



OFFICE OF THE COUNTY ATTORNEY

Isiah Leggett  
*County Executive*

Leon Rodriguez  
*County Attorney*

January 9, 2007

John E. "Jack" Ames, Director  
Defend Life, Inc.  
136 Stevenson Lane  
Baltimore, Maryland 2 ---

Re: *Defend Life, Inc. v. Montgomery County, Maryland*

Dear Mr. Ames:

Based on recent communications with your attorney, Matthew S. Bowman, this letter is being provided directly to you, with Mr. Bowman's knowledge, in an effort to resolve the above-referenced lawsuit without further litigation and will provide further clarification as to the County's position on its sign ordinance and the issue relating to hand-held signs as described in your lawsuit.

First, I would like to express the County's regret that there was a misunderstanding on the part of the County personnel with whom you came into contact on July 31, 2007, who interpreted the County's sign ordinance contained in Chapter 59, Article 59-F, of the Montgomery County Code, 2004 and unspecified state laws to prohibit your and your organization's activities. This County vigorously supports the Constitution, and we sincerely regret any actions that risked impairment of the rights to assembly and free speech. As I understand, it is this misunderstanding which ultimately resulted in you and Defend Life, Inc. filing the above-reference civil action.

As you may be aware, I am the chief legal advisor for Montgomery County, Maryland. I have previously written to your attorney on three occasions setting forth the County's legal position on this matter. I believe that Mr. Bowman has shared these letters with you. However, I am writing to you directly to reiterate and affirmatively state the County's legal position as to the proper interpretation of the County's sign ordinance contained in Chapter 59, Article 59-F, of the Montgomery County Code, 2004. The County does not and never intended to regulate the wearing or carrying of signs by individuals on the public sidewalks, other pedestrian rights-of-way, or traditional public forums. To the extent you and the members of your group desire to engage in such activities, as outlined in your civil complaint filed in federal court, you are free to conduct those activities. Of course, you and the members of your group will not be permitted to obstruct the right-of-way or otherwise create any safety hazards in the public right-of-way.

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I also understand that you are concerned about the County's interpretation of any relevant state laws. My understanding from Frank DeLange, the inspector with whom you had contact on July 31, 2007, is that the State has a policy of not permitting signs in the State right-of-way. I do not know how the State handles the issue of hand-held signs in this regard. The County is not in a position to and cannot interpret how the State enforces its laws. However, having said that, we have reviewed the State law found in Title 8, subtitle 7, of the Transportation Article of the Maryland Code. It does not appear that this subtitle deals with the type of hand-held signs that are the subject of this matter. The County does not intend for its police to issue citations under this State law for the type of activities your organization was involved in July 31, 2007.

Moreover, that subtitle indicates that it is the responsibility of the State Highway Administration to enforce that law. The County certainly does not and cannot control what the State does under that subtitle. However, to the extent that the County's laws apply, the County position is set forth above and the County will abide by that position. Further, as I am sure you are aware, the County and State police can enforce State traffic laws to prevent any traffic or safety hazards in the public right-of-way that may be created as the result of your activities.

Finally, as to the issue concerning the information on the County's website relating to political campaign signs, as previously communicated to your attorney, while the website does not override the law or County's policy, any language in that website which you have claimed authorizes the County to "violate" a person's rights to free speech, in that such language prohibits persons carrying signs containing political messages, has been revised so it is consistent with the law in this area and with County policy.

Based on the above, it is my understanding that you will sign a sign a joint stipulation of dismissal pursuant to FRCP 41(a)(1)(ii), which will be filed with the Court. I appreciate your willingness to resolve this matter.

Very truly yours,

Leon Rodriguez  
County Attorney for  
Montgomery County, Maryland

cc: Matthew S. Bowman, Esquire  
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Suite 509  
Washington, DC 20001