

FREEDOM FROM RELIGION *foundation*

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SENT VIA U.S. MAIL & ELECTRONIC MAIL

rcraddock@coosbay.org

Rodger Craddock
City Manager
City of Coos Bay
500 Central Ave
Coos Bay OR 97420

Re: Display of Cross on Government Property

Dear Mr. Craddock:

I am writing on behalf of the Freedom From Religion Foundation (“FFRF”) to alert you to an unconstitutional display of a cross on public property. FFRF was contacted by its concerned Oregon members regarding this cross. FFRF is a nationwide nonprofit organization, which works to protect the constitutional principle of separation between state and church. FFRF represents over 19,000 members across the country, including over 600 in Oregon.

It is our information and understanding that Mingus Park is a city park within the city limits of Coos Bay, Oregon. Our complainants inform us that a large white cross sits in the park near a playground. Please find enclosed a picture of this cross. We further understand that a small plaque accompanies the display and reads:

“DEDICATED TO THE MEN WHO GAVE THEIR LIVES IN THE
VIETNAMESE WAR DONATED BY WESTERN BANK – BAY AREA
JAYCEES”

Our complainants further inform us that this display has been in the park for several decades. There also have been recent efforts to restore the cross.

The religious significance of the Latin cross is unambiguous and indisputable. “The Latin cross... is the principal symbol of Christianity around the world, and display of the cross alone could not reasonably be taken to have any secular point.” *Capitol Square Review and Advisory Bd. v. Pinette*, 515 U.S. 753, 792 (1995)(Souter, J., concurring). An overwhelming majority of federal courts agrees that the Latin cross universally represents

the Christian religion, and only the Christian religion. *See, e.g., Separation of Church and State Comm. v. City of Eugene*, 93 F.3d 617, 620 (9th Cir. 1996) (“There is no question that the Latin cross is a symbol of Christianity, and that its placement on public land...violates the Establishment Clause”); *Harris v. City of Zion*, 927 F.2d 1401, 1412 (7th Cir. 1991) (“a Latin cross...endorses or promotes a particular religious faith. It expresses an unambiguous choice in favor of Christianity.”) *cert. denied*, 505 U.S. 1218 (1992); *ACLU of Ill. v. City of St. Charles*, 794 F.2d 265, 271 (7th Cir. 1986) (“When prominently displayed...the cross dramatically conveys a message of governmental support for Christianity, whatever the intentions of those responsible for the display may be. Such a display is not only religious but sectarian.”) *cert. denied*, 479 U.S. 961 (1986).

A majority of federal courts has held displays of Latin crosses on public property to be an unconstitutional endorsement of religion. *See, e.g., Trunk v. San Diego*, 629 F.3d 1099 (9th Cir. 2011), *cert. denied*, WL2368746 Jun. 25, 2012 (No. 11-998, 11-1115); *Buono v. Norton*, 371 F.3d 543, 550 (9th Cir. 2004); *Carpenter v. City and County of San Diego*, 93 F.3d 627,632 (9th Cir. 1996); *Friedman v. Bd. of County Comm’rs*, 781 F.2d 777, 778 (10th Cir. 1985)(en banc); *ACLU v. Rabun County Chamber of Commerce*, 698 F.2d 1098, 1111 (11th Cir. 1983); *ACLU v. Eckels*, 589 F. Supp. 222, 241 (S.D. Tex. 1984). All of the aforementioned cases involved the display of a Latin cross in public parks.

In *Trunk v. San Diego*, the Ninth Circuit Court of Appeals, which encompasses Oregon, struck down the display of a forty-three foot cross as part of a war memorial atop Mt. Soledad in La Jolla, California. *See* 629 F.3d 1099. The Ninth Circuit reiterated that “[this] sectarian war memorial carries an inherently religious message and creates an appearance of honoring only those servicemen of that particular religion.” *Id.* at 1101 (quoting *Ellis v. City of La Mesa*, 990 F.2d 1518, 1527 (9th Cir. 1993)). The court also reasoned that “a sectarian war memorial carries an inherently religious messages and creates an appearance of honoring only those servicemen of that particular religion.” *Id.* at 1112 (quoting *Ellis*, 990 F.2d at 1527). It significantly noted that a cross “is ‘not a generic symbol of death’ but rather ‘a *Christian* symbol of death’... a reasonable observer would view a memorial cross as sectarian in nature.” *Id.* The court ultimately concluded “...a reasonable observer would perceive the Memorial as projecting a message of religious endorsement, not simply secular memorialization.” *Id.* at 1118. Thus, the cross memorial “primarily conveys a message of government endorsement of religions that violates the Establishment Clause.” *Id.* at 1125.

The inherent religious significance of the Latin cross is undeniable and is not disguisable. No secular purpose, no matter how sincere, will detract from the overall message that the Latin cross stands for Christianity and the overall display promotes Christianity. The display of this patently religious symbol in a city park confers government endorsement of Christianity, a blatant violation of the Establishment Clause.

We have no objection to veterans’ memorials. Our objection is to the message of endorsement of Christianity over other religions and over nonreligion. Additionally, the Christian-only memorial sends a message that the government only cares about the deaths

of Christian soldiers, not Jewish, other non-Christian, and nonreligious soldiers. This “sponsorship of a religious message is impermissible because it sends the ancillary message to...nonadherents ‘that they are outsiders, not full members of the political community and accompanying message to adherents that they are insiders, favored members of the political community.’” *Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290, 309-10 (2001) (quoting *Lynch v. Donnelly*, 465 U.S. at 668) (O’Connor, J., concurring). These nonadherents include the nearly 800,500 non-Christians in Oregon and the 23.4% of military personnel who identify as atheist or agnostic or have no religious preference (American Religious Identification Survey, 2008; 2010 MAAF study based on Department of Defense data).

It is unlawful for Coos Bay to display a patently religious symbol such as a Christian cross on public property. We ask you to remove the cross from the park immediately or direct the display be moved to a more appropriate private location. We would also appreciate a prompt response from you, in writing, informing us of the steps the City will take to resolve this matter.

Sincerely,



Rebecca S. Markert
Staff Attorney

Enclosure

cc: Mayor Crystal Shoji
City Attorney Nate McClintock



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IN THE WORLD WAR
MAY 1918 - 1918