

LAW OFFICES
PARTNERSHIP FOR CIVIL JUSTICE FUND
617 FLORIDA AVENUE, NW
WASHINGTON, D.C. 20001

CO-FOUNDERS:
CARL MESSINEO*
MARA VERHEYDEN-HILLIARD*
*ADMITTED IN D.C. AND N.Y.

TELEPHONE: (202) 232-1180
FACSIMILE: (202) 747-7747

January 5, 2017

Robbin Owen
Division of Permits Management
National Park Service
National Capital Region (NCR)
900 Ohio Drive, SW
Washington, D.C. 20024
robbin_owen@nps.gov

Sent via email

Dear Ms. Owen:

The ability for the American people to engage in First Amendment activities on issues that they care about in our nation's capital, Washington, D.C., is a cornerstone of democracy. The inauguration of a President is one of the most critical moments for them to do so, to communicate to an incoming administration their views as to the future of the country.

The NPS has taken virtually every major assembly space in Washington, D.C., and illegally removed those locations from access by the public for free speech activities at and around the inauguration. It has removed this federal land throughout D.C. from the first-come, first-serve permitting system by having government officials hold an omnibus blocking application for all of this public land.

In defiance of the constitutional requirements of its permitting system, NPS has subsequently authorized the partisan Trump PIC to keep demonstrators from receiving permits and organizing for activities even where the Trump PIC has no plans to use these spaces.

The NPS decided to allow the Trump PIC to hold all of the federal land out of reach for free speech activities with no deadline and now it is just two weeks away from the inauguration.

While the NPS has claimed in public statements that it is a "co-sponsor" of events, it has admitted in meeting with the PCJF that the NPS and the government have no plans for any of the spaces at issue. It has also admitted the PIC has articulated no plans for key spaces at issue.

Thousands of people have written demanding that the NPS release its block on permits for these locations.

NPS's decision to enable the Trump PIC to refuse to allow permits to be issued is obstructing free speech groups' abilities to organize activities and may entirely prevent some individuals from being able to carry out their constitutionally protected rights to free speech.

The NPS and Trump PIC's delay and refusal to grant or deny permits is operating as a constructive denial and prior restraint on speech in violation of the First Amendment.

We have been bringing this matter to your attention by letter and in meetings with NPS officials and lawyers, and have made every effort possible to have the National Park Service conform to its constitutional obligations.

The NPS has refused to respond to our letters seeking release of public space as well as explanation as to its facially unconstitutional actions.

Under pressure to cease its unconstitutional withholding of public lands, the NPS suddenly issued a new requirement that groups who wished to use public space were required to provide detailed logistical set up plans for locations that they were still not being permitted access to.

The NPS stated that free speech groups had to prepare and submit detailed logistical plans by 4:00 p.m. on Thursday, December 29 or lose the possibility of access to any public space. The ANSWER Coalition timely complied with this requirement for multiple locations as it was forced to determine if and how secondary sites could accommodate mass assembly plans on January 20 as well as the Ellipse on January 21. This involved diverting substantial organizing time to logistical plans for locations that the NPS is refusing to confirm ANSWER will have access to. The first time that NPS was willing to meet with ANSWER on site regarding these plans was only the day prior, December 28. Only following this meeting would ANSWER be able to meet with potential contractors, develop detailed site plans and prepare the material demanded by NPS. But it did so on time.

The NPS has admitted that its blocking hold on the Ellipse and certain other locations for free speech activities on January 21 are outside of the regulatory set aside for the PIC. It is without any even colorable legal foundation. The ANSWER Coalition is the first-in-time applicant for this space but for the removal of this space from the normal permitting system.

Apparently seeking to hold off litigation, the NPS by letter dated December 22, 2016, claimed that it had now also informed the PIC that it was required to provide detail of how it planned to use public space by the same date, December 29. The NPS further promised that it would issue the permit for the Ellipse on December 30. This has not happened. We wrote you on the next business day, January 3, but the NPS and its attorneys have again refused to respond.

Permits must be issued immediately unless the NPS is refusing to do so absent legal action. As you know, as a result of litigation brought by the Partnership for Civil Justice Fund, in 2008 the U.S. District Court for the District of Columbia previously found the NPS to be engaged in unconstitutional discrimination abridging the First Amendment rights of demonstrators in connection with inaugural activities, and entered a permanent injunction ordering “that the National Park Service is enjoined from exempting itself and/or the Presidential Inaugural Committee from compliance with the generally applicable regulations, 36 C.F.R. § 7.96, with respect to events relating to the Inauguration . . .” By its actions here, NPS is in violation of this injunction as well as the always applicable First Amendment standards and principles pertaining to public forum use for demonstration activities.

We are requesting a final time that permits be issued for assembly space for free speech activities along the parade route on January 20 as well as assembly space on January 21, including the Ellipse, on or before January 6. Otherwise we will be forced to seek a remedy in court.

Sincerely,



Mara Verheyden-Hilliard
Executive Director



Carl Messineo
Legal Director