



Cathryn L. Hazouri, Executive Director • Mark Silverstein, Legal Director

May 22, 2008

James S. Maloney
Parker Town Attorney
20120 E. Mainstreet
Parker, CO 80138
VIA EMAIL to jmaloney@ci.parker.co.us
VIA FACSIMILE to 303-805-3256

Re: Town of Parker's ban on American flags and banners at special events

Dear Mr. Maloney:

I am writing on behalf of Mr. Gary Adler. Mr. Adler has applied for a permit to hold a charity event at Joe's Crab Shack in the Town of Parker on June 4, 2008. The event is a fundraiser to benefit the families of active military personnel. As he has done without incident at numerous past events in other towns and cities, Mr. Adler plans to include a military honor guard that will display and carry flags, and he also wants to have American flags, American flag bunting, and other banners displayed at the event.

As a condition of receiving his permit, Mr. Adler was told on May 14th, 2008, and again today, by Sharon Griffin, Town of Parker "Customer Service Specialist," that he would have to agree in advance to certain conditions (see emails attached). Those conditions include a complete prohibition on the display of any flags, and a total ban on banners unless a separate "banner permit" is requested by Mr. Adler and granted by the Town of Parker. According to Mr. Adler, during a May 15th a public hearing on his pending permit request, you confirmed that Mr. Adler would be prohibited from displaying any flags, banners, or bunting.

I write to ask that the Town of Parker immediately issue the requested permit and withdraw any threat to enforce the prohibition on flags, bunting, and banners.

The ban on the display of American flags clearly violates the right of free expression protected by the First Amendment to the U.S. Constitution and Article II Sec. 10 of the Colorado Constitution.¹ The prohibition on displaying banners without a permit also violates the same constitutional provisions.

¹ In fact, the prohibition communicated to Mr. Adler appears to be contrary to the Town of Parker's own municipal code, Sec. 13.09.020(d)(2).

Ms. Griffin sent Mr. Adler a document that provides the rules that apparently govern the process for requesting permits for banners. The document provides no standards governing the decision regarding whether a permit will be granted or denied. The document Mr. Adler received also fails to provide any definite period of time within which a request for a permit will be granted or denied. Although the document Mr. Adler received states that "generally, one banner is allowed per event," there is no legitimate justification for any such limitation on the numbers of banners to be allowed.

The Supreme Court has made unambiguously clear that in the rare instances where government regulation of speech is allowed, the government's authority to regulate speech must be narrowly constrained by definite, "content neutral" standards related only to the time, place and manner of the speech, and that those regulations must be narrowly tailored to serve a significant governmental interest.

The Town of Parker cannot articulate any significant governmental interest that could possibly be served by a ban on the display of American flags. This is especially true at this particular event, where the display of American flags is clearly a part of the patriotic message of this fundraising event. Likewise, for a one-day fundraising event, a complete ban on all banners not approved in advance is not narrowly tailored to serve any significant governmental interest. The same is true of a rule that "generally" limits banners to only a single banner. Finally, the prohibitions applied to Mr. Adler are made under authority that appears to be completely devoid of any standards constraining the discretion of government decision-makers, and thus violate the First Amendment.

We respectfully request that the Town of Parker immediately issue Mr. Adler's permit and confirm in writing that the threat to enforce any ban on American flags, bunting and banners at Mr. Adler's event will not be enforced. I look forward to hearing from you at your earliest convenience.

Very truly yours,

A handwritten signature in black ink, appearing to read "Taylor Pendergrass". The signature is stylized and cursive.

Taylor Pendergrass
Staff Attorney, ACLU of Colorado

Enc. 5/14/08 and 5/22/08 emails from Sharon Griffin to Gary Adler

cc. Adler

Subject: RE: Special Events Permit
Date: 5/22/2008 8:54:48 A.M. Mountain Daylight Time
From: sgriffin@parkeronline.org
To: ProPlayersAssoc@aol.com

Good Morning Gary,

I would like to get your Special Event Permit completed. I just need you to let me know that you have read the conditions and will follow them. Thank you.

Sharon Griffin
Customer Service Specialist
Town of Parker
sgriffin@parkeronline.org
Phone: 303-841-0353
Fax: 303-840-9792

-----Original Message-----

From: ProPlayersAssoc@aol.com [mailto:ProPlayersAssoc@aol.com]
Sent: Wednesday, May 14, 2008 10:39 AM
To: Griffin, Sharon
Subject: Re: Special Events Permit

Sharon:

Are you saying that we can not display banners, balloons, flags or streamers within the jurisdiction of the private property on the event site?

Please advise.

Thank you.
Gary R. Adler
President & CEO
Pro Players Association - National
720.327.9207

In a message dated 5/14/2008 10:34:44 A.M. Mountain Daylight Time, sgriffin@parkeronline.org writes:
Hello Gary,

I have received all of the review sheets for your Special Events Permit. The following are conditions you will need to adhere to. Please, review the conditions and **reply back as to if you will adhere to the conditions.** Thank you.

Community Development:

- No signs/banners with flashing, blinkers, or animation.
- No people holding signs.

- No balloons, flags, or streamers.
- No banners unless a permit is issued.
- No signs in roundabouts, medians, or on street signs.

Fire District:

- Maintain emergency access at all times.

Neighborhood Services:

- No signs/banners with flashing, blinkers, or animation.
- Signage must be 15 ft. from curb.
- No people holding signs.
- No balloons, flags, or streamers.
- No banners unless a permit is issued.
- No signs in roundabouts, medians, or on street signs.

Police:

- Maintain emergency access at all times.

Public Works:

- This event occurs entirely on private property. Public works has no comments.

Risk Management:

- No certificate of insurance required.

Recreation:

- No conditions or restrictions.

Town Clerk:

- Has applied for a Special Events Permit (Liquor). Public hearing is scheduled for the Special Licensing Authority's May 15, 2008 meeting.
- Area on premise where liquor is served and consumed must be fenced.
- No alcoholic beverage is to be taken out of the licensed premise.

Sharon Griffin

Customer Service Specialist

Town of Parker

sgriffin@parkeronline.org

Phone: 303-841-0353

Fax: 303-840-9792

The Town of Parker is committed to quality customer service.

We would appreciate it if you would take a moment to give us some feedback on how we served you today at <http://tinyurl.com/2rnq5e>.