



DISTRICT OF COLUMBIA



TENNESSEE



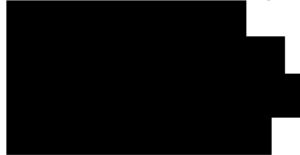
VIRGINIA



June 11, 2026

VIA EMAIL & FED-EX

William W. Moehle, Town Supervisor



Re: Brighton's violation of constitutional rights to erect a Nativity

Dear Mr. Moehle,

The American Center for Law & Justice (ACLJ)¹ represents [redacted] regarding his repeated requests to erect a Nativity scene in the Twelve Corners public square in Brighton, New York during the Christmas holiday season. In the past several years, town officials have ignored [redacted] repeated attempts to obtain permission to erect the Nativity, despite allowing other private holiday displays on the same public square. We demand the Town's assurances in writing that [redacted] will be permitted to erect a life-size Nativity in the Twelve Corners town square this upcoming Christmas.

¹ By way of introduction, the ACLJ is an organization dedicated to the defense of constitutional liberties secured by law. ACLJ attorneys have argued before the Supreme Court of the United States in a number of significant cases involving the freedoms of speech and religion. See Pleasant Grove City v. Sumnum, 129 S. Ct. 1523 (2009) (unanimously holding that the Free Speech Clause does not require the government to accept counter-monuments when it has a war memorial or Ten Commandments monument on its property); McConnell v. FEC, 540 U.S. 93 (2003) (unanimously holding that minors enjoy the protection of the First Amendment); Lamb's Chapel v. Center Moriches Sch. Dist., 508 U.S. 384 (1993) (unanimously holding that denying a church access to public school premises to show a film series on parenting violated the First Amendment); Bd. of Educ. v. Mergens, 496 U.S. 226 (1990) (holding by an 8-1 vote that allowing a student Bible club to meet on a public school's campus did not violate the Establishment Clause); Bd. of Airport Comm'rs v. Jews for Jesus, 482 U.S. 569 (1987) (unanimously striking down a public airport's ban on First Amendment activities).

Statement of Facts

For many years, the Town of Brighton has permitted the Twelve Corners town square to be used for holiday displays. Every year in December, an organization or religious institution erects a Menorah in the square to celebrate Hanukkah. The Menorah contains a sign which expressly disclaims any government involvement in the display and provides the following message: “Happy Chanukah From Chabad” and a disclaimer that “[t]he display of this Menorah is fully sponsored by Chabad Lubavitch. The Town of Brighton has not sponsored or assisted in this display.” The Town’s longtime practice of permitting this private display in the public square is documented in many different news stories.² In one of the videos, a rabbi is interviewed regarding the Menorah display. In another video, Town Supervisor Moehle appears to be speaking at an event for the lighting of the Menorah.

More than two years ago, in December 2023, ██████████ reached out to Mr. Moehle to inquire about the process for setting up his own display of a Nativity in the same park. On December 22, 2023, he left a voicemail which was ignored. On December 29, 2023, he visited the town offices and spoke with Evert Garcia (then Commissioner of Public Works) about setting up a Nativity scene. ██████████ was directed to speak with Mr. Moehle. In the following months and year of 2024, ██████████ made several attempts to reach Mr. Moehle and other town officials and employees to discuss and obtain clarification on the process for erecting a temporary Nativity scene during the Christmas season. He left several voicemails with Evert Garcia, Matt Beaman, and Bridgett Monroe (Assistant to the Town Supervisor) and attempted to make an appointment with multiple town officials, including Mr. Moehle. He also sent a certified letter in August 2024 requesting a meeting. ██████████ also attempted to speak with Mr. Moehle in person by visiting his office during normal business hours on August 26, 2024. Mr. Moehle avoided ██████████ by moving into his office and instructing his assistant, Ms. Monroe, to speak with ██████████.

In 2025, ██████████ again attempted to obtain permission to erect the Nativity. In September 2025, ██████████ prepared a packet of information regarding his request to erect the Nativity and presented it to Margaret Lull in the Town’s office. Ms. Lull promised to deliver it directly to Mr. Mancuso (as requested by ██████████). On October 20, 2025, ██████████ telephoned Mr. Mancuso to follow up regarding the packet of information and left a voicemail requesting to be approved for the Nativity for the upcoming holiday season. He never received a response. Most recently, on March 12, 2026, ██████████ called Mr. Mancuso. Just as before, he was transferred to Ms. Monroe who promised to follow up with Mr. Moehle and/or Mr. Mancuso. Once again, no one for the Town has followed up at any point.

² See Bridget Harry, *Menorah Lit at Twelve Corners for Fourth Night of Hanukkah*, ROCHESTER FIRST (Dec. 28, 2024), <https://www.rochesterfirst.com/around-town/menorah-lit-at-twelve-corners-for-fourth-night-of-hanukkah/>; Evan Bourtis, *Final Lantern Lit on Brighton Menorah to Celebrate Hanukkah*, WHEC (DEC. 26, 2022), [HTTPS://WWW.WHEC.COM/TOP-NEWS/FINAL-LANTERN-LIT-ON-BRIGHTON-MENORAH-TO-CELEBRATE-HANUKKAH/](https://www.whec.com/top-news/final-lantern-lit-on-brighton-menorah-to-celebrate-hanukkah/).

Despite his repeated efforts to contact the Town regarding this matter, the Town has completely ignored ██████████ respectful attempts to meet with town officials regarding the Nativity for more than two years.

Statement of Law

The Supreme Court “long ago recognized that members of the public retain strong free speech rights when they venture into public streets and parks, ‘which have immemorially been held in trust for the use of the public and, time out of mind, have been used for purposes of assembly, communicating thoughts between citizens, and discussing public questions.’” *Pleasant Grove City v. Summum*, 555 U.S. 460, 469 (2009) (citations omitted). Accordingly, “government entities are strictly limited in their ability to regulate private speech in such ‘traditional public fora.’” *Id.* (quoting *Cornelius v. NAACP Legal Defense & Ed. Fund, Inc.*, 473 U. S. 788, 800 (1985)). Likewise, members of the public retain strong free speech rights to access government property that has been opened up for expressive activity, also known as “open or designated” public forum. *Make the Rd. by Walking, Inc. v. Turner*, 378 F.3d 133, 142-43 (2d Cir. 2004) (noting that a designated public forum is “‘a place not traditionally open to assembly and debate,’ *Cornelius*, 473 U.S. at 802, ‘which the state has opened for us by the public as a place for expressive activity,’ *Perry Educ. Ass’n v. Perry Local Educators*, 460 U.S. 37, 46 (1983)”).

Whether the property in question is a traditional public forum (e.g., street, sidewalk, park, or plaza) or a designated public forum (e.g., a government building, community center or other state-owned facility), the ability of governing authorities “to limit expressive activities [is] sharply circumscribed.” *Capitol Square Review & Advisory Bd v. Pinette*, 515 U.S. 752, 761 (1995). This is especially true for private religious speech which is “fully protected under the Free Speech Clause.” *Id.* at 760 (citing *Lamb’s Chapel v. Ctr. Moriches Union Free Sch. Dist.*, 508 U.S. 384 (1993); *Board of Ed. Of Westside Community Schools v. Mergens*, 496 U.S. 226 (1990); *Widmar v. Vincent*, 454 U.S. 263 (1981); *Heffron v. International Soc. For Krishna Consciousness, Inc.*, 452 U.S. 640 (1981)).

State officials may not prohibit religious speakers from a traditional or designated public forum on the basis of viewpoint unless they demonstrate a compelling government interest for doing so. *Pinette*, 515 U.S. at 761. The state may only “impose reasonable, content-neutral time, place and manner restrictions.” *Id.* As the Supreme Court held in *Lamb’s Chapel*, “[t]he principle that has emerged from our cases ‘is that the First Amendment forbids the government to regulate speech in ways that favor some viewpoints or ideas at the expense of others.’” 508 U.S. at 394 (citation omitted).

In the present case, the Twelve Corners town square is likely a traditional public forum, as a public park. At a minimum, it is a designated public forum. There can be no dispute that the Town of Brighton has opened up the town square for private expression and displays during the winter holidays. The annual erection of the Menorah with a sign specifically designating it as private speech forecloses any dispute. As such, the Town cannot deny ██████████ request to erect his own private seasonal Nativity display subject to the same reasonable, content-neutral time, place and manner restrictions that apply to the

Menorah. *See Pinette*, 515 U.S. at 761. Nor can the Town assert any concern for an Establishment Clause violation as a compelling reason for denying [REDACTED] request. Time and time again, the Supreme Court has rejected attempts to restrict speech or a display because it is religious. *See id* at 760 (“Religious expression cannot violate the Establishment Clause where it (1) is purely private and (2) occurs in a traditional or designated public forum, publicly announced and open to all on equal terms”). Such a concern would be particularly out of place here, when the town already permits other religious displays.

In *Pinette*, the Court, under very similar facts as those here, affirmed that a state may not bar the private display of a cross from a public square. *Id.* at 762 (citing *Lamb’s Chapel v. Ctr. Moriches Union Free Sch. Dist.*, 508 U.S. 384, 394-96 (1993); *Widmar v. Vincent*, 454 U.S. 263, 271 (1981), and noting that the Supreme Court has twice struck down a restriction on private, religious speech in a forum available for public use). In *Pinette*, the government permitted other private parties to erect unattended displays in the state-owned capital square (a place for public speeches, gatherings, and festivals) during the Christmas season including a privately sponsored menorah during Chanukah. The Court held that it thus could not prohibit the display of a cross. *Id.* at 758.

Taken together, the facts and law leave no room for ambiguity. The Town of Brighton has, for years, operated the Twelve Corners town square as an open public forum for private seasonal expression — most visibly by permitting the annual erection of a privately sponsored Menorah. Having done so, the Supreme Court precedent is unambiguous that it may not selectively exclude [REDACTED] Nativity display on the basis of its religious viewpoint. *Pinette*, 515 U.S. at 761. The Town’s two-plus years of deliberate silence in the face of [REDACTED] persistent, good-faith efforts to work through proper channels is not a neutral administrative posture — it is a de facto denial that violates the First Amendment. [REDACTED] has done everything right. He has sought permission through official channels, made repeated good faith attempts to engage town officials, and patiently waited for a response that never came. The Town’s continued indifference has left him no choice but to seek the intervention of counsel.

Conclusion

To prevent any further violation of his constitutional rights, we request that the Town provide written assurances no later than **June 22, 2026**, that [REDACTED] will be permitted to erect a Nativity during the 2026 Christmas season and provide any paperwork or other instructions to be completed to ensure that [REDACTED] request is accepted in time for the 2026 Christmas season.

Please be advised that if we do not receive the above requested assurances, we will file suit in federal court and seek all available remedies, including injunctive relief. Should you wish to discuss this matter further or have any questions in this regard, please feel free to contact me directly at (615) 599-5572, ext. 4006.

Respectfully,



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