



May 1, 2020

The Hon. Jay “J.B.” Pritzker
Office of the Governor
207 State House
Springfield, IL 62706

Sent via email [REDACTED] ***) and U.S. Mail***

Re: Churches to Resume In-Person Services Immediately

Dear Sir:

First Liberty Institute is the nation’s largest law firm dedicated exclusively to defending and restoring religious liberty for all Americans. We write to inform you that our client, Northwest Bible Baptist Church (“NWBBC”) in Elgin, Illinois, will establish plans to resume in-person religious services on May 17, 2020.

NWBBC and Houses of Worship Sheltering in Place

Since the novel Corona Virus Disease 2019 (COVID-19) arrived, Americans have diligently followed the recommendations of the White House, Center for Disease Control (CDC), and the advice of state and local health departments to “flatten the curve” of the effects of this virus. NWBBC is grateful for your guidance and to those leading the public health response. Further, it earnestly prays for a swift end to this pandemic, as well as for those battling this invisible enemy on the front lines.

COVID-19’s impact upon houses of worship has been especially acute. Nearly overnight, churches like NWBBC halted corporate gatherings. Many shifted to virtual services. Others chose to utilize drive-in church services to maintain some sense of human connection in worship. Somehow, churches have found a way to not only remain connected, but also to serve those in need. Even as they have provided comfort and calm to their communities, churches have sewn masks, distributed food, and delivered other necessities. Motivated by a love for fellow man, the faith-based community has been supportive of the best recommendations of those in leadership and by refraining from large gatherings.

Beyond Sunday mornings, nearly thirty (30) critical ongoing ministries of NWBBC have been forced to pause for over a month. Ministries forced into a state-imposed hiatus include religious service to the Kane County Jail, NWBBC’s food pantry, nursing home services, special needs ministries, and Reformers Unanimous, an addiction recovery program. Such ministries provide critical social relief and compassionate services to the local community. The longer these ministries are forced to remain in lockdown, the greater their need becomes—especially in this time of increased isolation.

The Moral Imperative of In-Person Church Services

Pausing in-person religious services raises a moral quandary. More than simply another opportunity for human connection, many Christians are compelled by their religious beliefs to gather as individuals. For 2,000 years, Christians have gathered physically on the first of the week to observe Christ's resurrection from the dead. Gathering together is a central tenet of the Christian faith. Indeed, the very word translated from Greek as "church" in our English versions of the Christian scriptures is "ekklesia," which literally means "assembly."¹ In times of war and peace, persecution and succor, famine and plenty, Christians have met together in person—even if that meant doing so in the catacombs of Rome.

NWBBC joins with Christians across the globe in following the exhortation of Scripture that believers "not forsak[e] the assembling of ourselves together." (Hebrews 10:25 (KJV)) NWBBC believes, as the early church did, that in physical presence, it is "to provoke one another unto love and to good works." (Hebrews 10:24 (KJV)). It is, therefore, a part of NWBBC's sincerely held religious beliefs that in-person, corporate gatherings are a central element of religious worship as commanded by God. For the government to require otherwise places a substantial burden upon the free exercise of NWBBC's religion.

Nonetheless, NWBBC recognizes that God has likewise justly established government for their good. Indeed, "there is no power but of God: the powers that be are ordained of God" and that whoever "resisteth the power, resisteth the ordinance of God." (Romans 13:1 and 2 (KJV)). Thus, its members have endeavored always to be faithful in its support of government where conscience allows. NWBBC prays for you and "for all that are in authority; that [its members] may lead a quiet and peaceable life in all godliness and honesty." (I Timothy 2:2). As individuals, they obey the law, vote, and encourage elected officials to govern justly. NWBBC appreciates the enormous responsibility placed upon your shoulders and that of ever elected official—especially in the present crisis.

Nonetheless, should a conflict between duty to God and duty to government arise, NWBBC believes the example of the early Apostles instructs: "We ought to obey God rather than men." (Acts 5:29 (KJV)). While NWBBC has voluntarily adjusted its mode of services for weeks now out of respect for the guidance of national, state, and local officials and motivated by love for they fellow man, it believes the time has come to resume in-person services on May 17, 2020.

¹ See A.T. Robertson, A GRAMMAR OF THE GREEK NEW TESTAMENT IN THE LIGHT OF HISTORICAL RESEARCH (3d ed. 1919).

Returning to In-Person Services

According to the latest modeling, deaths related to the effects of COVID-19 are in steep decline, projected to be at zero (0) by May 15, 2020.² It is reasonable, therefore, for NWBBC to resume in-person church services again with an abundance of caution. Any compelling justification you or other government officials may have had to burden the free exercise of our religion is rapidly diminishing.

As NWBBC resumes in-person church services, out of an abundance of caution,³ it intends to employ the following measures—measures are at least as stringent as required by retail businesses, the CDC, and local ordinances—for the safety and health of its members and the local community:

- Those who are elderly (65+) or in at-risk categories will be encouraged to stay home and participate via live stream.
- Any individual who is over age two and able to medically tolerate a face-covering shall be required to cover their nose and mouth with a face-covering when in a public place and unable to maintain a six-foot social distance.
- Signs will be posted at all entrances refusing entry to any individuals exhibiting any flu-like symptoms.
- Signage will be placed throughout the building to encourage people to prevent the spread of respiratory illnesses.
- Those entering will be scanned for a fever with non-touch thermometers by screeners wearing appropriate PPE. Those exhibiting a fever of 100 or higher will be denied entry.
- Prior to gaining entry, individuals will be asked a series of qualifying questions including:
 - Have you experienced any of the listed symptoms of COVID-19 in the past 14 days?
 - Have you been in contact with anyone exhibiting the symptoms of COVID-19 within the last 14 days?
 - Have you had a fever of greater than 100 degrees in the past 48 hours?
- Strict social distancing measures will be enforced, including:
 - Closure of child care.
 - Separating the seating of non-family units by a minimum of six (6) feet and only seating individuals every other row for front to back spacing throughout the main floor and balcony of the worship space.
 - Closing off all other portions of the church facility to traffic.

² See COVID-19 Projections, <https://covid19.healthdata.org/united-states-of-america/illinois> (accessed April 28, 2020)

³ The safety and health measures asserted here may be *more* stringent than what is recommend by the Centers for Disease Control. See Centers for Disease Control, *Interim Guidance for Administrators and Leaders of Community- and Faith-Based Organizations to Plan, Prepare, and Respond to Coronavirus Disease 2019 (COVID-19)*, <https://www.cdc.gov/coronavirus/2019-ncov/community/organizations/index.html>.

- Doors will be propped open or manned by volunteers wearing PPE to reduce the number of touched surfaces.
 - No hymnals or shared religious materials will be used.
 - Attendees will be dismissed by family units or separated by proper social distancing requirements.
 - Tithes and offerings will be deposited in a stationary box or offering plate located near the exit.
 - No choir (or practice) will meet or perform.
 - Handshaking, hugging, and other physical contact will be avoided. Other methods of friendly interaction from physical distance – such as waving, smiling, or yelling “I love you!” – will be encouraged.
 - Fellowship closer than six (6) feet will be prohibited within the church building at all times.
- Multiple hand sanitizing stations will be located throughout the building and signs instructing on proper handwashing will be prominently displayed in the church’s bathrooms.
 - All common surfaces, including door handles, light switches, and pews will be disinfected before and after all services.
 - Masks will be available, as supply allows.
 - Other religious meetings, including small groups, Sunday School classes, and church bus ministry, will be cancelled. Only main worship services will be open.
 - Communion, if observed, will be distributed in self-contained, sealed packets.

NWBBC agrees with U.S. Attorney General William P. Barr, who recently observed:

Religion and religious worship continue to be central to the lives of millions of Americans. This is true more so than ever during this difficult time. The pandemic has changed the ways Americans live their lives. Religious communities have rallied to the critical need to protect the community from the spread of this disease by making services available online and in ways that otherwise comply with social distancing guidelines.⁴

On November 3, 1918, Rev. Francis J. Grimke preached for the first time in about a month to his congregation assembled at Fifteenth Street Presbyterian Church in Washington, D.C. The Spanish Flu prevented them from meeting in person. In offering his reflections on the month of separation, he observed:

I do not know whether the children or teachers have regretted the closing of the schools or not; I have heard no regrets expressed, but I do know that large numbers of people have regretted the closing of the churches. It would

⁴ “Statement on Religious Practice and Social Distancing,” April 14, 2020, <https://www.justice.gov/opa/pr/attorney-general-william-p-barr-issues-statement-religious-practice-and-social-distancing-o> (accessed April 29, 2020). See also “MEMORANDUM FOR THE ASSISTANT ATTORNEY GENERAL FOR CIVIL RIGHTS AND ALL UNITED STATES ATTORNEYS,” April 27, 2020, <https://www.justice.gov/opa/page/file/1271456/download> (accessed April 29, 2020).

be a great calamity to any community to be without the public ministrations of the sanctuary. There is no single influence in a community that counts for more than the Christian church. It is one of the institutions, particularly, that ought to be strongly supported.⁵

Our client shares the opinion of Rev. Grimke. While it has been patiently waiting at an acceptable social distance for a period longer than Rev. Grimke experienced before returning to in-person services, NWBBC believes in the great influence of the local church. It is of primary importance to the spiritual health and well-being of its members, a benefit that extends also to the surrounding community.

Conclusion

Our client recognizes this may place NWBBC at odds with your most recent “Stay-at-Home Order.” See Executive Order 2020-32 (COVID-19 Executive Order No. 30). This would be regrettable and unnecessary. NWBBC hopes reason and the measures articulated herein will render any concerns by your office, or potential enforcement, moot. Should you decide to take any enforcement action against NWBBC, however, we are prepared to assert any and all defenses available under the U.S. Constitution and applicable law, including the Illinois Religious Freedom Restoration Act, 775 ILCS §35/1, *et seq.*

We request that you inform us in writing, by no later than May 8, 2020, whether you intend to enforce Executive Order 2020-32 (COVID-19 Executive Order No. 30) against NWBBC as it resumes in-person services on May 17, 2020.

Thank you for your leadership of the State of Illinois and your attention to this matter.

Sincerely,



Jeremy Dys
Special Counsel
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⁵ Rev. Francis J. Grimke, “Some Reflections, Growing Out of the Recent Epidemic of Influenza that Afflicted Our City,” November 3, 1918, <https://babel.hathitrust.org/cgi/pt?id=emu.010002585873&view=1up&seq=6> (accessed April 29, 2020).

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