

September 13, 2021

Colonel Christopher Schlak, USAF
Commander, 509th Mission Support Group
509 Spirit Blvd
Whiteman AFB, MO 65305

Subject: Request for Honor Guard to Perform at Veterans' Day Event

Dear Colonel Schlak,

The Whitehead Law Firm and First Liberty Institute represent Manna Fellowship Church ("the Church") of Pleasant Hill, MO, in this matter. Please direct all correspondence on this matter to TEH at the contact information provided below.

Our understanding is that the Whiteman Air Force Base (AFB) Honor Guard falls within your command authority. We write to request that you provide an Honor Guard in support of the Church's 2021 Veterans' Day commemoration, which will take place on November 8, 2021.

Background

On June 29, 2021, the Church submitted a request to officials at Whiteman AFB to provide an Honor Guard in support of its upcoming Veterans' Day commemoration. Whiteman AFB provided an Honor Guard in support of the Church's 2019 Veterans' Day commemoration, which was well-received and occurred without incident. But this time, after a couple of email exchanges about the correct date and the correct military form to be filed, Whiteman officials reversed their prior decision.

On July 1, 2021, a Public Affairs Officer with the 509th Bomb Wing responded to the Church, denying its request. The Public Affairs Officer's stated reason for denying the Church's request was that the U.S. Air Force is prohibited from endorsing religious entities.

On July 6, 2021, Mr. Michael Whitehead, of the Whitehead Law Firm, LLC, contacted the 509th Bomb Wing Public Affairs Office on behalf of the Church and explained that the sole purpose for the Honor Guard's presence would be to honor America's veterans, not to endorse the religious beliefs of the church.

On July 12, 2021, the Public Affairs Officer responded to Mr. Whitehead. Despite Mr. Whitehead's assurances, the Public Affairs Officer again denied the Church's request due to a purported prohibition on endorsing religious entities.

Legal Analysis

There is no legal prohibition against an Air Force Honor Guard's presence or support to a Veterans' Day commemoration. Department of Defense Instruction (DODI) 5410.19 prohibits Department of Defense personnel from endorsing any non-Federal entity event, product, service, or enterprise.

The mere presence of an Honor Guard to support a Veterans' Day commemoration does not, however, create any actual or perceived endorsement of the host entity. Military Honor Guards perform at a variety of non-Federal entity events; sporting events, civic events, patriotic events, funerals, etc. An Honor Guard's presence at the Church no more endorses the Church than an Honor Guard's presence at a Kansas City Chiefs game endorses the Chiefs organization.

Moreover, as stated above, 509th Force Support Squadron provided an Honor Guard to support the Church's 2019 Veterans' Day commemoration. The 2019 event took place inside the Church without issue or incident. Indeed, the Air Force Honor Guard Manual (HGMAN) itself contemplates that an Honor Guard might perform at an event held inside a church.

Paragraph 4.6.4.3 of the HGMAN states "weapons will not be carried on color teams taking place *inside a church or place of worship.*" And Paragraph 4.7.2 states that "hats/caps will not be worn indoors if the color team is not under arms, i.e. *inside a church or place of worship.*"

DODI 5410.19 also prohibits selective benefits or preferential treatment to any individual, group, or organization. In other words, when DOD support is provided to one non-Federal entity, the DOD must be willing and able to provide similar support to comparable events sponsored by similar non-Federal entities. In 2019, active duty service members, including a color team detail, marched in a political parade "to show opposition to the Trump Administration."¹ Thus, if the DOD provided a color team or Honor Guard to support that event, DODI 5410.19 requires that it provide similar support such as requested here.

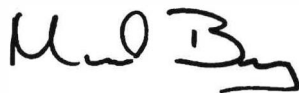
Finally, Air Force Instruction 1-1 requires the government to abide by its constitutional mandate of neutrality towards religion and religious entities. Our concern is that in the zeal to avoid showing preference for a religious organization, the Air Force here is demonstrating hostility towards the Church, which the Constitution, federal law, and DOD regulations all forbid.

Conclusion

In conclusion, the law clearly permits the Whiteman AFB Honor Guard to support the Church's request. In fact, the refusal to support the Church's request because it is a religious organization is unconstitutional. Nevertheless, the Church is prepared to take the necessary measures to ensure there is no risk of perceived endorsement, such as separating the event into "official" and "non-official" portions such that the Honor Guard may be excused for the non-official portion. We are happy to meet with you to discuss this, or any other measures that would be reasonable and mutually beneficial.

Colonel Schlak, Manna Fellowship Church loves our service members and veterans, and it values the great relationship it has with Whiteman AFB and the Whiteman family. Its sole desire is to honor their selfless service and sacrifice in a meaningful way. If we may be of assistance, or if you wish to discuss this further, please feel free to contact either of the undersigned. We may be reached at

██████████ or ██████████



Michael Berry
General Counsel
First Liberty Institute



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Whitehead Law Firm, LLC

¹ <https://www.nbcsandiego.com/news/local/san-diego-unites-for-pride-parade-2019/132618/>