

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA**

POOR PEOPLE’S ECONOMIC HUMAN RIGHTS CAMPAIGN,	:
	:
Plaintiff,	:
	:
v.	:
	:
CITY OF PHILADELPHIA,	:
	:
Defendant.	:

COMPLAINT

INTRODUCTION

1. The nominating convention of one of our country’s two major political parties presents an unparalleled opportunity for individuals and organizations to participate in the democratic process through the exercise of their rights of free speech and assembly. The Democratic National Convention (“DNC”) in late July will draw thousands of delegates, as well as the Democratic Party’s major campaign contributors, lobbyists, and both credentialed and uncredentialed members of the media. It will thus provide an opportunity for groups and individuals to voice their opinions directly to the leaders and decision-makers of the Democratic Party, to national and international media, and to people across the country and around the world who will watch Convention coverage.

2. Plaintiff Poor People’s Economic Human Rights Campaign (“PPEHRC”) is a social justice coalition that wants the visitors and Convention attendees to hear about, see, and

understand the poverty that afflicts Philadelphia. On the opening day of the Republican National Convention in 2000, PPEHRC and thousands of poor residents of the city marched from City Hall to the Wells Fargo Center in order to confront the nation's political leaders with the necessity of taking action to address poverty. PPEHRC believes that the plight of the poor in Philadelphia has only worsened since 2000, and PPEHRC and its members seek to repeat their march from the seat of Philadelphia government to the doorstep of the DNC on the opening day of the Convention to confront the Democratic Party leadership with the continuing failure of the government to address the suffering of poor people.

3. The City has refused to issue a permit for the march because it would fall within the City's unwritten ban on political marches in Center City streets between the hours of 3 PM and 6 PM. PPEHRC seeks preliminary and permanent injunctive relief declaring the City's ban on afternoon marches to be a violation of the First Amendment.

JURISDICTION

4. Plaintiff brings this action under 42 U.S.C. § 1983 in order to vindicate its rights protected by the First and Fourteenth Amendments to the United States Constitution. The Court has jurisdiction over this civil rights action pursuant to 28 U.S.C. § 1331(a) and § 1343(a)(3) and (4). This Court has jurisdiction pursuant to 28 U.S.C. §§ 2201 and 2202 to declare the rights of the parties and to grant all further relief found necessary and proper.

PARTIES

5. Plaintiff PPEHRC is a multi-racial, intergenerational movement made up of poor, low-income, and homeless families across the country. It is organized around the universal declaration of human rights and dedicated to taking up where Dr. Martin Luther King left off on building a poor people's movement. Its goal is to eliminate poverty.

6. Defendant City of Philadelphia is a political subdivision of the Commonwealth of Pennsylvania and manages, directs, and controls the Philadelphia Office of Special Events.

FACTS

7. Beginning on July 25, 2016, the City of Philadelphia will host the 2016 Democratic National Convention ("DNC" or the "Convention"). The Convention will take place at the Wells Fargo Center in South Philadelphia, approximately 3.5 miles south of Center City. It is one of several large venues to the east of Broad Street in South Philadelphia that, collectively, are known as the Sports Complex. The Wells Fargo Center is surrounded by extensive parking lots and a perimeter fence. The lot on which it sits spans the equivalent of several city blocks, from Broad Street on the west to 11th Street on the east, and from Pattison Avenue on the north to Interstate 95 on the South.

8. The Wells Fargo Center is not near any residential or business neighborhoods. It does not attract any pedestrian traffic, except when there is a sporting or other event at the Center. Most people reach the Wells Fargo Center by car or by the SEPTA Broad Street Line (the subway), which terminates at AT&T Station at Broad and Pattison.

9. Apart from the other venues that make up the Sports Complex, the only other venue in the neighborhood of the Wells Fargo Center is Franklin Delano Roosevelt Park ("FDR Park" or

the “Park”), a large park that spans from Broad Street on the east nearly to 26th Street on the west, and from Pattison Avenue on the north to Interstate 95 on the south. FDR Park’s 348 acres host a number of different facilities, including a golf course, tennis courts, baseball diamonds, a skate park, and many other facilities.

10. The City has committed to providing certain amenities for protesters in FDR Park, including portable toilets, misting stations, and water. The United States Secret Service has stated that it intends to build a fence along the west side of Broad Street to prevent protesters in the Park from entering the portion of Broad Street outside the Wells Fargo Center.

11. Most of the Convention activity at the Wells Fargo Center will occur during the evenings of July 25-28. During the day, DNC delegates and associated visitors will be attending meetings and other events spread throughout Center City, including at the Pennsylvania Convention Center at Broad and Arch Streets.

12. PPEHRC and its members want to march from Center City, where they will be seen and heard by both visitors and Philadelphians alike, down Broad Street to FDR Park across from the Wells Fargo Center. They want to start their march at 3 PM on July 25, which would enable them to reach FDR Park approximately the same time that the DNC formally starts inside the Wells Fargo Center. PPEHRC anticipates that it will have about 500 participants in its march.

13. The City of Philadelphia has promulgated regulations that require a permit for any protest, demonstration, or march of 75 or more people. The process for obtaining such permits is set forth in the Regulations Governing Permits For Demonstrations on City Property (“Demonstration Policy”) issued by the Office of the Managing Director (“MDO”).

14. The Demonstration Policy requires that an applicant for a demonstration or march permit fill out a form and submit that with a \$20 processing fee, plus either proof of insurance or an affidavit attesting to the applicant's inability to afford insurance for the event.

15. The Demonstration Policy requires that the City grant or deny an application within two business days of the receipt of the application, which period the City may extend for up to two more business days if the proposed event is more than 20 days in the future.

16. On April 5, 2016, PPEHRC submitted a permit request, with the required fee, to the City's Office of Special Events ("OSE").

17. On May 5, 2016, PPEHRC received a letter from the OSE denying its request for a march permit. The letter's explanation of why the permit was being denied consisted solely of language excerpted from the Demonstration Policy:

The Demonstration will substantially or unnecessarily interfere with traffic in the area contiguous to the activity, and will unreasonably disrupt movement or circulation of vehicular or pedestrian traffic (See Permit Policy for Demonstrations Section 7, Subsection B, Paragraph 7).

The proposed Demonstration conflicts or interferes with a previously scheduled, annual, or otherwise regularly-held event or ceremony that is sponsored by or on behalf of the City or any other person or entity at the same City Property for the same date and time (See Permit Policy for Demonstrations Section 7, Subsection B, Paragraph 4).

Letter from Jazelle M. Jones, Deputy Managing Director/Director of Operations, City of Philadelphia, Office of the Managing Director, Office of Special Events, to Cheri Honkala, Poor People's Economic Human Rights Campaign, May 5, 2016.

18. Through subsequent communications with the City Law Department, PPEHRC's counsel learned that the City had decided to refuse all applications for marches on Broad Street during the

DNC, and that the OSE had an unwritten policy that it would refuse all applications for marches in “Center City” during the hours of 7 AM to 9 AM and 3 PM to 6 PM on weekdays, which the OSE calls “rush hour.”

19. After objection from PPEHRC’s counsel and others, the City announced that it would allow some marches on Broad Street, but held firm to the ban on afternoon marches in “Center City” starting at 3 PM.

20. The City has not defined “Center City” for purposes of its afternoon ban on street protests. In separate City regulations, “Center City” is defined in various ways, generally encompassing all City blocks from the Schuylkill River to the Delaware River, as far north as Vine or Spring Garden Streets and as far south as South Street. This area encompasses approximately four square miles.

21. In contrast to its ban on Center City street protests between the hours of 3 PM and 6 PM, the City routinely authorizes extended street closures on Center City streets during this time on weekdays. Examples from the City’s Events webpages of street closures that extended into “rush hour” from just the past few months include:

- Friday, April 8, 2016: closure of Market Street and 15th Street, beginning at 11 AM and lasting into the late afternoon for a Parade and Rally at Dilworth Park to celebrate the Villanova Wildcats’ victory in the NCAA basketball Championship. The westernmost road closures opened as the parade arrived at City Hall, but some streets remained detoured past 3 PM and the City warned that vehicles might not be able to exit garages along the parade route until after 4 PM.
- Thursday, April 14, 2016: closure of Locust Street from 13th to Broad Streets from 9 AM until 3:30 PM for Action AIDS Dining Out for Life.
- Wednesday, May 4, 2016: closure of Filbert Street from 11th to 12th Streets from 5:30 PM until 2 AM for the Field House Block Party.

- Thursday, May 5, 2016: closure of “Bach Place” [a.k.a. Manning Street] from Broad to 15th Streets from noon to midnight for a Cinco de Mayo celebration sponsored by Jose Pistola restaurant.
- Thursday, May 5, 2016: closure of Ranstead Street from 20th to 21st Streets from 8 AM to 11 PM for a Cinco de Mayo celebration sponsored by Starr Restaurants.
- Thursday, May 12, 2016: closure of 2nd Street from Lombard to Pine Streets from 2 PM to 10 PM for Development Corp. for Israel.
- Friday, May 20, 2016: closure of 25th Street from South to Naudain Streets from 4 PM to 11 PM for the Philadelphia School Annual Fundraiser.
- Friday, June 3, 2016: closure of New Street from 2nd to 3rd Streets from 3 PM to 7 PM for a Mural Arts Dedication.
- Monday, June 6, 2016: closure of “Bach Place” [a.k.a. Manning Street] from Broad to 15th Street from 2 AM to midnight for Jose Pistola’s Annual Homebrew Challenge.
- Tuesday, June 7, 2016: closure of Filbert Street from 11th to 12th Streets from 2 PM to 8 PM for a “private event.”
- Friday, June 10, 2016: closure of Filbert Street from 11th to 12th Streets from 6 PM to midnight for a soccer-related pep rally.
- Friday, June 10, 2016: closure of Locust Street from 12th to 13th, 13th Street from Spruce to Locust Streets, and 12th Street from Spruce to Locust Streets from 4 PM to 11:30 PM for the Pride Day Weekend Kickoff Party.
- Tuesday, June 21, 2016: closure of Filbert Street from 11th to 12th Streets from 4 PM to 9 PM for the National Conference for Student Assessment.
- Thursday, June 23, 2016: closure of 12th Street from Callowhill to Spring Garden Streets, 13th Street from Callowhill to Spring Garden Streets, Noble Street from 11th to Broad Streets, Hamilton Street from 11th to Broad Streets, and Bottonwood Street from Ridge Avenue to Broad Street from 2 PM to midnight for the Callowhill Night Market.¹

¹ In addition, despite claiming that it also will not grant permits for street activities during the morning rush hour (defined as 7 AM to 9 AM), the City’s Events Office advertised multiple road closures beginning at 8:30 AM on the morning of Tuesday, June 14, 2016, for a 5K run that began at 12th and Market and wound through a half dozen Center City Streets.

22. And, of course, the City closed a far greater area in Center City to traffic from Friday, September 24 through Monday, September 28, 2016 for the “[Pope] Francis Festival.”

23. Many of these City-authorized street closures lasted 4 hours or longer, whereas a march allows for the gradual closing and reopening of the street as the group moves. The Philadelphia police routinely use this “rolling closure” approach to reduce the impact on traffic of marches.

24. In addition, the City has a longstanding custom of allowing large street protests without a permit, including on Center City streets between 3 PM and 6 PM.

25. As an illustration of this custom, the City granted a permit to the “Fight for \$15” campaign to allow 1,000 people to march on Thursday, April 14, 2016 from 5:30 PM to 7 PM on Broad Street from Cecil B. Moore Avenue to Arch Street. That permit purported to restrict the march to the “PUBLIC SIDEWALKS ONLY.” However, police allowed the protesters to occupy Broad Street and did not attempt to enforce the permit’s restriction to sidewalks.²

26. PPEHRC believes that discovery from the City will reveal many additional closures between 3 PM and 6 PM. In addition, of course, the City routinely restricts vehicular access to major traffic thoroughfares during heavy traffic times for construction and other activities. Indeed, in anticipation of the DNC, City officials announced this week that the City will devote a month to the installation of a temporary ground mural running down the center of Broad Street from City Hall to Washington Street.

² PPEHRC’s counsel has repeatedly asked the City to confirm that it will allow unpermitted marches and demonstrations to proceed during the DNC, but the City has declined to offer such assurances. On June 16, 2016, when asked by the Philadelphia Inquirer whether protesters without permits would be arrested, Mayor Kenney said, “Probably not but again we encourage them to get a permit” The City apparently wishes to reserve the power to pick and choose which protests it will allow without a permit and which it will not.

27. The City has not explained why it will allow Center City streets to be closed for hours or days for non-political purposes but cannot allow a moving political protest on any Center City street from the hours of 3 PM to 6 PM. It appears that the City favors block parties and other celebrations over protest, or that it favors commercial or prestigious speakers over those less powerful. Either rationale is content-based and prohibited by the First Amendment.

28. Without the ability to march in the streets, protesters will be limited to a single venue near the DNC-related events in Center City that is capable of holding over 1,000 people, Thomas Paine Plaza. Thomas Paine Plaza is raised above street level, making activities there difficult to see or hear from the pathways that the delegates and others will use to attend events at the Pennsylvania Convention Center and other Center City venues. The City's ban on "rush hour" protest marches will mean that during prime visibility hours, mass protest will be invisible to the delegates and to the largest concentration of people who live and work in the City of Philadelphia.

29. The City stated in a letter to PPEHRC's counsel that it needs to ban demonstrations for half the afternoon in order to "minimize disruption" and nonspecific "traffic and public safety hazards."

30. PPEHRC's proposed march would leave City Hall at 3 PM to walk south to the Wells Fargo Center. Most of the projected 500 marchers would likely be south of South Street—and out of Center City traffic congestion—by 4 PM. PPEHRC seeks to march on Broad Street, with the flow of traffic, which is the street most able to accommodate a large group of protesters. The City could easily accommodate the march without shutting down all of Broad Street traffic by

allowing the marchers to use only the southbound lanes (or even two of the three southbound lanes), as it did when PPEHRC held the same march on the opening day of the Republican National Convention in Philadelphia in 2000, and by requiring marchers to stop at traffic lights to permit cross-traffic. If the City wanted to guarantee the most lanes for potential emergency traffic, it could ban parking (including valet parking) along Broad Street for the afternoon, as it does frequently for other events. In short, the City need not prohibit PPEHRC's march to keep Broad Street available for traffic.

CLAIM

Violation of the First Amendment to the United States Constitution

31. The City's blanket ban on marches in Center City between the hours of 3 PM and 6 PM, and the resulting denial of a permit to PPEHRC to march on the first day of the Democratic National Convention, violate PPEHRC's right to free expression under the First Amendment to the U.S. Constitution, as applied to the states by the Fourteenth Amendment, and 42 U.S.C. § 1983.

PRAYER FOR RELIEF

WHEREFORE PPEHRC respectfully request that this Court provide the following relief:

- (a) Declare that the City's ban on marches in the afternoon violates PPEHRC's rights under the First and Fourteenth Amendments to the Constitution;
- (b) Enjoin the City to issue a permit to PPEHRC to march from City Hall to FDR Park, beginning at 3 PM on July 25, 2016;

- (c) Award Plaintiff costs and attorneys' fees pursuant to 42 U.S.C. § 1988; and
- (d) Grant such other relief as this Court deems just and appropriate.

Dated: June 23, 2016.

Respectfully submitted,



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