



CONGRESSIONAL PRAYER CAUCUS FOUNDATION

CONGRESSIONAL ADVISORY MEMBERS

Congressman Randy Forbes
Senator James Lankford
Congressman Mark Walker
Senator John Boozman
Congressman Robert Aderholt
Congressman Brian Babin
Congresswoman Marsha
Blackburn
Congressman John Carter
Congressman Mike Conaway
Congressman Kevin Cramer
Congressman Rick Crawford
Congressman Jeff Fortenberry
Congressman Trent Franks
Congressman Gregg Harper
Congressman Vicky Hartzler
Congressman Jody Hice
Congressman Richard Hudson
Congressman Bill Huizenga
Congressman Randy Hultgren
Congressman Doug Lamborn
Congressman Steve Pearce
Congressman Robert Pittenger
Congressman Paul Ryan
Congressman Chris Smith
Congressman Glenn Thompson
Congressman Tim Walberg
Congressman Joe Wilson
Congressman Robert Wittman

February 2, 2018

Des Moines County Board of Supervisors
513 N. Main Street
Burlington, IA 52601

Re: Harmony Bible Church

Dear Chairman Beck and Board members:

I have the honor of serving as the Executive Director of the Congressional Prayer Caucus Foundation. The Foundation serves nearly 100 members of Congress who are part of the Congressional Prayer Caucus (the names of those members of Congress who serve on the Congressional Prayer Advisory Team are listed on the left).

In addition, the Foundation serves a network of Legislative Prayer Caucuses in over 30 states, which has over 1,000 state senators and state representatives as members. These leaders are working together to preserve the integrity of our founding principles and to protect First Amendment rights for all.

We have learned that, on January 12 of this year, the Freedom from Religion Foundation ("FFRF") wrote you concerning a potential vote of your board on a waiver request by the Harmony Bible Church, which apparently missed a tax exemption application deadline. The FFRF letter uses scare tactics to warn off the Board from granting the waiver application. It does that by painting a misleading picture of the law, and we want to clarify that for you.

FFRF, starting with its very name and in comments made to you and others, does not begin with what the Constitution says or the law requires, but instead what it wishes were true, i.e., that a government must treat religious beliefs and organizations in a hostile way. To the contrary, the Constitution in the "Establishment Clause" of the First Amendment fosters religion by preventing the government from establishing a particular religion or treating one religion more favorably than others. The Constitution does *not*, as FFRF suggests, prohibit state action that facilitates religion, that recognizes the religious character and practices of its citizens, or that exempts religious

individuals or organizations from generally applicable laws that might conflict with their religious beliefs and practices. In fact, the “Free Exercise Clause” of the First Amendment only prohibits laws that *restrict* the free exercise of religion; it does not prohibit laws that *favor* religion and its exercise. As the Supreme Court reiterated just last year in *Trinity Lutheran Church of Columbia, Inc. v. Comer*, 137 S. Ct. 2012, 2021 (2017), state action that discriminates against a church or other religious organization just because it is religious violates the Free Exercise Clause. See also *Mitchell v. Helms*, 530 U.S. 793, 828 (2000) (plurality opinion) (noting “our decisions that have prohibited governments from discriminating in the distribution of public benefits based upon religious status or sincerity” (citing *Rosenberger v. Rector and Visitors of Univ. of Va.*, 515 U.S. 819 (1995); *Lamb’s Chapel v. Center Moriches Union Free School Dist.*, 508 U.S. 384 (1993); *Widmar v. Vincent*, 454 U.S. 263 (1981)); *Walz v. Tax Comm’r of the City of N.Y.*, 397 U.S. 664 (1970) (upholding municipal tax exemption for religious nonprofit organizations against an Establishment Clause challenge).

Each case must be reviewed on its own facts, and we are not conversant with the details of the Harmony Bible Church matter. But it is decidedly not the law, as FFRF claims in its letter to you, that, if the board has rejected similar waiver requests in the past, it must do so for the church and, if it grants Harmony’s request, it must grant all future waiver requests for non-profits. Waiver requests are, by their very nature, discretionary and fact-specific, and they are seldom so frequent and similar there is any pattern as between religious and non-religious applicants on the same facts. The real danger, as demonstrated by the *Trinity Lutheran* case, is that the board would treat Harmony more negatively than other applicants by denying its request simply because it is a church, as FFRF repeatedly suggests the Board should do. 137 S. Ct. at 2021 (“The Free Exercise Clause protects against laws that impose special disabilities on the basis of ... religious status,” quoting *Church of Lukumi Babalu Aye, Inc. v. Hialeah*, 508 U.S. 520, 533 (1993) (quote marks and brackets omitted)).

This analysis is not changed by the fact, if he is quoted accurately, that one Board member made a pro-religious comment at a meeting. We do not know whether the remark was made in connection with the Harmony waiver request; from its content, it does not appear to have been. FFRF raising this quotation shows its own bias against religion, a bias contrary to our founding documents. The Constitution obviously does not prohibit our Nation’s citizens or its leaders from having belief in God, or acting in the public sphere on the basis of religious beliefs, or encouraging the citizenry to pray or to attend religious services. It certainly does not prohibit a public official from expressing his own opinion about how to ameliorate a public problem, even if that opinion has religious overtones. The presidential proclamations of Messrs. Washington, Adams and Lincoln attest to this fact.

We are aware from the self-congratulatory reporting on the FFRF website that the Board has declined to grant the Harmony waiver request, at least at present. We do not know whether that decision can be reconsidered or another waiver request presented for the Board's consideration. But we wanted to help inform the Board of the relevant law in the event that it took the FFRF statements at face value.

This Nation was founded on principles that respect religion and those who are religious. Our Constitution protects religion by keeping government from dictating or directing its tenets, practice, and organization and by preventing governments from prohibiting its free exercise. Organizations like FFRF betray, rather than promote, these principles by their naked hostility to religion. We urge the Board to be true to our Nation's founding principles and our Constitution as it continues to exercise its important functions for the common good.

If we can be of any service to you on this issue, feel free to contact us. We have First Amendment lawyers on staff who will work with you if you need their services.

With appreciation for what you do,



Lea Carawan

Executive Director

Congressional Prayer Caucus Foundation