



# Smithsonian Institution

Office of General Counsel

May 18, 2010

Frederick Nelson  
American Liberties Institute  
P.O. Box 547503  
Orlando, Florida 32854-7503

Via E-Mail: Rick@ali-usa.org

Dear Mr. Nelson,

I am writing in response to your May 7, 2010, letter requesting information about the areas regulated by the Smithsonian Institution's building and grounds regulations, 36 C.F.R. Part 504. For policing purposes, the Smithsonian buildings and grounds are defined in title 40 of the U.S. Code, section 6301, and include the various Smithsonian museum buildings on the National Mall "including the entrance walks, unloading areas, and other pertinent service roads and parking areas." The Smithsonian buildings and grounds regulations, found at 36 C.F.R. Part 504, apply to these areas.

The sidewalks surrounding the museum buildings, however, fall into the area concurrently policed by the Smithsonian and the United States Park Police. See 40 U.S.C.S. § 6306(b)(2). In the exterior sidewalk areas, beyond the entrance ways but within the "exterior boundaries of the face of the curb lines of the squares within which the specified [museum] buildings and grounds are located," Smithsonian and the National Park Service's United States Park Police concurrently enforce the laws and regulations applicable to the National Park Service's National Capital Region. Id. The applicable Park Service regulations are found at 36 C.F.R. § 7.96.

These Park Service regulations generally allow non-commercial leafleting on these exterior sidewalk areas as well as on the Federal parkland that comprises the National Mall. See 36 C.F.R. § 7.96(g)(2)(i) (permits not required for a demonstration involving 25 or fewer persons), § 7.96(k)(2) (permits not required for the distribution of leaflets without aid of a structure), and § 7.96(k)(3) (prohibiting the obstruction or impeding of pedestrians or vehicles). If you have any questions about the Park Service regulations and the Federal parkland under Park Service jurisdiction, you may wish to contact Randolph J. Myers, Senior Attorney, Branch of National Parks, Office of the Solicitor, U.S. Department of the Interior, 1849 C Street, N.W., Room 5311, Washington, D.C. 20240.

To summarize, distribution of literature consistent with Park Service regulations is generally permitted on the exterior sidewalks surrounding Smithsonian museums, but is not permitted in the Smithsonian museum entranceways or buildings, which are subject to Smithsonian regulations. Your letter did not describe specifically where or when your

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client attempted to distribute literature, whether he was prevented from doing so, or who informed him about any "policy." If he was provided with information different from that which is contained in this letter, I hope I have eliminated any confusion.

Yours very truly,

A handwritten signature in blue ink, appearing to read "Farleigh Earhart". The signature is fluid and cursive, with a prominent initial "F" and a long, sweeping underline.

Farleigh Earhart  
Associate General Counsel