

From: Lewis H. Moore
To: [Preston Doerflinger](#)
Subject: Fwd: Concern about display
Date: Tuesday, December 22, 2015 9:00:02 PM
Attachments: [Displays at the Capitol.docx](#)

Begin forwarded message:

From: "Lewis H. Moore" <lewis.moore@okhouse.gov>
Subject: **Concern about display**
Date: December 22, 2015 at 5:03:13 PM CST
To: preston.doerflinger@omea.ok.gov, Steven Mullins
<steve.mullins@gov.ok.gov>, Denise Northrup <denisenorthrup@cox.net>

Governor Fallin and Secretary Doerflinger,

We are writing to express our concern with the impending "installation" of a festus pole on capitol grounds and to request that you take immediate action to revoke the award of this display. There are sufficient reasons to reject this application with legal precedent as we will present.

On December 14th, your agency approved an application by Mr. Timothy "Chaz" Stevens for the "Installation of a Festus Pole in the rotunda."

Tim Stevens is a Floridian. He is a self-described "professional troublemaker." He is a prankster as promoted on his website: <https://www.myactsofsedition.com> and

"Fusion: Florida man plans to erect gay rights-themed Festus poles across America's state capitols"

State of Washington – "Erection 2015 Olympia, WA (State Capitol)

State of Michigan – "We're go for erection in Lansing, MI."

State of Florida – "We have GO FOR ERECTION in Tallahassee."

State of Illinois – "The 2015 Gay Pride Festus Pole is getting an Illinois stiffy."

What are the standards Oklahoma has for private displays? Can anyone put literally anything on display on the first floor that the executive branch will disallow? The promotion of Westboro Baptist Church personal attacks, Nazi, communist, racist, blasphemy, KKK, sexual or deviant behavior of any sort? Today the answer is yes. Some would argue there are more important issues to deal with today. We are spending hundreds of millions of dollars to upgrade the preservation of our symbol of state pride and yet we allow the desecration of our capitol and attack on the moral underpinnings of our culture.

It is our understanding that your executive team has several options to include these reasons to reject a private display:

1. The display is not in good taste.
 - a. We can't discriminate based on sex, religion, etc. but nothing prevents the state from rejecting this based on content of creating a non-holiday display as a holiday display. It's a joke being played on all Oklahomans' taxpayer time/ property by a non-Oklahoman. Without some limits on content we will open the door for years to come on things others consider a joke but likely not funny to others.
2. The display in question was not accurately described in the application.
 - a. The applicant is a non-citizen. Does the applicant have standing as a non-citizen?
 - i. Out of state citizens pay more in tuition.
 - ii. Contractors must be a U.S. citizen to work on state projects.
 - b. The original recorded display reservation by the Floridian applicant did not include a truthful account of display intent. To put in writing "Festus pole" as the description and then change the purpose to also celebrate gay rights as reported in the press is outside line of the terms and conditions of OMES / DCS rules that statute authorizes to govern the affairs of the first floor of the State Capitol. It should be rejected on this premise alone. OMES should remind their staff that non-elected officials entrusted to oversee the first floor activities are required to abide by policy laid out in the OMES/DCS rules concerning use of public space in the Capitol.
3. Political signs and banners of any kind are prohibited inside the capitol.
 - a. Political messaging is not allowed (Title 580:10-5-6 of Administrative Rules.)
 - b. State Statute 260: 60-3-3(a)
 - i. Reservation requests. All events, exhibits and art exhibits to be in the public areas of the Capitol or plazas, whether for a public or private purpose, require prior written approval of the Office.
 - ii. The application shall specify the desired date, time period, public use area, a description of the event or exhibit. The Office may request additional information as determined necessary to facilitate the reservation.
 - iii. The Office may impose conditions and time limitations pursuant to the rules of this subchapter and state law.
 - c. State Statute 260: 60-3-6-(a)(5)
 - i. Unless authorized in the reservation application, affixing banners, signs, or materials in

any manner on or in the Capitol or plazas, or to an appurtenance of the Capitol or plaza is prohibited. The Office may remove and dispose of, or cause to be removed and disposed of, the signs or banners without notice.

- d. State Statute 260:60-3-6(c)
 - i. Unauthorized events or activities. Sponsors shall confine events, exhibits and art exhibits to the purpose of the event specified in the reservation. Security personnel will be notified upon detection of unauthorized events or activities"

Upon submitting this application, Mr. Stevens, in Section C of the application, presumably attested to his understanding of the terms and conditions as explained on page 2 of the application form.

Notably, Paragraph 4 of the terms and conditions states "signs and banners of any kind are prohibited inside the capitol". Paragraph 4 originates from the provisions of Title 580:10-5-6 of Administrative Rules. The wisdom of this rule is clear: political messaging should not be attached to the taxpayer-funded Capitol building.

Additionally, Paragraph 4 declares "failure to comply may result in the termination of the reservation and discontinuance of the event or activity."

On December 17th, following your agency's award of this application, a report by the Associated Press detailed Mr. Stevens' display: "The 6-foot-pole is wrapped in the colors of the gay pride rainbow flag."

On December 7th, the Tallahassee Democrat published a photograph of Mr. Stevens' display. The photo clearly shows the pole with the banner attached. Please also see Mr. Stevens' website: myactsofsedition.com to further understand the intent and motivation of said applicant.

It's become clear that while your agency may have not foreseen the potential violation of Paragraph 4 and Title 580, this applicant clearly intends to install a festus pole inside of the capitol and affix a banner which many, if not all Oklahomans will understandably interpret as conveying a political message.

Based on this clear intent, we ask that you take immediate action to revoke your decision and to enforce the rules as agreed to by Mr. Stevens.

4. The display does not contribute to the celebration of an established religion.
5. The display may offend visitors and citizens of the State of Oklahoma.
6. The display maybe in violation of trademark or copyright laws.
 - a. [The State of Arkansas did not comply with this due to copyright concerns. Has OMES received approval that the copyright rights have been addressed by the out of state applicant?](#)
7. The display is in violation of the law.
8. The display is not a holiday themed item.
9. The First Amendment does not require the government to allow privately-owned permanent or seasonal displays in public.
10. The display is not permitted in allowable area for display.
 - a. [The First Amendment Protects the Right of Citizens, Civic Groups, and Churches to Erect Religious-Themed Holiday Displays in Public Areas where Private Non-Religious Holiday Displays are permitted.](#)

We know that Oklahomans will be appreciative of your decision to keep their taxpayer-funded Capitol building free of political messaging which many find offensive.

Additionally, we look forward to continuing this discussion and providing legislative oversight to the criteria by which the decisions are made.

This is a learning experience and we need to get better at handling these attacks.

We are supposed to be on the same team. How do we use times like these to bond instead of allowing opposition to wedge us?

Let's work together to make this a "Merry Christmas!"

Rep. Lewis Moore
Rep. Bobby Cleveland
Rep. Jason Nelson
Rep. John Bennett
Rep. Casey Murdock
Rep. Tommy Hardin
Rep. Rep. Charles McCall

Rep. Jason Murphey
Rep. Mark McCullough
Rep. Todd Russ
Rep. David Brumbaugh
Rep. Jon Echols
Rep. Sally Kern