

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND**

GRACE C. OSEDIACZ,	:	
Plaintiff	:	
	:	
vs.	:	CA No. 03-
	:	
CITY OF CRANSTON, by and	:	
through its Treasurer, Randy Rossi,	:	
STEPHEN P. LAFFEY, individually	:	
and in his official capacity as	:	
Mayor of the City of Cranston,	:	
Defendants	:	

VERIFIED COMPLAINT

NATURE OF THE ACTION

In December 2003, allegedly in response to an invitation for displays issued by Mayor Stephen P. Laffey of the City of Cranston, a life-sized nativity scene and a menorah were placed at the threshold of Cranston City Hall, between the front entrances of Cranston East High School and the Cranston School Administration Building. These displays were erected with the approval of the Mayor pursuant to a city policy entitled "From the Desk of Mayor Stephen Laffey: Policy regarding Holiday and Seasonal Decorations" promulgated in December, giving the Mayor or an unidentified designee the sole authority to approve all "appropriate holiday and seasonal decorations . . . appropriate being defined as being suitable and proper for the holiday occasion." This unprecedented use of the front lawn of City Hall resulted from the Mayor's policy designating the area a "limited public forum open for the purpose of appropriate seasonal and holiday displays" from December 5 to January 1.

The Plaintiff, a life-long resident of the City of Cranston, brings this action asking this Court to apply the constitutional protections of the First and Fourteenth Amendments and the Due Process Clause to the United States Constitution, and prohibit the religious

displays at the entrance to the seat of city government. The Plaintiff seeks declaratory and injunctive relief and attorney's fees.

PLAINTIFF

1. Plaintiff Grace C. Osediacz is a citizen of the United States, a resident of the State of Rhode Island, and a domiciliary, resident and taxpayer of the City of Cranston, Rhode Island.

2. The Plaintiff has been and is an owner of real property in the City of Cranston, Rhode Island. Taxes paid to the City of Cranston have been and continue to be used, in part, to fund the property and activities attendant to Cranston City Hall.

3. The Plaintiff conducts business in Cranston City Hall and in order to do so must either encounter the large nativity scene and menorah at the entrance to City Hall or, to avoid the entrance, enter through a back or side door.

4. The Plaintiff regularly travels on the main thoroughfare, Park Ave., on which City Hall sits and must encounter the religious displays as she passes the seat of city government.

5. The Plaintiff views both the menorah and the nativity scene as carrying purely religious significance, and views their presence on the lawn of City Hall as support by the City of Cranston for religion. The Plaintiff objects to these significant religious symbols at the entrance to City Hall, and does not find their religious significance diminished by the presence of non-religious "holiday" displays.

DEFENDANTS

6. Defendant Stephen P. Laffey is the Mayor of the City of Cranston ("Mayor"), and is named as a Defendant in his individual and official capacity.

7. Defendant Randy Rossi is the Treasurer of the City of Cranston and is named in his official, and not his individual, capacity.

8. The City of Cranston (“City”) is a municipality duly authorized and organized pursuant to the laws of the State of Rhode Island and is sued by and through its Mayor and Chief Executive, Stephen P. Laffey.

JURISDICTION AND VENUE

9. The Defendant Mayor and the Defendant City of Cranston are now, and at all times pertinent hereto have been, acting under color of state law. Plaintiff brings this action pursuant to 42 U.S.C. § 1983 for violation of the First and Fourteenth Amendments of the United States Constitution.

10. This Court has jurisdiction of this matter pursuant to 28 U.S.C. § 1331, § 1332, §1341, § 2201 and § 2202.

11. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(b) and (c).

BACKGROUND FACTS

12. The City Hall for the City of Cranston contains offices in which citizens and business people of the city conduct various types of city business. It includes a lawn that occupies the space between the entrance to City Hall and the sidewalk along Park Avenue. City Hall sits between a city high school, Cranston East, and the Cranston School Administration Building. Each December the tall evergreen tree that occupies the center of that lawn has been decorated with white lights.

13. In December 2003, Defendant Mayor Stephen P. Laffey issued a press release inviting the public to display on the lawn at the entrance to City Hall “appropriate holiday and seasonal displays”. Also in December 2003 the Defendant Mayor issued a “Policy regarding Holiday and Seasonal Decorations” that grants complete discretion to the Mayor or his designee to determine what displays are “appropriate” to the holiday season. **See Policy, attached as Exhibit 1.**

14. On or about December 15, 2003, Chabad House, a Jewish organization with centers in the State of Rhode Island, erected a menorah approximately five feet tall on the lawn to the left of the evergreen tree. According to their publications, the Chabad-Lubavitch is a movement based upon a system of Jewish religious philosophy that teaches understanding and recognition of the Creator, the role and purpose of Creation, and the importance and unique mission of each Creature. In its writing about Chanukah, Chabad sets forth the precepts for the lighting of the menorah, including the prayers that must be said before lighting the menorah candles on each of the eight nights of the Chanukah holiday. The menorah bears a sign “Chabad Wishes You A Happy Chanukah”.

Shortly thereafter, a private citizen placed a nativity scene, close to life-sized, which includes figures of baby Jesus, Mary, his mother, Joseph, his father, the biblical three wise men, an angel, and various animals, enclosed on three sides by a wooden structure. The figures are depicted kneeling in adoration and bowing towards the baby Jesus.

The menorah, on which the “candles” (bulbs) are lit, and the nativity scene, which is illuminated by two spot-lights, are visible at night. Both the menorah and the nativity scene are purely religious displays; they do not include any secular items.

15. After the religious displays were erected, other displays were placed on City Hall lawn including two snow men, an angel, a Santa Claus, and 15 pink flamingos with Santa hats.

16. Following the display of the menorah, the nativity scene and various non-religious items, the Mayor ordered placed at the entrances to City Hall eight inch by eleven inch signs that state as follows:

THE PUBLIC HOLIDAY DISPLAYS ARE STRICTLY FROM PRIVATE
CITIZENS OR GROUPS. THEY IN NO WAY REPRESENT AN OFFICIAL
VIEW OF THE CITY OF CRANSTON NOR ARE THEY ENDORSED BY
THE CITY.

17. On information and belief, the City Hall lawn has never been a public forum of any kind for fixed displays, but rather was created as a “limited public forum” by the Defendant Mayor primarily for the public display of religious items, including the menorah and the nativity scene.

18. On information and belief, the Defendant Mayor has enforced his policy requirement that each item placed upon the City Hall lawn must be specifically approved by the Defendant Mayor. In addition, each individual placing an item has been required to execute a form releasing the City of Cranston from liability for any claims arising out of his or her display.

FIRST CAUSE OF ACTION
FIRST AMENDMENT – 42 U.S.C. § 1983
The religious displays on City Hall lawn violate
the First Amendment’s Ban on the Establishment of Religion

19. Plaintiff incorporates paragraphs 1 through 18 above as if fully set forth herein.

20. The menorah and the nativity scene which are the subject of this Complaint are religious symbols and deliver an overtly religious message. In view of the placement of these religious symbols at the threshold of the seat of government for the City of Cranston, between a public school and the School Administration Building, these displays have the principal and primary effect of advancing religion, and deliver a plain message that the Defendant Mayor and Defendant City endorse, sanction, promote, support and approve of the overtly religious message.

21. Defendants’ effort to legitimize these religious displays by declaring the lawn a “limited public forum” that exists only during the time of these Jewish and Christian religious holidays is pretextual and legally inadequate. The front lawn of City Hall is not available as a public forum at any time other than Chanukah, the winter holiday of the

Jewish religion, and Christmas, the Christian holiday that celebrates the birth of the Christian savior.

22. Given the absence of a public forum on City Hall lawn during any holiday celebrated by any other religion, or during any non-sectarian holidays or during any other time of the year for any other purpose, the creation of a “limited public forum” from December 5 to January 1 further violates the First Amendment to the United States Constitution as it contributes to the appearance that the City of Cranston endorses two dominant religions in particular, Christianity and Judaism, and in general favors religion and religious holidays.

23. By the actions described above, and by allowing the continued use of City Hall lawn for the erection and maintenance of a menorah and a nativity scene on property owned and controlled by the Defendant Mayor and the Defendant City, the Defendants have violated and are continuing to violate the Establishment Clause of the First Amendment of the United States Constitution, incorporated in the Fourteenth Amendment of the United States Constitution, and made actionable under 42 U.S.C. § 1983

SECOND CAUSE OF ACTION

FIRST AMENDMENT, DUE PROCESS – 42 U.S.C. § 1983

The policy promulgated by the Mayor of Cranston vests a city official with unconstitutional discretion and authority to regulate speech, without standards, and religious symbols, in violation of the First Amendment and the Due Process Clause

24. Plaintiff incorporates paragraphs 1 through 23 above as if fully set forth herein.

25. The “Policy regarding Holiday and Seasonal Decorations” promulgated by the Mayor of the City of Cranston regulates speech, in the form of displays and words, on a public forum and gives the Mayor unbridled discretion to determine what “appropriate” holiday symbols may be displayed. To vest this regulation of speech entirely in any city

official violates the First Amendment and the Due Process Clause to the United States Constitution.

26. The “Policy regarding Holiday and Seasonal Decorations,” by giving a government official the authority to decide what are and are not “appropriate” symbols – including religious symbols – of religious holidays violates the Establishment Clause of the First Amendment.

27. The “Policy regarding Holiday and Seasonal Decorations,” by creating a “limited public forum” on the front lawn of City Hall only from December 5 through January 1 and only for the purpose of displaying “appropriate” “holiday” symbols violates the Free Speech Clause of the First Amendment.

28. The definition of permissible speech in the “Policy regarding Holiday and Seasonal Decorations” is so vague and ambiguous that men and women of common intelligence must necessarily question its meaning, specifically, the meaning of the words “suitable and proper for the holiday occasion” and “cannot shock the consciousness [sic] of the community.”

29. By the actions described above, and by allowing the continued application of the “Policy regarding Holiday and Seasonal Decorations” by the Defendant Mayor and the Defendant City, the Defendants have violated and are continuing to violate the Free Speech and Establishment Clauses of the First Amendment, and the Due Process Clause, of the United States Constitution, incorporated in the Fourteenth Amendment of the United States Constitution, and made actionable under 42 U.S.C. § 1983

RELIEF REQUESTED

WHEREFORE, Plaintiff prays:

- A. For a declaratory judgment that the continued erection of the religious displays on the lawn of the City Hall of the City of Cranston violates the Establishment Clause of the First and Fourteenth Amendment of the United States Constitution:
- B. For a declaratory judgment that the implementation of the “Policy regarding Holiday and Seasonal Decorations” violates the Free Speech and Establishment Clauses of the First Amendment, the Due Process Clause, and the Fourteenth Amendment of the United States Constitution:
- C. For a permanent injunction enjoining the Defendants from allowing the erection of religious displays on the lawn of the City Hall of the City of Cranston and the implementation of the “Policy regarding Holiday and Seasonal Decorations”;
- D. For nominal damages, and, pursuant to 42 U.S.C. § 1988, reasonable attorneys’ fees and costs for the maintenance of this action; and
- E. For such other relief as this Court deems just and proper.

Plaintiff,
By her attorneys,

Amato A. DeLuca (0531)
Miriam Weizenbaum (5182)
Cooperating Counsel,
Rhode Island Affiliate,
American Civil Liberties Union
DeLuca & Weizenbaum, Ltd.
36 Exchange Terrace
Providence RI 02903
(401) 453-1500
(401) 453-1501 (fax)

Dated: December 22, 2003

VERIFICATION

I, GRACE C. OSEDIACZ, declare and state, under penalties of perjury, the following:

1. I am the named plaintiff in the above-captioned action.
2. I have read the complaint in the above-captioned action. The complaint is true and accurate to the best of my knowledge, information and belief.

GRACE C. OSEDIACZ

Subscribed and sworn before me in Providence, Rhode Island this _____ day
of _____, 2003.

Notary Public