

AMERICAN BOOKSELLERS FOUNDATION FOR FREE EXPRESSION

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ABFFE

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Agenda No. 62

February 25, 2005

Hon. Dave Cieslewicz
Mayor
City of Madison
210 Martin Luther King, Jr., Blvd, Rm. 403
Madison, WI 53704

Re: Proposed Ordinance 37309

Dear Mayor Cieslewicz,

I am writing to express concern that Proposed Ordinance No. 37309 may have a chilling effect on the First Amendment rights of citizens of Madison, particularly small business people. The American Booksellers Foundation for Free Expression is the bookseller's voice in the fight against censorship. It represents thousands of independent bookstores throughout the country.

Proposed Ordinance 37309 amends the city law requiring lobbyists to register and report expenses relating to their lobbying activities. While the City of Madison certainly has a right to pass a law to regulate lobbying activities, it must be careful not to define lobbying so broadly that it impinges on the right of citizens to express their opinions on issues of civic importance.

We believe that Proposed Ordinary 37309 may have that effect. It requires anyone who spends more than \$500 in "lobbying expenditures" to register as a lobbyist and file quarterly spending statements. This might not be a problem if lobbying expenditures consisted of monies paid in direct lobbying expenses. However, City Attorney Michael P. May recently informed a small business owner that she must consider all of the time she spends at public meetings as if she were being paid by her business. Based on her estimate that she spends 8 to ten hours at meetings each week, she would clearly meet the definition of a lobbyist and be forced to decide either to register or to curtail her civic activities.

We can't believe that the City of Madison intends to limit the activity of its most public spirited citizens. The small business owner in question has volunteered long hours of her time on a wide range of issues. It is true that many of them relate to the business community. However, most have no direct impact on her business. As a result, there is a danger that Proposed Ordinance 37903 will silence her and other citizens who own businesses and who have a deep commitment to helping their city.

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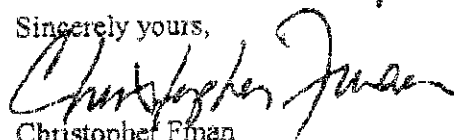
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There is a potential constitutional issue here as well. Freedom of speech is protected by the First Amendment. If someone files a successful court challenge to Proposed Ordinance 37309 on First Amendment grounds, the City of Madison may be forced to pay the plaintiff's attorneys' fees. In other cases, state and local governments have been forced to pay hundreds of thousands of dollars for violating the free speech rights of their citizens.

We urge you to amend Proposed Ordinance 37309 to ensure that First Amendment rights remain fully protected in Madison.

Thank you

Sincerely yours,



Christopher Finan
President

cc: Members of the Madison Common Council