



April 17, 2008

Mr. David Fowler
President
The Family Action Council of Tennessee, Inc.
2479 Murfreesboro Road, No. 362
Nashville, TN 37217-3554

Re: Guidelines for Lobbying and Political Intervention

Dear Mr. Fowler:

You have asked ADF to provide a letter offering advice and guidance on the political activities which are permissible for churches and pastors. In particular, you have informed me that you are currently involved in an effort to obtain the passage of a legislative resolution that would allow a ballot initiative to protect the life of the unborn.

First of all, I need to point out that the rules for pastors, acting in their individual capacities, are the same as every other citizen and are quite broad and protected by the First Amendment. Only when the pastor is functioning in their official church capacity are they restricted in their political involvement. But if pastors work to get this legislation passed on their own time, using their own resources, there are no limitations.

Churches are also legally permitted to be involved in seeking the passage of this legislation. The only limitation on their activity is that the total amount of time attributed to this "lobbying" effort be "insubstantial"¹. By this letter, we assure you that churches and pastors have broad constitutional rights to express their views on a broad array of social issues such as marriage, abortion, and homosexual behavior. Furthermore, other activities such as supporting the passage of a constitutional amendment defending the life of the unborn through sermons, showing videos², or allowing parishioners to sign petitions are permissible under federal tax law. In the same way, the First Amendment to

¹ While the term "insubstantial" has not been precisely defined by the IRS, the general rule of thumb is less than 15% of the organization's total activities and/or funds. This is rarely a problem when the church considers the vast amount of time and resources that are spent on the total activities of the church.

² I understand that you have produced a video presentation that address the pending resolution and issue. This video can be shown in churches to educate and inform members, and even though it has a "call to action" asking members to contact their legislators, this activity is permissible.

the United States Constitution most likely prevents states from demanding that churches register as “political committees” or report “contributions” when the churches merely preach about issues, inform their congregations of the impending legislation, encourage their members to get involved, or allow petitions to be signed at their facilities.

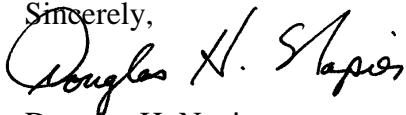
Issue advocacy may not be limited by government and may be freely engaged in by churches. Issue advocacy includes the discussion of issues of public concern, the actions of government officials in office and even the positions of candidates on issues. As long as one does not use words expressly advocating the election or defeat of a clearly identified candidate, one is free to praise or criticize officials and candidates with regard to their positions on certain topics.

Historically, the church has been the primary voice to uphold social morality and promote godly principles in government and society. Efforts to silence the voice and impact of the church have create an atmosphere of misunderstanding, intimidation and confusion about what churches can do. But the reality is churches can do a lot more than most are doing and can do so without fear of IRS intrusion or retribution.

ADF has drafted a much more expansive letter and chart on this topic that is written for pastors and churches to give instruction on how the IRS interprets the rules on political involvement.³ I would encourage anyone who has questions to obtain a copy of this letter from our website at www.telladf.org/UserDocs/PastorsGuidelinesLetter.pdf . In addition, ADF is willing to discuss any specific questions with pastors and churches on this topic at no charge. If any church should receive a notice or warning from the IRS in connection with their advocacy on biblical issues or lobbying efforts – whether on this issue or any other issue – ADF will offer free representation to that church.

I hope this makes it clear that churches can be involved in your effortson this issue.

Sincerely,



Douglas H. Napier
Senior Legal Counsel

³ This letter takes a conservative approach by outlining the IRS’s interpretation of the rules. It is very likely that the rights and privileges of churches and pastors is actually more expansive and ADF is working to challenge the IRS’s narrow view on many of these issues. If you know of any situations where churches or pastors have been notified or warned by the IRS for possible violations for political involvement, please let us know so that we can evaluate that case.