

Pregnancy Center East  
2752 Erie Avenue  
Suite 11  
Cincinnati, Ohio 45208

Mr. Cecil Thomas, Chair  
Law & Public Safety Committee  
801 Plum Street, Suite 348  
Cincinnati, Ohio 45202

**Re: Proposed Restrictions on Signage in Public Right of Way,  
Document No. 200700988**

Dear Councilmember Thomas:

The Pregnancy Center East (“PCE”) is a local non-profit organization dedicated to supporting pregnant women by providing gratis services to them throughout and after pregnancy as well as aid them in making informed decisions. It has come to the attention of the Board of Trustees of the PCE as well as the Advisory Board that on February 26, 2008, Document No. 200700988 was submitted to the members of the Law and Public Safety Committee by the Mt. Auburn Community Council. This document requests amendments to existing legislation which would place limits on the number, size and location of signage of protestors. Document No. 200700988 is aimed at individuals who protest outside of the Planned Parenthood Clinic on Auburn Avenue. For the reasons set forth below, the PCE urges the members of the Law and Public Safety Committee as well as all City Council members to reject said request. Quite simply, the proposed revisions constitute a clear and blatant violation of the First Amendment of the Constitution of the United States.

The First Amendment unequivocally protects a private citizen’s right to display signs on the public streets and sidewalks of Cincinnati. *See, e.g. Hill v. Colorado*, 530 U.S. 703, 714-715 (2000) (recognizing that petitioners’ “leafletting, sign displays, and oral communications are protected by the First Amendment”). Furthermore, all public streets and sidewalks are properly considered traditional public fora, including those adjacent to an abortion facility. *Frisby v. Schultz*, 487 U.S. 474, 481 (1988) (emphasis added).

Document No. 200700988 attempts to circumvent the above law by arguing that the proposed revisions are actually “content neutral” falling within the “time, place and manner” restrictions under First Amendment case law. *See* Document No. 200700988, p. 2. It is further argued that the proposed revisions are narrowly tailored to serve a significant government interest. Document No. 200700988, p. 2. A careful analysis of Document No. 200700988 reveals otherwise.

The authors of Document No. 200700988 note their intent is to “improve the safety, cleanliness, economic viability and historic reputation of Mt. Auburn.” See Document No. 200700988, p. 1. Substantive evidence in support of this alleged intent is absent from the proposal. There is no evidence that the protestors at issue caused a decline in the safety, cleanliness, economic viability or the historic reputation of Mt. Auburn.

Notably, in the analysis portion of Document No. 200700988, the intent of the authors actually changes from the aforementioned intent to one of traffic concerns. This contradiction begs the obvious question: What is the true purpose of this revision? Is it really for cleanliness, safety and economic viability? Where is evidence to support these concerns? Or is the intent to alleviate traffic problems? Again, if this is the case, where is the evidence to back these “traffic” concerns? Not surprisingly, Document No. 200700988 lacks any substance to support these revisions.

This lack of supporting factual evidence clearly demonstrates the true intent behind the proposed revisions: to restrict the constitutional right of citizens to express their political message opposing abortion. Governmental interference at any level with the First Amendment is a dangerous practice. If approved, the revisions in Document No. 200700988 will inevitably have a chilling effect on all free speech in the City of Cincinnati including union marches, political rallies and demonstrations of any sort. In addition, these restrictions on size, number and location of the signs will have a slippery slope effect. What is next? Color? Font size? Image size? Number of protestors?

Just as Document No. 200700988 lacks factual support, it also lacks legal support. On page 3, *Hill v. Colorado* is cited to for the proposition that it would be appropriate to regulate the size and number of signs a protestor may carry. This reliance is misplaced. Unlike the present situation of protestors on the sidewalk outside of the Planned Parenthood Clinic, *Hill* involved protestors who were actually approaching patients of the abortion facility. The issue in *Hill* was whether a state statute requiring speakers to obtain permission from pedestrians on public sidewalks before they can speak or distribute information to them places an undue burden on an individual's rights to free speech under the First Amendment. *Hill v. Colorado*, 530 U.S. 703. With regard to the statute in question in *Hill*, the Court actually stated “[f]urthermore, the statute places no limitations on the number, size, text, or images of the placards.” *Hill* at 726. *Hill* is clearly inapplicable in the instant matter.

With specific regard to restrictions on the size on signs, Document No. 200700988 notes that “[b]ased on case law, a permissible size restriction would appear to restrict signs to no greater than three (3) feet by four (4) feet.” See Document No. 200700988, p. 4. It comes as no surprise that this case law is not provided.

The lack of factual and legal support to the alleged purpose of the revisions demonstrates the true intent of the authors: restricting the constitutional right of citizens to express their political message opposing abortion. Said restrictions are unacceptable regardless of whether one agrees with the political message being conveyed.

For all the above reasons, the Pregnancy Center East urges the members of the Law and Public Safety Committee as well as all City Council members to reject the proposed revisions of Document No. 200700988.

Sincerely,

Ruth T. Kelly, Esq.  
*Advisory Board Member and on behalf of  
the Pregnancy Center East*

Cc: Members, Cincinnati City Counsel  
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