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October 21, 2024

Christopher Durand  
Interim Chief Executive Officer  
RIPTA  
705 Elmwood Avenue  
Providence, RI 02907

Colonel Oscar Perez  
Chief  
Providence Police Department  
235 Washington Street  
Providence, RI 02903

Dear Mr. Durand and Chief Perez:

Our office recently received a complaint from Rhode Island residents William Smith III and Jonathan Daly-LaBelle regarding an incident that occurred at Kennedy Plaza on October 16<sup>th</sup>. Because we believe they have raised legitimate concerns about a violation of their First Amendment right to freedom of speech, we are writing to bring this incident to your attention and to seek assurances that they – and others similarly situated – will not be deterred from exercising their rights in the future.

According to Messrs. Smith and Daly-LaBelle, they were at the edge of the plaza, on the west side of Exchange Street, displaying a banner reading “USA Stop Arming Israel.” They were approached by a RIPTA supervisor who first told them that they could not tie the banner to a lamppost, so they proceeded to hold up the banner on their own. The supervisor then advised them that they could not display the sign on Kennedy Plaza at all, nor could they walk around the plaza distributing literature to whomever would accept it. When they told the supervisor that they were on public property and had the right to engage in this activity, he replied they had no such right, that RIPTA leased the plaza from the city, and that the agency had what he called “management rights” to control and bar this exercise of speech. Nonetheless, the protesters continued displaying the banner until they were approached by two police officers who also advised them to stop. Fearful of arrest, they did so.

We find both the supervisor and police officers’ actions in this incident troubling. While RIPTA may lease the property from the city, it remains public property, and RIPTA itself, as a quasi-public entity, is itself subject to the dictates of the First Amendment. While RIPTA certainly has the right to set reasonable time, place and manner restrictions on the exercise of free speech at Kennedy Plaza, a complete ban on the distribution of any literature or display of signs cannot, in our opinion, withstand First Amendment scrutiny. By the same token, Providence police obviously have no authority to violate the First Amendment rights of individuals present at Kennedy Plaza based on the unlawful demands of RIPTA.

While a central use of this landmark may be as a bus terminal, Kennedy Plaza remains a key public meeting space in the city's downtown and a quintessential public forum.<sup>1</sup> Indeed, it has been the starting, middle and end point for innumerable protests and rallies over the decades.

The supervisor's actions in prohibiting display of the sign and the distribution of political literature were also in direct contravention of RIPTA policy. RIPTA's promulgated "Rules of Conduct for RIPTA Passengers and Patrons" bar only certain *commercial* activities at the Kennedy Plaza terminal and other agency facilities, including "soliciting, canvassing, selling or distributing any material *with the intent to promote or sell a product or service.*"<sup>2</sup> [Emphasis added] That same rule further specifies that the "carrying of signs is permitted as long as any sign does not impede upon the health, safety, and comfort of other RIPTA patrons."<sup>3</sup>

We therefore request that RIPTA remind all supervisory personnel at Kennedy Plaza of those rules and of the right of individuals to peacefully display signs and distribute non-commercial literature on the plaza. At the same time, we request that all police officers responsible for enforcing the laws around the Kennedy Plaza area be apprised of their obligation not to interfere with the peaceful exercise of First Amendment rights at that location.

I thank you for your prompt attention to this matter and look forward to hearing back from you about it at the earliest opportunity.

Sincerely,



Steven Brown  
Executive Director

cc: Steven Colantuono, Chief Legal Counsel  
The Hon. Brett Smiley, Mayor  
Jeffrey Dana, City Solicitor  
Rachel Miller, Providence City Council  
William Smith III  
Jonathan Daly-LaBelle

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<sup>1</sup> As then-Mayor Jorge Elorza noted several years ago in discussing one of the numerous plans to revise the look of this iconic landmark in the heart of downtown, "This is our main public space in the entire city, the point where we all come together as a city." Donita Naylor, "Kennedy Plaza Plan Envisions 'True Civic Heart,'" *Providence Journal*, August 31, 2017.

<sup>2</sup> <https://www.ripta.com/projects/codeofconduct/>. See Section 3.3(B)(17). The rule is codified with the Secretary of State as 840-RICR-00-00-3.

<sup>3</sup> *Id.*