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June 7, 2010

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Ms. Frances Stein
Manager, Point State Park
c/o Park Region 2
Pennsylvania Department of Conservation and Natural Resources
Prospect, PA 16052-2013

Western Region Office
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RE: Political activity in Point State Park

Dear Ms. Stein:

The American Civil Liberties Union of Pennsylvania (“ACLU”) has received several complaints, including one as recently as Friday evening, that you have called the Pittsburgh police and together with them threatened to cite and/or arrest people who are distributing literature or circulating petitions on the sidewalks surrounding and inside Point State Park. We write this letter to advise you that such a restriction on political activity, be it on a sidewalk or in the park, violates the First Amendment, and that if we receive even one more complaint we will immediately seek relief from a federal judge.

Parks and sidewalks are known as traditional public forums, which “have immemorially been held in trust for the use of the public for purposes of assembly, communicating thoughts between citizens, and discussing public questions. Such use of the streets and public places has, from ancient times, been a part of the privileges, immunities, rights, and liberties of citizens.” *Hague v. CIO*, 307 U.S. 496, 515-16 (1939). When expressive activities, like leafleting, picketing and signature gathering, take place in these public forums, the “government’s ability to permissibly restrict expressive conduct is extremely limited.....” *United States v. Grace*, 461 U.S. 171, 177 (1983). This is true even when the park may be “rented” out to a permit holder, such as the Three Rivers Arts Festival. *See, e.g., Startzell v. City of Philadelphia*, 533 F.3d 183 (3d Cir. 2008). So long as the protesters and activists are not deliberately interfering with the permitted event they must be allowed to continue their activities. Stopping and talking to people is not, and cannot be, considered interference. Accordingly, our clients, who are promoting the candidacy of a Green Party candidate, have a First Amendment right to engage in political activity on the sidewalks surrounding and running through Point State Park. Your directive that they cease the activity or face citation or arrest thus violates the First Amendment.

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Our clients intend to resume their political activity this evening. So long as they are not intentionally disrupting the event – and as mentioned above simply leafleting or collecting signatures does not count as disruption – we expect that both your officers and the Pittsburgh Police will allow them to engage in their peaceful political activity without interference. If there are any problems we will file suit later this week and request appropriate legal redress from a federal judge. Please respond in writing by the close of business on Thursday, June 10, with assurance that neither you nor your staff will interfere with people attempting to engage in political activity in and around Point State Park, either now or in the future. I look forward to hearing from you. Please do not hesitate to contact me at 412-681-7864 if you have any questions.

Respectfully,



Witold J. Walczak
Legal Director

cc: Scott Bradley, Esq. (By email - sbradley@attorneygeneral.gov)
Chief Nate Harper (By fax, 412-323-7820)
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