



COUNTY OF MARATHON

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facsimile transmittal

To: **Attorney Peter Breen**

Fax: **(312) 782-1887**

From: **Scott M. Corbett**
Corporation Counsel

Date: **3/29/2011**

Re: **Marathon County Public Library**
Room Reservation

Pages: **Four Pages, Including Cover Sheet**

Cc:

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March 29, 2011

Peter Breen
Executive Director and Legal Counsel
Thomas More Society
29 South LaSalle, Suite 440
Chicago, IL 60603

RE: Marathon County Public Library Room Reservation

Dear Mr. Breen:

This letter is in response to your correspondence dated March 24, 2011. I did not receive this letter until March 28, 2011, and have had approximately 24 hours to consider the response. You have requested that the Marathon County Public Library restore a reservation for a public meeting room located at the public library to permit your client's, 40 Days for Life, to present the film: Blood Money for public viewing. The purpose of this letter is to offer an accommodation of your client's request at a facility located at 212 River Drive, which is located across the street from the Wausau Public Library.

The Marathon County Public Library Meeting Room Policy indicates that meeting rooms cannot be used for:

1. Any purpose which, in the opinion of the library director or the library board of trustees, may interfere with the normal use of the library.
2. A meeting where an admission of other fee or tuition is charged by a group/individual other than the library itself, the Library Foundation or the Friends of the Library.
3. Programs whose purpose is the sale, advertising, or promotion of products or services or includes selling of a product or services with the exception of those provided by the library itself, the Library Foundation, or Friends of the Library.
4. Private parties. A return engagement by a group that has abused the facility, equipment, or library regulations in a previous-use of the room.

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The reason given for cancellation of the reservation has been the likelihood of a demonstration or a disturbance which "may interfere with the normal use of the library." As you know, the time reserved by your clients is during normal operating hours of the library. The library fulfills many other functions other than providing meeting rooms to the public. The library's primary function is to provide access to books and other media to both children and adults. If the display of the film by your client's group provoked a civil disturbance inside the library, the result could be interference with the normal use of the library.

The U.S. Supreme Court has drawn a distinction between a limited public forum and a traditional or open public forum. See, Good News Club v. Millford Central School, 533 U.S. 98; 106 through 107 121 S Ct. 2093, 2100 (2001). The Supreme Court said:

When the state establishes a limited public forum, the state is not required and does not allow persons to engage in every type of speech. The state may be justified in reserving its forum for certain groups or for the discussion of certain topics. The state's power to restrict speech, however, is not without limits. The restriction must not discriminate against speech on the basis of viewpoint, and the restriction must be reasonable in light of the purpose served by the forum. (citations omitted), id.

In this particular case, the Marathon County Public Library has set limits on the use of the meeting rooms. As indicated above, in the event that the showing of the movie would provoke a civil disturbance, the purpose served by the forum would be thwarted. Marathon County continues to analyze the evidence that exists that a civil disturbance would ensue as a result of showing the film.

On the other hand, traditional or open public forums do exist in Marathon County for public expression. One of those places is 212 River Drive, which is located on the other side of Stewart Avenue from the Marathon County Public Library. This facility houses several Marathon County Department offices and other public meeting rooms. The normal business hours are 8 a.m. to 4:30 p.m., Monday through Friday.

In hopes of bringing prompt resolution to this issue, Marathon County, in coordination with the Marathon County Public Library, will make a meeting room at 212 River Drive available to your client so that the movie can be shown. There would be no interference with normal business conducted at the facility. As your letter indicates, there is an element of quasi-contract or fundamental fairness about this particular case. In this case, there was an

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agreement to provide meeting space. Although no money changed hands as a result of the agreement, your client expended funds in reliance upon the room reservation for the purposes of publicity.

In mitigation of the issues caused by the library's cancellation, the county can provide a suitable venue within a very short distance of the library, such that persons intending to attend the film at the library can easily be directed to cross the street. In fact, most library employees park in the lot at River Drive and across the street the other way to gain entrance to the library.

Please confirm with your client the proximity of the facility to which I refer.

Thank you for your consideration of this matter.

Very truly yours,



Scott M. Corbett
Corporation Counsel

SMC:pgs

cc: Deb Hager, Deputy County Administrator
Ralph Illick, Library Director