

1 SILVANO B. MARCHESI (SBN 42965)  
 County Counsel  
 2 THOMAS L. GEIGER (SBN 199729)  
 Deputy County Counsel  
 3 COUNTY OF CONTRA COSTA  
 651 Pine Street, 9th Floor  
 4 Martinez, California 94553  
 Telephone: (925) 335-1813  
 5 Facsimile: (925) 646-1078  
 tgeig@cc.cccounty.us

6 Attorneys for Defendants

7  
8

9 UNITED STATES DISTRICT COURT  
 10 NORTHERN DISTRICT OF CALIFORNIA

11

12 FAITH CENTER CHURCH  
 13 EVANGELISTIC MINISTRIES, et al.,

14 Plaintiffs

15 v.

16 FEDERAL D. GLOVER, et al.,

17 Defendants.

Case No. C 04-3111 JSW

DECLARATION OF  
 ANNE CAIN IN SUPPORT OF  
 DEFENDANTS' CROSS-MOTION FOR  
 SUMMARY JUDGMENT AND  
 PERMANENT INJUNCTION

Date: November 7, 2008  
 Time: 9:00 a.m.  
 Dept: 2  
 Judge: Honorable Jeffrey S. White

18

19

20  
21 I, Anne Cain, declare:

22 1. I am the Contra Costa County Librarian and I have held that position for nine  
23 years.

24 2. I am responsible for overseeing the operation of all libraries that are part of the  
25 Contra Costa County Library.

26 3. The Contra Costa Library has 25 community libraries. All 25 community  
27 libraries have a main area where books are kept. Tables and chairs are located in these  
28 areas, which are set aside for reading, writing and quiet study. These areas allow people to

1 acquire knowledge and information and improve literacy.

2 4. Library meeting rooms are set aside for educational, cultural, and community  
3 related meetings, programs and activities, under the terms of the Contra Costa County  
4 Library meeting room use policy. These meetings are generally not held in community  
5 libraries that do not have a meeting room. Of the 25 community libraries, 12 community  
6 libraries do not have a meeting room.

7 5. The Antioch library, including its meeting room, is 11,000 square feet in size.  
8 The Antioch library includes a main area with stacks, a children's reading area, and an adult  
9 reading area. The meeting room in the Antioch library is 900 square feet in size. A true  
10 and correct copy of a plan depicting the layout of the Antioch library is attached as Exhibit  
11 A.

12 6. The Contra Costa County Library is funded by several revenue sources. The  
13 main source of library funding is property taxes. Approximately 80 percent of the Contra  
14 Costa County Library's budget is from property taxes. The remainder of the Contra Costa  
15 County Library's budget is from a combination of city and state funds, grants, fines, and  
16 fees. All of the revenue from these sources are placed into a library revenue account in the  
17 County budget.

18 7. The maintenance of all library buildings owned by the County, including the  
19 Antioch library and its meeting room, is funded from the library revenue account of the  
20 County budget. Building maintenance that is funded from the library revenue account  
21 includes the cost of utilities, custodial services, painting, and the upkeep of each building's  
22 mechanical, electrical, and heating-ventilating-air conditioning systems.

23 8. The County's library meeting room use policy applies to meeting rooms in  
24 library buildings owned by the County. Under the policy, non-profit and civic  
25 organizations, for-profit organizations, schools, and governmental organizations must pay a  
26 fee if they want to use library meeting rooms for meetings that are closed to the general  
27 public, for which an admission fee is charged, or at which soliciting or selling is done. A  
28 fee charged under the County's library meeting room use policy does not cover the entire

1 cost of processing a use application. A fee charged under the County's library meeting  
2 room use policy does not cover any of the cost of maintaining library meeting rooms.

3 9. Many groups or organizations that are considering using a library meeting  
4 room will telephone that library to find out the requirements for using a meeting room  
5 before submitting a meeting room use application. Many of these groups or organizations  
6 are non-profit or civic organizations, for-profit organizations, schools, or governmental  
7 organizations that want to use a library meeting room for meetings that are closed to the  
8 general public, for which an admission fee is charged, or at which soliciting or selling is  
9 done. When informed that a fee is required, these groups and organizations often will not  
10 submit a use application because they do not want to pay a fee. The County library does  
11 not keep records of these telephone calls.

12 10. Library staff does not regularly monitor library meeting rooms that are in use  
13 to see if the rooms are being used in conformance with the County library meeting room  
14 use policy. Library staff relies on the representations an applicant makes in his or her  
15 meeting room use application. Library staff will contact a person or group that is using a  
16 meeting room if the person or group is using the room beyond the use time allotted to the  
17 person or group, and another person or group is waiting to use the meeting room.

18 11. On November 11, 2007, the Contra Costa County Library administration  
19 office received an application from Faith Center Church Evangelistic Ministries to use the  
20 Antioch library meeting room. The application was signed by Hattie Hopkins. The  
21 application indicated that Faith Center Church Evangelistic Ministries wanted to use  
22 meeting room on December 15, 2007 for the following purpose: "Prayer, Praise, Wordshop,  
23 Purpose to Teach Scripture and Encourage Salvation thru Jesus to Build-Up this  
24 Community Overall." A true and correct copy of Faith Center's application to use the  
25 Antioch library meeting room is attached as Exhibit B.

26 12. On December 5, 2007, I mailed a letter to Pastor Hattie Hopkins informing her  
27 that her application to use the Antioch library meeting room on December 15, 2007 was  
28 granted. The letter informed Pastor Hopkins that Faith Center "may use the meeting room

1 for any activity that does not violate the meeting room use policy, including activities that  
2 express a religious viewpoint.” A true and correct copy of Faith Center’s application to use  
3 the Antioch library meeting room on December 15, 2007 is attached as Exhibit C.

4 The foregoing facts are within my personal knowledge and if I am called as a  
5 witness in this matter, I can competently testify to the above.

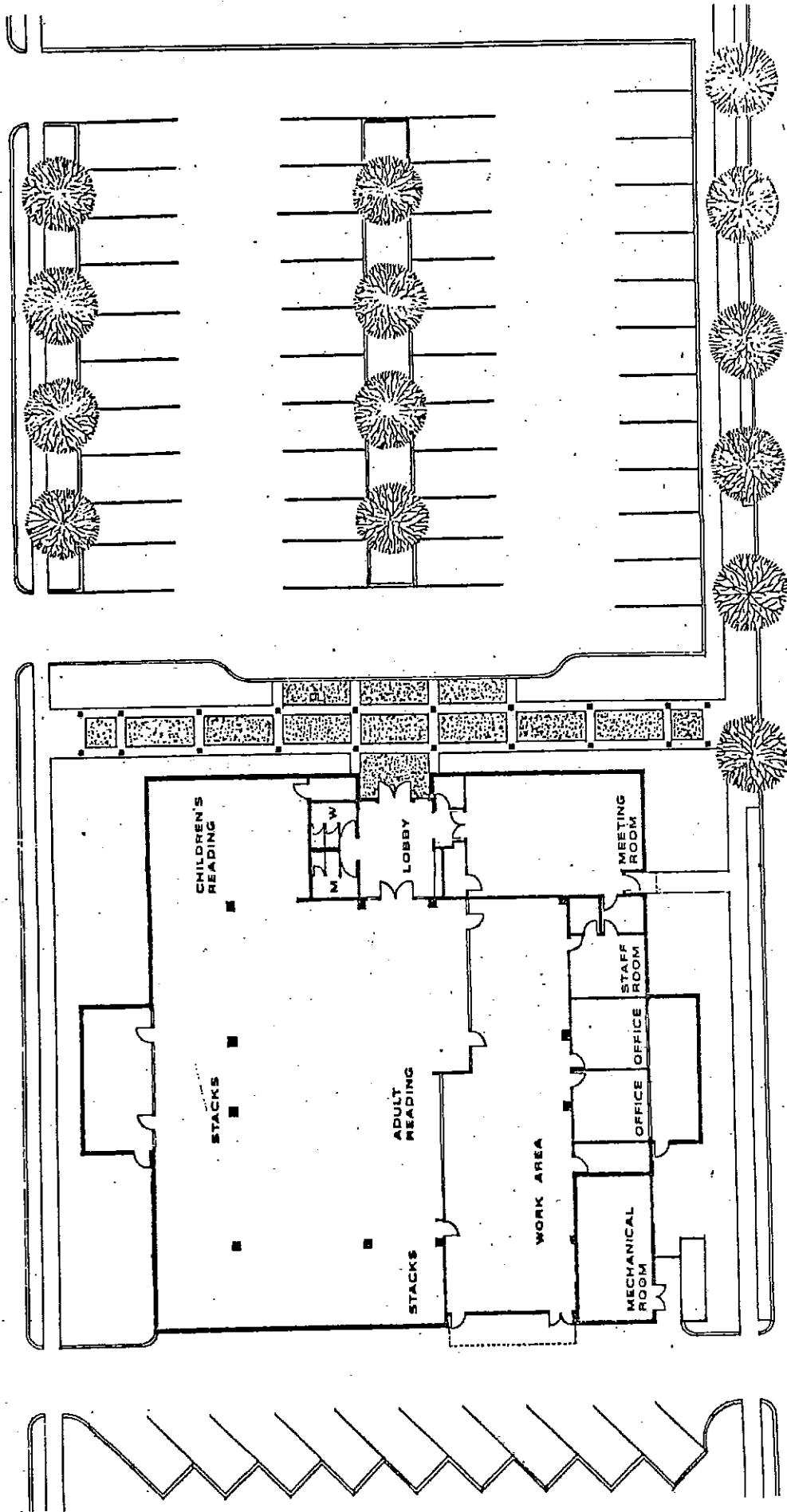
6 I declare under penalty of perjury under the laws of the State of California that the  
7 foregoing is true and correct.

8 Executed September 19, 2008, at Martinez, California.

9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

  
\_\_\_\_\_  
Anne Cain

**EXHIBIT A**



ANTIOCH LIBRARY      ANTIOCH CALIFORNIA      ↑ N

IAN-MACKINLAY AND ASSOCIATES      ARCHITECTS AIA

**EXHIBIT B**

2007-11-17 18:49

Money Mart # 1906

916-455-2306 >>

9254278560 P 212 FAXd. Ph. (925) 427-85.

11/12/07

Contra Costa County Library

APPLICATION AND PERMIT FOR USE OF MEETING ROOM

Name of Library Antioch (Contra Costa Co.) Library  
 Date of Meeting DECEMBER 15, 2007  
 Time of Meeting: From 5:30 To 9:00 Total time 3 1/2 HRS.  
 Name of Applicant PASTOR HATTIE HOPKINS (FOR FAITH CTR. EVANGELISTIC MIN.)  
 Name of Organization FAITH CENTER CHURCH EVANGELISTIC MIN. (W.M.F.C. Fellowship)  
 Purpose of Organization TO BUILD UP COMMUNITY (OPEN FREE TO PUBLIC)  
 Purpose of Meeting PRAYER, PRAISE, WORDSHOP, PURPOSE TO TEACH SCRIPTURE AND ENCOURAGE SALVATION THRU JESUS TO BUILD UP THIS COMMUNITY

I have read and agree to abide by and uphold all rules and policies of the Contra Costa County Library and use branch library governing the use of library premises or equipment, and I understand that failure to do so will result in loss of future privileges in the use of library meeting rooms. I understand that there is a no refund policy on the fee-based use of meeting rooms.

I agree that FAITH CTR. EVG. MINISTRY shall defend, indemnify, save, and hold harmless Contra Costa County and its officers and employees from any and all claims, costs, and liability for any damages, sickness, death, or injury to person(s) or property, including without limitation all consequential damages, from any cause whatsoever arising directly or indirectly from or connected with the operations or services of FAITH CTR. MINISTRY its agents, servants, employees, or subcontractors hereunder, save and except claims or litigation arising through the sole negligence or sole willful misconduct of Contra Costa County or its officers or employees. FAITH CTR. MINISTRY shall reimburse Contra Costa County for any expenditures, including reasonable attorneys' fees, Contra Costa County may make by reason of the matters that are the subject of this indemnification, and if requested by Contra Costa County, will defend any claims or litigation to which this indemnification provision applies at the sole cost and expense of FAITH CTR. CHURCH EVANGELISTIC MIN.

Signature Hattie Hopkins Date NOV. 17, 2007  
 Position in organization FOUNDER/PRESIDENT (OR MARY WARD, CO-APPLICANT)  
 Home address \_\_\_\_\_ Phone (925) 497-8728  
 Business address P.O. Box 162076 Phone (916) 454-4655  
SACRAMENTO, CA 95816

-- For Library Use Only --

<b>Non Fee Use</b>	
Approved <input type="checkbox"/>	
Not Approved <input type="checkbox"/>	Reason: _____
<b>Fee Based Use</b>	
Approved <input type="checkbox"/>	
Not Approved <input type="checkbox"/>	Reason: _____
Amount of Fee Received: _____	Received by: _____
Librarian in charge _____	Date _____



**EXHIBIT C**

# County Library

1750 Oak Park Boulevard  
Pleasant Hill, California 94523-4497  
(925) 646-6423  
FAX (925) 646-6461

# Contra Costa County

Anne Cain  
County Librarian

December 5, 2007



Pastor Hattie Hopkins, Founder / President  
Mary Ward, Co-Applicant  
Faith Center Evangelistic Ministry  
(W.M.F.C. Fellowship)  
P.O. Box 162076  
Sacramento, CA 95816

Dear Pastor Hopkins,

This responds to your application to use the meeting room in the Antioch branch of the Contra Costa County Library on December 15, 2007. Your application specified the times 5:30 to 9:00. We presume you mean 5:30 p.m. to 9:00 p.m. You applied to use the meeting room for the following purpose: "Prayer, Praise, Wordshop, Purpose to Teach Scripture and Encourage Salvation thru Jesus to Build-Up this Community Overall." Your application to use the meeting room on December 15, 2007, from 5:30 p.m. to 9:00 p.m., is granted.

As you know, the meeting room is the subject of ongoing litigation. The Ninth Circuit Court of Appeals held in Faith Center Church Evangelistic Ministries, et al. v. Federal D. Glover, et al., 480 F.3d 891 (2007) that the County may prohibit religious worship services from the Antioch Branch Library meeting room, in accordance with the "Religious Use" provision of the County Library meeting room use policy. The "Religious Use" provision provides as follows: "Library meeting rooms shall not be used for religious services."

Your signed application to use the meeting room indicates that you have read and agree to abide by and uphold all rules and policies of the Contra Costa County Library governing the use of library premises. We will presume that you understand and will comply with the holding in Faith Center Church Evangelistic Ministries, et al. v. Federal D. Glover, et al., 480 F.3d 891 (2007). You may use the meeting room for any activity that does not violate the meeting room use policy, including activities that express a religious viewpoint. In accordance with the Ninth Circuit's holding, you are responsible for distinguishing religious worship services from other forms of religious speech. (480 F.3d at 918-919.)

Anne Cain

  
County Librarian

cc: Greta Galindo, Antioch Acting Senior Branch Librarian