



City of Cleveland
Frank G. Jackson, Mayor

Department of Law

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June 10, 2016

Ms. Freda Levenson
American Civil Liberties Union of Ohio Foundation
4506 Chester Avenue
Cleveland, OH 44103-3621

*Re: Response to Your Questions Concerning the City of
Cleveland's 2016 Republican National Convention
Regulations and Permitting Process*

Dear Ms. Levenson:

I am responding to the concerns you raised during our Monday, June 6, 2016 meeting and the questions you presented in the email message sent later that day. I will first address the questions posed in your email and then address the issues raised during our meeting.

1. THE JUNE 6, 2016 EMAIL:

A. In your email message, you first asked that the City of Cleveland (“the City”) provide the number of permit applications received to date, and of these, which constituted applications for parades, for park usage, or other events. We have provided access to a dropbox in order to answer these questions. The dropbox contains a complete set of all Official Parade Route, Park Use and Official Speakers Platform applications as of close of business on Tuesday.

<https://www.dropbox.com/sh/u9q7ad3iexxtpsy/AACdDN7XALNI60R94IYvE7i-a?dl=0>

B. You have also requested “confirmation that the City received John Penley’s email and considers it to be a completed permit application.”

On May 31, 2016, the City sent Mr. Penley and his attorney, Norman Siegel, a copy of the City’s Official Permit and Registration Application, requesting that Mr. Penley submit the completed application form by 5:00 pm on June 1, 2016. In response, the City received an email from Mr. Penley asking to “set up a non-violent safe space for protesters and others in a Cleveland city park starting one day before

the Republican National Convention until the Convention ends. The goal is to provide a non-violence oriented place for people to go to during the convention and get re-hydrated, eat their own food [I don't plan on providing or selling food or anything else], relax and feel they are in a safe place.”

A short time after Mr. Penley’s email was sent, the City received a call from Mr. Siegel. The City informed Mr. Siegel that Mr. Penley needed to submit his request using the City’s new application form, rather than requesting the use of “a space for protestors and others in a Cleveland city park.” Mr. Siegel stated that his client could not complete the application on-line or print a copy and return it. The City suggested Mr. Penley send an email providing the City with the information requested on the application form and that the City would complete the form on Mr. Penley’s behalf. The City has received no further information from Mr. Penley.

Therefore, as set forth under the City’s regulations, Mr. Penley’s email of May 31, 2016 does not constitute a completed permit application. This is subject to change should Mr. Penley provide either a completed permit application or the requisite information in an alternative format that would allow the City to complete the permit application on his behalf.

C. Additionally, you asked for “written confirmation that, as indicated at today’s [June 6, 2016] meeting and despite the language of Resolution 8, the city does intend to accommodate the needs of large-group parade permit applicants by allowing a sufficient amount of time—more than 50 minutes—for such marches. We assume these accommodations will also apply to the time allotments for assembling and staging large-group marches. By the same token, we hope that the city will ‘work with applicants’ (to employ the language used today) to try to accommodate requests for permits for parade routes other than the ‘official route,’ such as, for example, a march traveling downtown from a poor Hough neighborhood, a route chosen for symbolic and expressive reasons to commemorate the 50th anniversary of Cleveland’s Hough riots.”

As we discussed at our meeting on June 6, if an organization notifies the City of a special need or requested accommodation related to their application to conduct a parade on the Official Parade Route, the City will work in good faith with the organization to try to address the special need or accommodation. On June 6, we never discussed parades outside of the Event Zone. As stated in the City’s Regulations:

“Because of the large crowds and vehicular traffic, including buses, anticipated in the Event Zone during the Convention, the City cannot accommodate parades on City streets in the Event Zone except for Parades on the Official Parade Route. Groups seeking to conduct a Parade on a City street or to hold a special event on a City park located outside of the Event Zone during the Convention Period may apply for a parade permit under Codified Ordinance Section 411.05 or a special event permit under Codified Ordinance Section 131.07.”

Finally, while the triangular area at the corner of Ontario St. and Carnegie Ave. that we discussed in our meeting will be open to the public, allowing members of a parade to travel further north on Ontario St. is not possible because that portion of Ontario St. directly in front of Quicken Loans Arena and Progressive field will be closed to the public.

2. THE JUNE 6, 2016 MEETING:

Regarding the issues you raised during our meeting, I have divided my response into two sections—First Amendment issues and other concerns.

First Amendment Issues:

Boundaries of the Event Zone.

The City has imposed very few restrictions on the exercise of First Amendment rights in the Event Zone. Unlike other cities that have hosted political conventions, Cleveland does not have a “no protest” zone around the Secure Zone at the Convention Complex. People are free to express their opinions outside the hard zone provided they do not block pedestrian or vehicular traffic on the streets and sidewalks. So long as people recognize this, they can express themselves through speech, signs, and other peaceful means. Because the City is not restricting access to the non-secure areas in the Event Zone or unreasonably limiting free speech within the Event Zone, the physical boundaries of the Event Zone do not present a constitutional issue.

Official Parade Route.

The Parade Route meets the constitutional standard for sight and sound. The City’s Official Parade Route provides sufficient sight and sound access, especially when compared to previous national political conventions. As you know, downtown Cleveland is bordered by both Lake Erie (to the north) and the Cuyahoga River (to the west). The geographical limits of the downtown footprint, the need to maintain ingress and egress to residents and businesses, the need to maintain vehicular traffic

and bus routes through the area north of the Convention Complex, and the transportation and security needs of the Republican National Convention limit what may otherwise appear to be available alternative parade routes.

Official Speaker's Platform.

As you acknowledged in our meeting, Cleveland Public Square is a traditional public forum in Cleveland. Speakers have the ability to reserve time for their message; the square can hold a substantial number of people; and it is a natural travel point for delegates as they make their way to and from the Convention Complex. As stated above, members of the public, including demonstrators, are free to access other public areas without restriction closer to the Convention Complex.

Park Use Defined.

The City's regulations do not restrict the use of City parks to only public art and public installations. The definition of "Public Use" is used in the regulations to require a permit only if an applicant seeks to place public art or a public installation in Willard Park or Perk Plaza. Otherwise, these parks or any other available public park in the Event Zone may be used by the public on a first-come, first-serve basis without the need for a permit. Moreover, the regulations do not restrict the messaging in the public art or in the public installation. There are no restrictions on the content of expression in the City's regulations.

Use of a Speaker's Platform in Parks.

Given the number and size of Cleveland's available parks within the Event Zone, the opportunities afforded the public to use the Official Speaker's Platform on Public Square, and the opportunities throughout the City for public expression, prohibiting additional speakers' platforms in the Event Zone other than at the Official Speakers Platform is a reasonable regulation. This requirement allows greater use by the public of the available public parks in the Event Zone for all types of expression. The City does not have a constitutional duty to provide any group with space for their own amphitheater in a public park. Groups who wish to make such accommodations, such as at least one of your clients, are free to make such arrangements at a private venue. Any restriction on speech, if there is one, is eminently reasonable in light of the alternative avenues for expression available to residents and visitors.

Number of Permits Available and Time Restrictions on Parades.

Given that free speech is encouraged in Cleveland without any permitting, the number of permits for the Parade Route, Speaker's Platform, and Park Use are more

than adequate to satisfy First Amendment requirements. The start times, as well as the corresponding number of parades on the Official Parade Route, favorably compare to other cities that have hosted national political conventions. Courts have upheld these parade routes even in cities that mandated a “no protest” buffer zone around the Convention Complex. Further, we remind you again that absolutely no permit is required for a sidewalk parade that does not obstruct vehicular or pedestrian traffic.

Allocation of Time for Parades.

You expressed concern that an hour is not enough time for larger parades. While the position of the City is that even a 5,000 person parade can travel the parade route in under an hour, the City will work with an organization that notifies the City of a special need or requests a particular accommodation. We are confident that the logistical issues can be accommodated on site and under the requirements established by the regulations. In addition, please note that if the City allowed more time for each parade, there would be fewer time slots available. Other cities have scheduled parades in one hour blocks and passed constitutional scrutiny.

Size of the Parade Assembly Area.

The assembly area is large enough. The street will be closed, so there will be space available for the parade participants to assemble.

Park Use Times.

As stated at our meeting, the time restrictions in the regulations apply to the length of time that public art or a public installation may remain in Willard Park and Perk Plaza. The restrictions in the regulations are not applicable to when the public may be in the parks. The City does not normally permit public art or public installations in parks, so the regulations expand rather than restrict expressive opportunities.

Vehicles on the Official Parade Route.

Given the proximity of the parade route to the Convention Complex, operation of vehicles on the Official Parade Route presents a security issue. After the June 6 meeting, we discussed this issue with our safety forces and the U.S. Secret Service. Bicycles, motorcycles and any vehicle containing gasoline or other fuel will not be allowed on the Official Parade Route. Vehicles of all types are allowed anywhere in the Event Zone where the streets are open to vehicular traffic by the general public.

The City plans on providing drinking water in strategic areas throughout the Event Zone.

Sound Amplification Equipment.

As pointed out at our meeting, the definition of Sound Amplification Equipment does not include hand held devices such as bullhorns and portable battery-operated sound amplification devices. *See* Section I(a)(21).

Number of Public Parks.

Cleveland does not have many public parks located in the Event Zone. Public Square will have the Official Speaker's Platform, the Malls are currently reserved by the Host Committee for use by the domestic and international media, and Voinovich Park is currently reserved for programming for the RNC. Cleveland does not have a Central Park like New York City or other cities. While the City will make all available City parks open to the public on a first-come, first-served basis, the space is limited. Limiting public art and public installations to Willard Park and Perk Plaza frees up other available park space for public use. Restricting these obstructions to only the two parks is a reasonable restriction.

Allocation of Time for the Official Speaker's Platform.

The regulations provide time slots for use of the City's sound amplification system on Public Square. Again, there is no prohibition against the exercise of free speech in public parks at other times. Speakers may use hand held amplification devices for all forms of expression in the other available public parks if Public Square does not suit them. Public Square is a traditional Cleveland forum for free speech, and we anticipate that many delegates will pass through or around Public Square during the days of the convention. The number of time slots compares favorably to other conventions.

Disposition of Permits.

All applications are being processed on a first-come, first-served basis based on the time that the application was received. Applications and inquiries received prior to the date that the official application was made available on-line were sequentially numbered, and the applicants were given an opportunity to submit the new application as a replacement for their original request using the original application number.

Non First Amendment Issues:

Information on the Secure Zone and the ACLU Map.

You have asked when the Secure Zone and related street closures will be publicized. We do not know the answer to your question at this time. We emphasize that as plans for the convention are still being developed, all the details of the Secure Zone have not yet been finalized. The City and the U.S. Secret Service want to be sure that all the information presented to the public about upcoming road and sidewalk closures is accurate and complete. As you have expressed, people will use that information to make their travel plans, and our goal is to make and distribute one final, accurate map that can be widely circulated weeks before the convention begins.

Following our meeting, you forwarded a map on which you identify the Event Complex, the areas where the city “expects people to freely gather near the perimeter,” and an area marked in yellow that will be “exclusive to media.” You prepared this map based on what you heard at our meeting. At our meeting, we stated that the Convention Complex will include both Quicken Loans Arena and Progressive Field. None of the members of our team recall any discussion of space exclusive to media in or around the Convention Complex. Finally, at our meeting, we stated that members of the general public, including demonstrators, will have access to all public areas outside the Secure Zone. Additionally, in an effort to ensure that individuals and groups can make assembly and meeting plans in advance of the publication of the final map, the U.S. Secret Service has confirmed that locations where members of the public can gather include: the triangular park across Ontario St. from the event complex; the eastern sidewalk of E. 9th St. across from Progressive Field; a segment of Prospect Ave. E. from E. 9th St. to Ontario St. that will be closed to vehicular traffic; a portion of E. 4th St. south of Prospect Ave. that will be closed to vehicular traffic; and a segment of Huron Rd. W. from E. 7th St. to Prospect Ave. E. that will also be closed to vehicular traffic. These spaces will be available to the public for expressive activities.

Prohibited Items.

All prohibited items have been identified by law enforcement as potential weapons based on experience at prior security events. This is not a permanent ban, and is in effect only during the limited time of the convention. Business and residential exceptions are built into the regulations. To the extent that college students are living in the Event Zone during the summer, they can easily adjust for the less than one week period required.

Medical Personnel Exception.

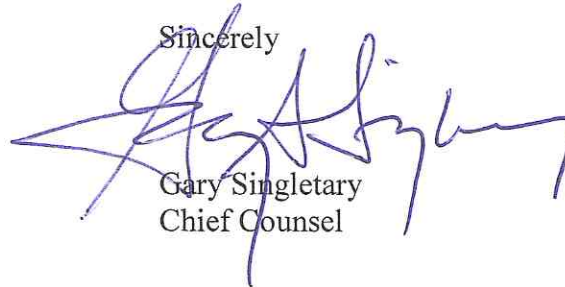
During the convention, there will be a dramatic increase in medical services available on the streets within the Event Zone. Your proposed medical exception would swallow the rule, by allowing anyone who claims to have first aid training to possess prohibited items.

Vehicle Parking.

The First Amendment does not require the City to develop standards for allowing vehicles to drive on the grassy areas of public parks off roadways and driveways. If an organization needs to temporarily drive a vehicle onto a park for drop-off or pick-up, the organization needs permission from the Director.

Please let me know if you have additional questions or concerns.

Sincerely

A handwritten signature in blue ink, appearing to read "Gary Singletary", is written over the typed name and title.

Gary Singletary
Chief Counsel