



February 20, 2014

Minneapolis City Council
City Hall, Room 307
350 South Fifth Street
Minneapolis, MN 55415Re: 2014 All Star Game Clean Zone

VIA FAXSIMILE AND U.S. MAIL
Fax: 612-673-3940

Dear Council Members,

AMERICAN CIVIL
LIBERTIES UNION OF
MINNESOTA FOUNDATION
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We are contacting you because we are concerned about the proposed resolution that is currently on the agenda for the City Council's February 21st meeting regarding the establishment of "Clean Zones" in the City of Minneapolis for a two-week period coinciding with the 2014 Major League Baseball All Star Game. We are concerned that this unprecedented resolution does not contain adequate protections for constitutionally protected non-commercial speech activities and expressive conduct for wide swaths of the City of Minneapolis for a breathtaking two-week period. We respectfully urge you to delay adoption of the resolution until it can be reworked to provide explicit protections for constitutionally-protected activities.

The proposed Clean Zone encompasses a significant amount of property that is classified under the First Amendment as a traditional public forum including public streets and sidewalks. It would deny permits for a vast array of constitutionally protected speech including street protest marches (which require a parade permit), political rallies and events, and displaying political signs. Restrictions on the time, place and manner of constitutionally protected expressive activities in a traditional public forum must be content neutral, narrowly tailored to serve significant government interests and leave open ample alternative channels for communication. When a regulatory scheme such as the proposed Clean Zone limits speech in a traditional public forum, the courts take care to ensure that the constitutionally protected expressive activity at issue is protected from governmental censorship. The proposed Clean Zone imposes a prior restraint on speech and would condition licenses and permits for constitutionally protected speech and expressive conduct on approval by MLB. The U.S. Supreme Court has stated, "a law subjecting the exercise of First Amendment Freedoms to the prior restraint of a license' must contain 'narrow, objective, and definite standards to guide the licensing authority.'" Forsyth County, Ga. V. Nationalist Movement, 505 U.S. 123, 131 (1992). The Forsyth court invalidated a permitting ordinance that gave unfettered discretion to government officials to make arbitrary decisions about whether to grant or deny a parade permit and the fees to be charged. Even worse here, the City of



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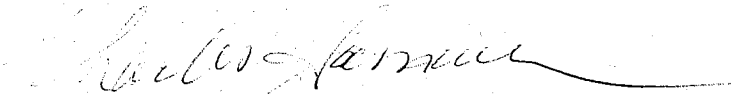
Minneapolis is planning to give that arbitrary unfettered discretion to a private company. The Supreme Court warned in City of Lakewood v. Plain Dealer Publishing Co., “[Without express standards by which to measure an official’s actions], post hoc rationalizations by the licensing official and the use of shifting or illegitimate criteria are far too easy, making it difficult for courts to determine in any particular case whether the licensor is permitting favorable, and suppressing unfavorable, expression.” 486 U.S. 750 (1988). The Supreme Court has made clear that time, place and manner restrictions on speech must include adequate standards to guide the official’s decision in order to ensure that those decisions are not made in a content-based manner.

The proposed clean zone is also not narrowly tailored. It extends for many days before and after the event. It encompasses most of downtown and the warehouse district along with large swaths of the U of M campus. Unlike narrow “no-protest” zones that have been upheld by courts in the immediate area around a special event in the hours before and after the event, the proposed clean zone covers an extremely large geographical area for an extended period of time.

As you may already be aware, a restriction on non-commercial signs within a similar Clean Zone surrounding the Super Bowl site in New Orleans was enjoined by a Federal District Court in Ciccarone, et al. v. the City of New Orleans. Case # 2:13-cv-133 (E.D. Louisiana, January 24, 2013). By failing to carefully tailor the proposed Clean Zone to ensure that it does not unconstitutionally restrict constitutionally-protected speech, the City would be opening itself up to legal liability for First Amendment violations.

It is our hope that the City can craft a resolution that is respectful of First Amendment rights. We respectfully request that the proposed resolution be rejected until that time.

Sincerely,



Charles Samuelson
ACLU-MN Executive Director