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January 9, 2025

City Council of Springfield, Illinois
305 Municipal Center West
300 South 7th Street
Springfield, IL 62701
Sent via Federal Express and electronic mail (cityaldermen@springfield.il.us).

Re: City Council's Policy on Election-Related Apparel

To the Springfield City Council,

The American Center for Law & Justice[1] represents Ms. Rosanna Pulido, a resident of the City of Springfield, in regard to the restriction placed on election-related apparel by public attendees of Springfield City Council meetings and the enforcement of said policy against her on October 29, 2024. The purpose of this letter is to bring your attention to Springfield City Council's violation of the First Amendment by taking this action to restrain Ms. Pulido's expression and obtain written assurances from you that our client may wear whatever non-disruptive apparel, including political and/or election-related apparel, she wishes going forward.

[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. Summum*, 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

Ms. Pulido is a frequent contributor to Springfield, Illinois city council meetings, which are open to the public. She is familiar with the process of how to sign up, and is orderly at the meetings, even if she is outspoken and frequently offers counterarguments to the city council aldermen. Nevertheless, she, as of October 29, 2024, had never been told of a dress code forbidding "election materials."

Ms. Pulido attended the October 29, 2024, meeting at the Springfield Municipal Building, as she had signed up for, and came prepared to voice her thoughts on a recent act of the Springfield city council.[2] Alderwoman Conley, before the opportunity for citizens to address the city council, noted to the chair that "we are one week before an election, I just want to remind everyone that we do not allow campaign materials in council chambers, so, one more week and we're past this season." *Id*. at 3:18:20. Ms. Pulido immediately felt singled out, as she noted her "Chicanos for Trump" t-shirt.

Ms. Pulido, after hearing her name called, calmly approached the podium with her prepared materials and no intention of campaigning for her preferred candidate or otherwise "electioneering." *Id*. at 3:32:40. Alderwoman Conley addressed the chair a second time: "Again, I'd like to point out that we do not allow campaign materials in council chambers." *Id*. The chair immediately noted "the Trump t-shirt you [Ms. Pulido] have on." *Id*. Springfield Corporation Counsel, Mr. Greg Moredock, asked if she could "step out and turn it around or something?" *Id*. Ms. Pulido tried to explain that she had not been told about the rule, but was still forced to either turn her shirt inside out or otherwise disguise the message on her t-shirt. It should be noted that there is no polling location at the Springfield Municipal Building. [3]

After this embarrassment to Ms. Pulido, she reached out to Mr. Moredock on November 4 by email with a very reasonable question: "Could you please provide me The CODE and SECTION of this directive?" Two weeks later, she left a voicemail with Mr. Moredock, again receiving no response. A third time she took a written copy of the email and hand delivered it to a receptionist at the Springfield Municipal Building where she was assured it would get to Corporation Counsel. A good-faith search of Springfield Municipal codes and other relevant law does not reveal any policies which would support such a prohibition on political words on clothing.

To date, Ms. Pulido has received no confirmation of any actual legal authority the council relied upon when they told Ms. Pulido to cover. To date, Ms. Pulido has received no

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[2] ILSpringfield, *Springfield, Illinois Committee of the Whole Meeting Tuesday, October 29, 2024*, Youtube (October 29, 2024), https://www.youtube.com/watch?v=FbaYG4AYCOc.
[3] *See* Sangamon County Clerk, *Polling Places – City of Springfield*, SangamonIL.gov, https://sangamonil.gov/departments/a-c/county-clerk/elections/vote/listing-of-polling-places/within-city-of-springfield (last visited December 30, 2024).

communication at all about a supposed rule which is being enforced at public meetings. Ms. Pulido wishes to, and has a right to, wear whatever political message she would like at public meetings.

Statement of Law

The Supreme Court recognizes three types of forum for First Amendment purposes: a traditional public forum, a designated public forum, and a nonpublic forum. *Minn. Voters All. v. Mansky*, 585 U.S. 1, 11 (2018). "[A] government entity may create 'a designated public forum' if government property that has not traditionally been regarded as a public forum is intentionally opened up for that purpose." *Pleasant Grove City v. Summum*, 555 U.S. 460, 469 (2009). It is true that the Supreme Court has allowed the government to "impose some content-based restrictions on speech in ***nonpublic*** forums, including restrictions that exclude political advocates and forms of political advocacy." *Mansky*, 585 U.S. at 12. However, the Seventh Circuit Courts of Appeal have held that audience time during city council meetings meet the definition of a designated public forum. *See Surita v. Hyde*, 665 F.3d 860, 869 (7th Cir. 2011) (holding that "audience time during Waukegan city council meetings constituted a designated public forum.") (citing *Madison Joint Sch. Dist. v. Wis. Emp't Relations Comm'n*, 429 U.S. 167, 176 (1976)). Restrictions on designated public forums are subject to the same scrutiny as traditional public forums. *Cornelius v. NAACP Legal Def. & Educ. Fund*, 473 U.S. 788, 800 (1985)).

> In a traditional public forum—parks, streets, sidewalks, and the like—the government may impose reasonable time, place, and manner restrictions on private speech, but restrictions based on content must satisfy strict scrutiny, and those based on viewpoint are prohibited. The same standards apply in designated public forums—spaces that have "not traditionally been regarded as a public forum" but which the government has "intentionally opened up for that purpose."
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> *Mansky*, 585 U.S. at 11 (citing *Summum*, 555 U.S. at 469).

Strict scrutiny is an exacting standard, "which requires the Government to prove that the restriction furthers a compelling interest and is narrowly tailored to achieve that interest." *Citizens United v. Fed. Election Comm'n*, 558 U.S. 310, 340 (2010) (quoting *Fed. Election Comm'n v. Wisc. Right to Life* 551 U.S. 449, 464 (2007)). The Supreme Court has never gone as far to say that political speech is categorically untouchable. *But see Simon & Schuster, Inc. v. Members of the N.Y. State Crime Victims Bd.*, 502 U.S. 105, 124 (1991) (Kennedy, J., concurring). However, the state interests it has found compelling are all of the weightiest demands of governance, such as maintaining order in prisons or the performance of its military. *Citizens United*, 558 U.S. at 341 (emphasizing the very limited exceptions). However, the City Council's restriction here cannot meet this burden, nor does it fit into any carve out. This restriction covered political speech, which was completely nondisruptive, during its most important and vulnerable time.

Firstly, political speech "is central to the meaning and purpose of the First Amendment." *Citizens United*, 558 U.S. at 329 (citing *Morse v. Frederick*, 551 U.S. 393, 403 (2007)). Election speech is, rather than a category which Springfield can regulate freely, perhaps the most protected category. "[N]ot all speech is of equal First Amendment importance. It is speech on 'matters of public concern' that is "at the heart of the First Amendment's protection." *Dun & Bradstreet v. Greenmoss Builders*, 472 U.S. 749, 758-59 (1985) (quoting *First National Bank of Boston v. Bellotti*, 435 U.S. 765, 776 (1978)).

Secondly, Alderwoman Conley's interpretation of the rule seemed to focus on the campaign season as the authorization of the restriction, she noted that "we are one week before an election" and that in one week "this season" would be over. It is unclear if that is what she meant, but in any case the opposite is true: "the First Amendment has its ***fullest and most urgent application*** to speech uttered ***during a campaign*** for political office." *Wis. Right to Life State PAC v. Barland*, 664 F.3d 139, 148 (7th Cir. 2011) (emphasis added). "[I]f it be conceded that the First Amendment was 'fashioned to assure the unfettered interchange of ideas for the bringing about of political and social changes desired by the people,'" then it must be true that it serve to protect "precisely to the conduct of campaigns for political office." *Monitor Patriot Co. v. Roy*, 401 U.S. 265, 271-72 (1971) (quoting *Roth v. United States*, 354 U.S. 476, 484 (1957)).

Finally, Ms. Pulido's expressive activity at issue was completely nondisruptive. Ms. Pulido made no mention of her shirt, nor did she attempt to stump for her preferred candidate, it was merely an article of clothing. More disruption was caused and attention brought to the shirt by the insistence on its censoring than it having been worn. Even if Springfield's city council meetings meet the standard of only a limited public forum, or even a nonpublic forum, it remains true that "[t]he State may not exclude speech where itsxc distinction is not 'reasonable in light of the purpose served by the forum…'" *Rosenberger v. Rector & Visitors of the Univ. of Va.*, 515 U.S. 819, 829 (1995) (quoting *Cornelius*, 473 U.S. at 804-06). Banning Ms. Pulido's "Chicano's for Trump" t-shirt would not pass First Amendment scrutiny for *any* standard or forum. Courts have specifically overturned clothing restrictions that seek to regulate "nondisruptive speech," noting that "[m]uch nondisruptive speech – ***such as the wearing of a T-shirt*** or button is still protected speech ***even in a nonpublic forum***." *Bd. of Airport Comm'rs v. Jews for Jesus*, 482 U.S. 569, 576 (1987) (emphasis added). While the Supreme Court has upheld narrow apparel restrictions in an electioneering context, it was only in a nonpublic forum and authorized "in light of the special purpose of the polling place itself." *Mansky*, 585 U.S. at 16.

Demand

In light of the foregoing, we ask that the Springfield City Council provide written assurances by January 24, 2024, that it will comply with the First Amendment by simply allowing Ms. Pulido, and any citizen, to wear whatever non-disruptive apparel he or she desires at future Springfield City Council meetings. Further, we ask that the Council provide a written apology to Ms. Pulido for violating her First Amendment rights at the October 29, 2024, meeting.

Respectfully,

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**Admitted in Virginia and D.C.*