

February 5, 2015

**Via Electronic and Regular Mail**

Brian K. Telfair  
City Attorney  
City of Petersburg  
135 N. Union St.  
Petersburg, VA 23803  
btelfair@petersburg-va.org

Dear Mr. Telfair:

I write on behalf of Linwood Christian, who was prohibited from speaking at the January 20, 2015 Petersburg City Council meeting solely because he owes certain fines to the City. This prohibition violates the First Amendment and must be rescinded immediately.

Mr. Christian signed up to speak during the public information period of the January 20 meeting. According to Mr. Christian, just prior to the public information period, you approached him and asked him to outside with you and an Assistant City Attorney. You told him that City Council had determined that because of his outstanding fine, he would not be permitted to speak during the public information period. You then returned to the meeting room and spoke to Mayor W. Howard Myers, after which the Clerk removed Mr. Christian's name from the sign-up sheet.

In an e-mail to a City Council member dated January 22, 2015, you acknowledged that Mr. Christian was not allowed to speak at the meeting because of his debt to the City. In the e-mail, you stated that "[p]ursuant to [his] powers as Chair . . . , the Mayor determined that Mr. Christian should not be allowed to speak until such time that he has either paid his campaign fines or made arrangements to pay them. Former Mayor Moore, who was standing there when I discussed Mr. Christian with Mayor Myers, agreed with this approach."

In a subsequent letter to the same City Council member, Mayor Myers expressed "disappointment" that the Council member had "admonished" you after you had "not only provided [her] with the factual background of what happened, but also the authority provided in the City Charter and in the Rules of Council for the decision that I made – as Chair of the meeting." The letter further asked the Council member to "stop bombarding the City staff, employees and appointees with excessive e-mails in an effort to discredit them."

The First Amendment to the United States Constitution does not permit the City to prohibit a resident from speaking at a public meeting because he owes fines to the City. This is true regardless of whether the decision was made by you, by City

Council, or by the Mayor. Nor does any provision of the City Charter or the Rules of Council authorize the City or its officials to violate the First Amendment.

The public comment portion of a City Council meeting is a limited public forum. *Steinburg v. Chesterfield Cnty. Planning Comm'n*, 527 F.3d 377, 385 (4th Cir. 2008). Accordingly, "[s]peech at public meetings called by government officials for discussion of matters of public concern is entitled to normal first amendment protections against general restrictions or *ad hoc* parliamentary rulings by presiding officials." *Id.* (citing *Madison Joint Sch. Dist. v. Wis. Emp't Relations Comm'n*, 429 U.S. 167, 175-76 (1976)) (emphasis added).

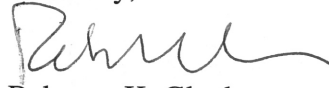
Moreover, "any restriction [on speech] must be reasonable in light of the purpose served by the forum." *Steinburg*, 527 F.3d at 385. The purpose of a public comment period at a government meeting is, presumably, to allow residents to contribute their views on the running of their government, and to allow government officials to benefit from those views. Thus, courts have upheld restrictions that prohibit discussion of matters not before the Council, personal attacks, and disruption of the meeting, because such conduct is not conducive to an orderly exchange of views between the government and its people.

Barring a speaker because he owes money to the City, however, is not reasonably related to any purpose of the forum. Mr. Christian is just as entitled to speak his mind at a public meeting as any other Petersburg resident, and the City may not use his First Amendment rights as leverage to extract payment of fines. Discrimination against a speaker because of his status is not reasonable. *Cf. Madison Joint Sch. Dist.*, 527 F.3d at 176 (First Amendment does not permit board of education "to discriminate between speakers on the basis of their employment").

I therefore request written assurances that Mr. Christian will be permitted to speak at all future City Council meetings, and that he will not be barred from speaking or otherwise have his freedom of speech diminished based on any financial debt to the City. Mr. Christian further requests a public apology for the actions of City officials in this matter.

Please respond to this request by February 12, 2015. Should you wish to discuss this matter further, please do not hesitate to contact me at (804) 523-2152 or [rglenberg@acluva.org](mailto:rglenberg@acluva.org).

Sincerely,



Rebecca K. Glenberg  
Legal Director