

June 19, 2003

Los Angeles City Council
200 North Spring Street
Los Angeles, CA 90012

(Via US Mail & Fax)

Members of the California State Legislature
Capitol Building
Sacramento, CA

(By Hand Delivery)

RE : **Los Memorias Project Funding & Completion at Lincoln Park**
Ca. State Budget Line Items 8260-490 from AB 100 2003-04 Budget
PAGE 591 and 8260-490 from SB 53 2003-04 Budget, PAGE 594

Dear California Legislators & Honorable Members of the Los Angeles City Council:

Please be advised that we have been retained by The Pro-Family Law Center to provide legal representation to a group of taxpayers and concerned residents concerning the above-referenced project commonly known as "The Wall: Las Memorias." As set forth below, this project violates the Establishment Clause of the First Amendment to the United States Constitution, violates Equal Protection principles, creates a discriminatory heterophobic and antireligious environment in violation of Title VII, and creates a host of other public policy problems. Our clients' standing to bring a potential action against each of you is premised on the provisions of *California Code of Civil Procedure* § 526a, and related provisions of federal and state law. Since you are acting under color of state law, you should be aware that you are risking imminent liability pursuant to 42 U.S.C. § 1983.

Specifically, while thousands of children are starving in Los Angeles, and in the midst of a 38-billion-dollar state budget deficit, it appears that you will proceed with the state and local funding of a \$500,000.00 memorial to dead homosexuals. In furtherance of this curious plan, it also appears that the City money in this case is coming, in part, from a fund that was to be used for housing for those who currently suffer from AIDS. (See LA City Council Action No. 99-2257). As though the clear waste of tax dollars, and disregard for living victims of AIDS, was not bad enough, the architect admits that the memorial will take the "spiritual" form of Quetzalcoatl. The architect openly admits that the symbolism chosen is religious and spiritual in nature. See, www.thewalllasmemorias.bizland.com. (See Exhibit "1" Attached Hereto).

Getting to the point of this demand letter, “The Establishment Clause of the First Amendment states that “Congress shall make no law respecting an establishment of religion,” U.S. Const. amend. I, a provision that the Fourteenth Amendment makes applicable with full force to the States [...]”. *Lee v. Weisman*, 505 U.S. 577, 580 (1992). If you approve the Las Memorias project, and vote “yes” on the State Budget, as currently proposed, you will have violated the Establishment Clause by erecting a memorial having religious significance and symbolism. As you know, the Pledge of Allegiance has been declared unconstitutional, and the Mount Soledad Cross in the San Diego area was declared illegal regardless of its secular meaning as a war memorial. Similarly, it follows that the Quetzalcoatl symbolism of Las Memorias does not survive constitutional scrutiny.

The Las Memorias project ostensibly attempts to cloak its religious significance in the clandestine concepts of ‘cross-culturalism,’ ‘AIDS awareness,’ and ‘diversity.’ However, it has been held that the Establishment Clause “forbids government affiliation with religious beliefs and institutions [. . .] [because] [t]he Constitution mandates that the government remain secular . . . [cite].” *Sands v. Morongo Unified Sch. Dist.*, 53 C.3d 863 (1991). References to the meaning of Quetzalcoatl are not “secular,” as required by law.

It is already established that the City of Los Angeles has affiliated itself with religious views, and spiritual expression, and sectarian thought throughout the development of this project by stating that, “the discussion of the memorial has created an opportunity to address HIV/AIDS in the Latino community including, **churches** [. . .] [emphasis added]”. (See Los Angeles City Council Action No. 00-1140, 4/22/03). It is not the business of the City of Los Angeles to be sparking and guiding the discussion of homosexuality or AIDS in *any* church. The State of California certainly has no business funding City activities that influence religious institutions in this manner. Even the mildest Church affiliation with State displays of religious materials has been struck down by the United States Supreme Court. *Lynch v. Donnelly*, 465 U.S. 668, 684 (1984). In fact, it was recently held that the State’s mere mention of the word “Jesus,” even if voluntarily spoken through the mouth of a private citizen, constitutes an Establishment Clause violation. *Rubin v. City of Burbank*, 101 Cal.App.4th 1194, 1201-1202 (2002), *review denied*.

As you can see from Exhibit “1,” the spiritual significance of Las Memorias is indisputable. Undoubtedly, the ultimate disposition of the human soul, assuming that one exists, is the quintessential religious question. “The Establishment Clause, at the very least, prohibits government from appearing to take a position on questions of religious belief . . . ” *County of Allegheny*, 492 U.S. 573, 593-594 (1989). *Also see, Sands*, at 53 C.3d 863, 874.

I might also add that you are about to put a stamp of approval on a project that has intentionally excluded commentary from Christians and other residents who do not approve of the homosexual lifestyle that is glorified through the Las Memorias project. Specifically, the City of Los Angeles has failed to allow public commentary during relevant stages in the development process in violation of the Ralph M. Brown Act.

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The Wall: Las Memorias
Notice of Intent to File Suit

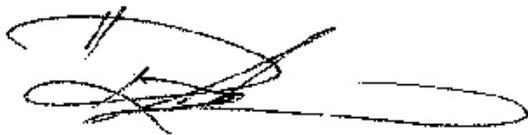
From the facts in this case, it appears that the intentional exclusion of residents was because of the fact that the developers of Las Memorias knew that Latino and/or Christian residents in the Lincoln Park area do not approve of the homosexual lifestyle and the other behaviors that often lead to death by AIDS. Many of the residents in the Lincoln Park area are Catholic and, as such, adhere to Catholic dogma which disapproves of homosexual lifestyles. The placement of a memorial, essentially to sanctify homosexuality, is offensive to those residents. It is an unjustifiable blow against Latino cultural values, which often include a respect for the traditional/natural family. Your funding and promotion of a project that intentionally affects the sensibilities of Christians, Latinos, Muslims, Orthodox Jews, and others are offensive, and violate Equal Protection principles.

Please know that, if you do not take action to stop the building and funding of the Las Memorias project, the State of California and City of Los Angeles will be sued for gifting of public funds and for violating the First Amendment. Any state legislator, acting with knowledge of the Establishment Clause violation mentioned in this letter, also faces the imminent risk of liability in this case.

We trust that you will act responsibly and cease work on this unlawful project. If there is any possibility of a nonjudicial resolution of this matter, please do not hesitate to contact our office.

Most Respectfully Yours:

LIVELY, ACKERMAN & CODY

A handwritten signature in black ink, appearing to read 'Richard D. Ackerman', with a large, sweeping flourish extending to the right.

RICHARD D. ACKERMAN