

# LIBERTY COUNSEL



FLORIDA OFFICE:  
PO Box 540774  
Orlando, FL 32854  
Tel 407-875-1776  
Fax 407-875-0770  
www.LC.org

DISTRICT OF COLUMBIA OFFICE:  
122 C Street NW, Ste 360  
Washington, DC 20001  
Tel 202-289-1776  
Fax 407-875-0770

VIRGINIA OFFICE:  
PO Box 11108  
Lynchburg, VA 24506  
Tel 407-875-1776  
Fax 407-875-0770  
Liberty@LC.org

REPLY TO FLORIDA

December 16, 2019

## **Via Facsimile and Email**

MACO Management Company  
111 N. Main Street, P.O Box 68  
Clarkton, MO 63837  
Fax: (573) 448- 2066  
info@macocompanies.com

RE: Unlawful prohibition of private Christmas decorations by MACO Management

Dear MACO Management Company:

Liberty Counsel is a national non-profit litigation, education and public policy organization with an emphasis on First Amendment and religious liberties issues. As part of our *pro bono* work in the public interest, Liberty Counsel provides free representation to individuals and organizations regarding religious freedom issues.

With Christmas fast approaching, residents at [Grandview Estates](#)<sup>1</sup> ("Grandview") in Independence, Missouri (managed by [MACO Management Company, Inc.](#))<sup>2</sup> have contacted Liberty Counsel about a ban by management on outside Christmas decorations and Christmas lights. Grandview Residents relate that MACO Management told their local manager that the residents may not put up any outside Christmas decorations, with the exception of "Holiday Wreaths" on their doors. Residents have put up Christmas lights and outside decorations for many years.

The "rationale" for the Christmas light and decoration ban is "Government's Fair Housing rules. Everyone in the complex is funded in part by Government funds, so we are required to follow their rules." The manager was told that this included wreaths, but she was able to obtain permission to hold a "Holiday Wreath contest."

In a separate communication, contacts were also told that that "any violations [of such rules] twice in six months will result in termination of your lease." This includes the Christmas light and decoration ban. The residents reside in duplexes which have yards with room for exterior decorations, and there are currently a number of secular outdoor decorations in the housing development.

<sup>1</sup> <http://development.macocompanies.com/casestudy/grandview-estates/>

<sup>2</sup> <http://management.macocompanies.com/about-maco-management/>

One resident told Liberty Counsel that while certain street lights in this 55 and older community have been out for over a year, MACO Management Company has not only not fixed the street lights, but is now banning residents from putting up Christmas lights. Residents desire to decorate their dwellings and yards with Christmas lights and other seasonal decorations. Liberty Counsel supports that desire.

**Please promptly inform Liberty Counsel about the specific written HUD guidance relied upon by MACO Management for this directive.** I am unaware of any HUD guidance supportive of such a directive, which contradicts previous HUD guidance regarding the holidays, which is attached for your ready reference.

In addition, under the Fair Housing Act, MACO is forbidden from discriminating against residents at this facility on the basis of religion. Religious free exercise includes the display of holiday decorations. Christmas is a nationally recognized holiday. To ban religious decorations or celebrations in a federally subsidized or managed residential facility violates the Fair Housing Act and other federal laws.

Banning residents from displaying Christian or other religious holiday decorations constitutes discrimination on the basis of religion, and violates the Fair Housing Act (42 U.S.C. § 3601 *et seq*), which prohibits discrimination in housing based on race, color, **religion**, national origin, sex, disability and familial status. Under the Fair Housing Act, residents may not be subjected to discrimination on the basis of religion, which includes the posting of holiday decorations. If decorations are permitted in a facility, and “Holiday” Wreaths and other outside decorations are, then the decorations cannot be restricted or prohibited based upon their perceived or actual religious meaning.

Moreover, any federal law that would restrict or prohibit religious decorations would violate the First Amendment rights of the residents. In fact, the policy and rationale for the restriction described above actually violates the Fair Housing Act, 42 U.S.C. § 3604(b), in that it discriminates on the terms and conditions of a tenancy on the basis of religion.

The Act prohibits a covered entity from restricting “an individual’s access to, or **enjoyment of, any advantage or privilege enjoyed by others** in connection with **facilities**, services, financial aid or **other benefits under the program or activity**.” A covered entity may not otherwise “**limit** an individual in the enjoyment of any right, **privilege, advantage, or opportunity** enjoyed by other individuals receiving the housing, aid, benefit, or service.” 24 C.F.R. § 1.4(b)(1)(iv) and (vi). (Emphasis added). The right to decorate exterior personal residential areas appears to have been an “enjoyment, advantage or privilege” long enjoyed by the tenants at Grandview Estates. That right cannot now be restricted on religiously-discriminatory grounds, as has reportedly been done here, nor can the right to decorate common or exterior areas be eliminated in total on discriminatory grounds (i.e., that residents have protested the original discrimination).

Federal courts of appeal have regularly rejected claims that federally subsidized facilities have to eliminate all vestiges of religion from their properties. *See, e.g., Church on the Rock v. City of Albuquerque*, 84 F.3d 1273 (10th Cir. 1996); *Crowder v. Housing Auth. of the City of Atlanta*, 990 F.2d 586 (11th Cir. 1993). HUD certainly has no policy preventing religious decorations during the holidays or otherwise. In fact, its policy is the exact opposite, as may be noted from the [policy statement from the HUD website](#) (also attached):

The holiday season is an opportunity to celebrate our diverse traditions and faiths. **The U.S. Department of Housing and Urban Development continues to strongly support and respect the display of all religious**

**symbols on properties receiving HUD assistance.** We discourage anyone from interfering in the free exercise of religion and prohibiting residents from celebrating the joys of the season. (Emphasis added).

As the attached pictures show, the duplexes at Grandview Estates have individual yards and entrances. Allowing residents who desire to put up Christmas lights outside their duplexes or decorations in their own yards does not damage the property; infringes on no one's rights; and is properly classified as private speech.

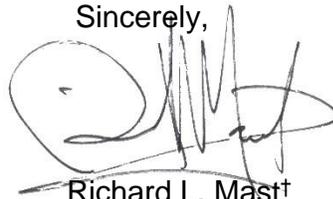
For these reasons, **please respond to this letter in writing by 1:00 EST on Tuesday, December 17, 2019**, that any directive banning Christmas lights and any other temporary traditional Christmas holiday décor has been reversed, and that the residents have been correctly informed about their rights.

If I do not timely receive the requested response, Liberty Counsel will view the residents' concerns as uncontested by MACO Management Company, and we will take further action to prevent irreparable harm to our clients' cherished liberties.

Please also be advised that any termination of residential leases for residents who subsequently put up Christmas or other holiday decorations could expose MACO and Grandview Estates management to liability for civil rights violations.

I appreciate your prompt attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard L. Mast", written over a horizontal line.

Richard L. Mast<sup>†</sup>

Attachments

CC

**Via Facsimile Only**

Complex Manager

Grandview Estates

16102 E. Salisbury Road

Independence, MO 64050

Fax: 213-270-9325

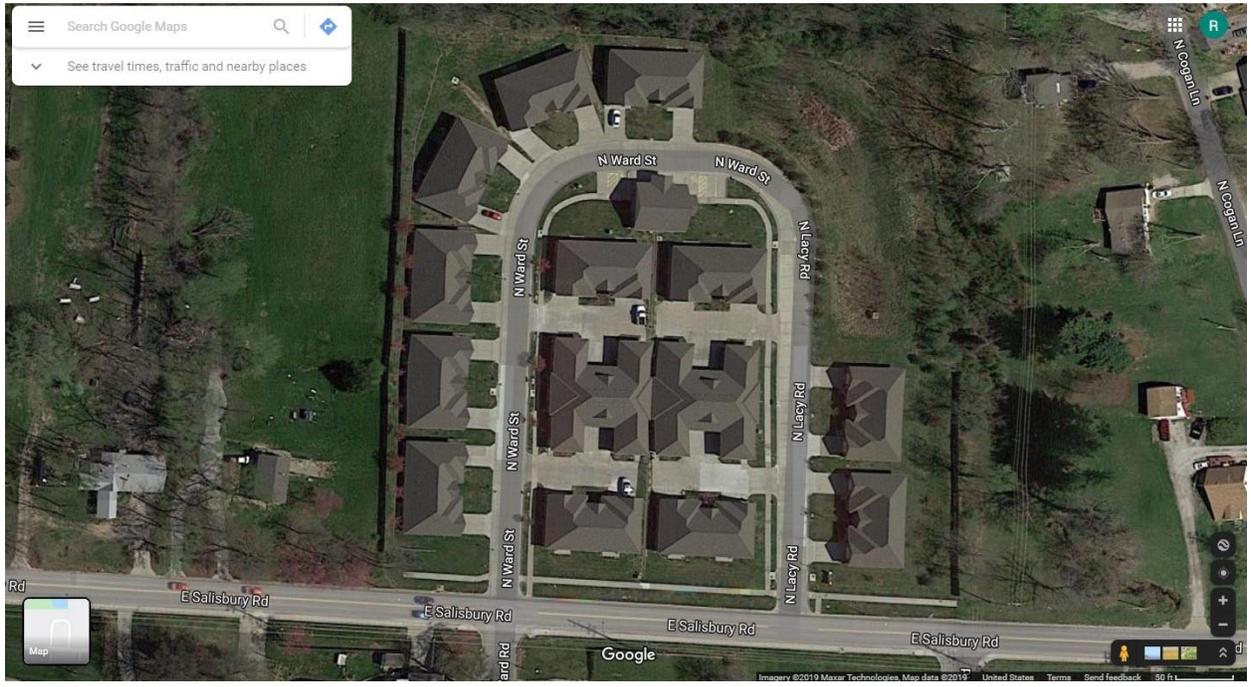
**Via Email**

Dee Wampler, Esq.

dee@deewampler.com

---

<sup>†</sup> Licensed in Virginia  
RLM:tge



### MISSION STATEMENT

At MACO Management Company, we strive to provide unparalleled, professional real estate management services to residential and commercial holdings to ensure a high level of customer satisfaction to each and every resident. This philosophy has allowed us to protect assets for owners that have placed their trust in us.



U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

WASHINGTON, D.C. 20410-0001

THE SECRETARY

December 20, 2001

This year our country has been challenged with acts of unprecedented hatred, yet we Americans are demonstrating renewed tolerance for people of different faiths. Now more than ever, it is important to support the celebration of diverse traditions and the joy of fellowship that comes with the holiday season.

This time of year many housing authorities are asked to give direction to residents, managers, and administrators regarding religious symbols or displays in common areas during holiday seasons.

As Secretary of the Department of Housing and Urban Development, I urge public housing directors not to prohibit such displays. It is not this Department's policy to discriminate against people of faith by barring the use of religious symbols to celebrate faith-based events, nor is it a result of HUD policy.

Under the First Amendment, government may not interfere with the free exercise of religion. This is among our most precious rights as Americans. HUD's policy, which follows prevailing case law, is that religious displays as well as non-religious symbols are permissible in common areas of public housing sites, and the same opportunity must be made available to people of all religious faiths. To the extent your policy concerning faith-based displays differs from HUD's, I would urge you to revise it.

With best wishes for a joyful holiday season,

A handwritten signature in black ink that reads "Mel Martinez". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Mel Martinez