



PINELLAS COUNTY CHAPTER OF THE
AMERICAN CIVIL LIBERTIES UNION

p.o. box 12372

st. petersburg, florida 33733

September 22, 2011

The Honorable Bill Foster
Office of the Mayor
175 5th Street North
St. Petersburg, FL 33701

Re: Sidewalk at BayWalk on the north side of Second Avenue North

Dear Mayor Foster:

I write in my capacity as the legal panel chair for the Pinellas Chapter of the American Civil Liberties Union concerning the sidewalk on the north side of Second Avenue North between First and Second Streets at the entrance to the BayWalk complex.

In October of 2009, the city council voted to cede this sidewalk to the owner of BayWalk for the express purpose of granting the owner the authority to exclude persons from the sidewalk, specifically persons exercising First Amendment free speech rights. It is our understanding that because the owner did not fulfill conditions precedent, this transfer of the sidewalk did not occur, and if such conditions are not fulfilled by the new owner by October 22, 2011, the sidewalk will remain as the property of the City.

While it is our hope that the sidewalk will remain public property where citizens can freely exercise their rights of expression, it is the position of the Pinellas ACLU that even if the sidewalk is transferred to private ownership, the sidewalk remains a public thoroughfare for all pedestrian traffic along the north side of Second Avenue North, and as such the sidewalk will continue to be a traditional public forum under the protections of the First Amendment, and that any attempt to restrict free speech rights in this forum, whether by public authority or private interests, creates a legal action for those persons so restricted that we are prepared to support. Please contact me at (727) 572-6666 or howie@brucehowie.com if you have any questions or comments on our position.

Sincerely,

Bruce G. Howie

cc: St. Petersburg Times