

January 16, 2017

Angela G. Summerfield
Daniel P. Kenny
Ogden Murphy Wallace P.L.L.C.
901 5th Avenue, Suite 3500
Seattle, WA 98164

Re: City of Gig Harbor Nativity Scene and Holiday Display

Dear Ms. Summerfield and Mr. Kenny:

As stated by my local co-counsel, Jeff Helsdon, in his letter dated December 21, 2016, my firm and I have been retained by John Skansi in the matter of his crèche being excluded from the City of Gig Harbor's traditional holiday display in 2016. It is my understanding that you are now advising the City in the matter.

Mr. Skansi's primary goal, simply stated, is to ensure Gig Harbor's tradition of including a crèche in its holiday display is restored for the 2017 holiday season and continues for many years to come.

Doubtless you are aware that First Amendment matters, particularly those involving the Establishment Clause, can be complex. There is, however, a well settled, easily implemented legal solution that will restore Gig Harbor's tradition of including a nativity scene in its yearly holiday display and ensure the City is in full compliance with the law.

My firm, First Liberty Institute, focuses exclusively on First Amendment and religious freedom issues. We have advised many local governments and their counsel on matters just like this. On behalf of Mr. Skansi, we would like to meet with the City to provide a comprehensive explanation of First Amendment law as it applies to holiday displays that include religious symbols. This would clarify how the City may continue its tradition of including a nativity scene in its holiday display and remain well within the requirements of the law.

The guidelines for a government holiday display that includes a nativity scene were established by the U.S. Supreme Court thirty years ago in *Lynch v. Donnelly*, 465 U.S. 668 (1984), and *County of Allegheny v. ACLU*, 492 U.S. 573 (1989). These guidelines are simple and clear cut, and often are referred to as the 'Reindeer Rule.' In short, regardless of who may own the crèche, a city can have a crèche as part of its holiday display as long as the display also includes secular elements like reindeer, a snowman, a Christmas tree, or anything else. What a city cannot do is have a display consisting only of a crèche with no secular components, and, of course, a city may not demonstrate a religious purpose for the display.

This is a low threshold, and the City's yearly display easily meets the standard. Traditionally, the City's display is dominated by a large Christmas tree covered with lights, multiple reindeer figures, a large snowman figure, an igloo with a penguin, large candy cane

depictions and multiple brightly wrapped presents. Including a nativity scene as part of this display more than meets the requirements of the Establishment Clause under *Lynch* and *Allegheny*.

The legal criteria for restoring a nativity scene to Gig Harbor's holiday display are straightforward and easy to implement. We hope the City will not allow an unfounded complaint to convince it otherwise or intimidate it into ending a good and lawful holiday tradition.

My phone number and address are on the preceding page, and I can be reached by email at rbyron@firstliberty.org. I look forward to hearing from you.

Sincerely,

A handwritten signature in black ink, appearing to read "Roger Byron". The signature is fluid and cursive, with the first name "Roger" and the last name "Byron" clearly distinguishable.

Roger Byron
Senior Counsel