

June 30, 2005

BY TELE-FAX & FIRST-CLASS MAIL

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RE: PAPV v. City of Pittsburgh - Comments on Special
Event regulations and application form

AMERICAN CIVIL LIBERTIES UNION
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Dear Diego and Yvonne:

We are writing to follow up on our telephone conversation of Monday, June 27, explaining the plaintiffs' remaining concerns with the most recent ordinance, regulations and permit-application form. Our comments are based on the regulations and application form that Yvonne e-mailed to us on June 1. We recap our concerns below.

Ordinance No. 16 (Bill No. 2004-0073)

We are concerned that §471.04(d)(v), exempting the Veterans Day Parade from any fees, creates a content-based exemption that makes the ordinance presumptively unconstitutional. We understand the City's argument that such an arrangement is permissible because the City now sponsors the parade. Special Event Permit Regulations §III.C. While we still have concerns about the constitutionality of this exemption, we are willing to move forward towards ending this litigation and leaving for a future day a possible challenge to the provision.

Special Event Permit Regulations

Besides the Veterans Day Parade issue (§III.C), the only problematic provision is §VIII.a.iii, relating to the insurance requirement for "[a]ny Special Event expected to attract more than Five Thousand (5000) participants...." The ACLU believes that you must exempt "First Amendment Activity," as the City has defined that term in the ordinance and regulations. While protests involving more than 5000 people have either never or very rarely occurred in the City, that does not mean that they might not take place in the future. The constitutional argument that prevents the City from sponsor of smaller protest marches and assemblies to purchase insurance applies equally to larger events.

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City of Pittsburgh Special Event Permit Application 2005

The only problem with the application form is that it fails to adequately apprise applicants of the indigency waiver. While the application discusses prominently the \$125 application fee and cost recovery on the first page, the form does not even mention the waiver or the possibility of avoiding the fees until page 11. In our view this failure makes the form misleading. More importantly, it will create an unacceptable chilling effect on low-income applicants. We respectfully request that you modify the third paragraph on page 1, and the second paragraph of §V.A. on page 9. We suggest the following language changes (suggested language in italics):

Page 1, ¶3:

Prior to returning this Application to the Mayor's Office at the address listed above (you may return in person or mail), *you must do one of the following two things: 1) attach a check or money order made out to "Treasurer, City of Pittsburgh" in the amount of \$125.00, which is the 2005 application fee; 2) or if you do not have sufficient funds to pay the fee, complete and attach the "Notarized Indigency Affidavit," which can be found on page 15 of this application. Additional fees may be applicable for cost recovery or other permits depending on your event. More information on fees, including the requirement to pay all fees due to City prior to your event can be found in the attached Regulations. No person or organization will be denied a permit to engage in political, religious or other First Amendment activities solely because they do not have enough money to pay the fees. More information about this indigency waiver can be found in §VI.B. on page 11 of this packet.* (Bold text in original).

The bold text should be un-bolded.

Page 9, §§V.A., second paragraph:

Before you receive a permit for your event, you will have the opportunity to speak and/or meet with the Mayor's Office and/or Special Event Committee representatives about cost recovery relating to your event. You will receive a Cost Recovery Invoice prior to your event. *Unless you qualify for the indigency waiver,* ~~Y~~you must pay the invoice in full before you will be provided with

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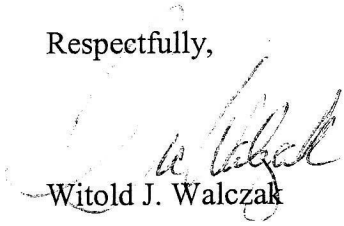
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your permit. In the event that it is determined after the event that you overpaid for cost recovery, you will receive a refund.

Thank you for your cooperation on what we hope and expect will be the last round of negotiations on the City's new special event permit system. Please contact one of us if you have any questions or concerns about our comments.

Respectfully,



Witold J. Walczak

Michael Healey

WJW/vw