other group that is permitted to use the meeting rooms;

(2) The City must treat Liberty Counsel in all material respects equally with secular organizations that are permitted to meet in and use the meeting rooms; and

(3) The City is enjoined from enforcing the Policy in a manner that treats religious and secular groups unequally;

B. That this Court issue a declaratory judgment declaring invalid that portion of the Policy prohibiting use of the meeting rooms for "proselytizing," "otherwise influencing people to a particular belief or point of view," and "religious services;" declaring the City's actions toward Liberty Counsel unconstitutional; and declaring that the City, its officers, agents, employees, and other persons in active concert with them unlawfully obstructed Liberty Counsel from exercising Liberty Counsel's constitutionally protected rights;

C. That this Court award Liberty Counsel nominal damages;

D. That this Court adjudge, decree, and declare the rights and other legal relations with respect to the subject matter here in controversy so that such declaration shall have the force and effect of final judgment;

E. That this Court retain jurisdiction of this matter for the purpose of enforcing the Court's orders and judgment;

F. That this Court award Liberty Counsel the reasonable costs and expenses of this action, including attorney's fees, in accordance with 42 U.S.C. § 1988; and

G. That this Court grant such other and further relief as this Court deems equitable and just under the circumstances.

Dated: June 15, 2015

Respectfully submitted,

/s/ Philip D. Moran

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**Pro Hac Vice Pending*

VERIFICATION

I declare under penalty of perjury that the factual allegations contained in the foregoing Verified Complaint are true and correct.

Executed on this 15th day of June, 2015

A handwritten signature in black ink, appearing to read "Anita L. Staver", written over a horizontal line.

Anita L. Staver, President
Liberty Counsel, Inc.