

IN THE
SUPREME COURT
OF THE UNITED STATES OF AMERICA

DOCKET NO. 09-232

THEODORA SPRINGFIELD,
PETITIONER,

v.

HUMANS AGAINST THE CONSUMPTION OF ANIMALS,
RESPONDENT.

ON WRIT OF CERTIORARI
TO THE
UNITED STATES COURT OF APPEALS FOR THE AMES CIRCUIT

JOINT APPENDIX

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- Any and all court filings, briefs, transcripts of proceedings, audio or video recordings of proceedings, attorney work product, or court records (except reported judicial decisions), or excerpts therefrom included in blogs, law review articles, or other secondary sources, from any case addressing the issues raised in this case.
- Any and all law review articles, bar journal articles, or similar publications that analyze the issues raised in this case and which are not yet publicly available through publication either in print, on Lexis or Westlaw, or on the Internet. In the event that a team or one of its members has already had access to such a publication, disclosure of the title and author of the publication and the circumstances in which it was accessed must be made to the Ames Moot Court Competition Case Writer, Minoti Patel, HLS '02, and to the opposing team. In such circumstances, arrangements will be made to afford the opposing team access to the publication in question, and both teams will be required to treat the publication in question as confidential unless the author or copyright owner of the publication agrees otherwise. Publications by practitioners and students are included in this prohibition; however, no team member is required to disclose his or her own related scholarship.
- If applicable, any studies or surveys beyond those explicitly included in the Record. Nor may any team member use any material external to the record to undermine, support, or elaborate on any studies or surveys referred to in the Record.

Promptly direct any questions about this policy for Off-Limits Materials to Minoti Patel at minotipatel@gmail.com.

**UNITED STATES DISTRICT COURT
DISTRICT OF AMES**

Humans Against the)	
Consumption of Animals,)	
)	
Plaintiff,)	
)	
v.)	Civ. No. 08-256
)	
Theodora Springfield,)	
in her Official Capacity,)	
)	
Defendant.)	
)	

COMPLAINT

Plaintiff Humans Against the Consumption of Animals, an Ames non-profit organization, brings this action under 42 U.S.C. § 1983 seeking declaratory and injunctive relief for violations of rights secured by the First and Fourteenth Amendments to the United States Constitution against Theodora Springfield, acting in her Official Capacity as Executive Director of the Department of Motor Vehicle Services for the State of Ames. Plaintiff challenges the constitutionality of the Ames Specialty License Plate Statute, as well as Defendant's implementation of that Statute.

JURISDICTION AND VENUE

1. This Court has subject-matter jurisdiction under 28 U.S.C. §§ 1331, 1343(a)(3) and 1343(a)(4).
2. This Court has authority to grant declaratory and injunctive relief under 28 U.S.C. §§ 2201 and 2202, Rules 57 and 65 of the Federal Rules of Civil Procedure, and the general legal and equitable powers of this Court.
3. Venue is proper in this Court under 28 U.S.C. § 1391(b).

PARTIES

4. Plaintiff Humans Against the Consumption of Animals ("HACA") is an Ames non-profit organization dedicated to charitable and educational purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code and the Ames Non-Profit Corporation Act. Plaintiff HACA is in good standing with the State of Ames and has

headquarters located at 450 Orchard Boulevard, Amestown, Ames. Plaintiff HACA's founder and legal representative is Jenny Carol Fisher ("Fisher"). Plaintiff HACA's main goal is to help individuals in Ames pursue a cruelty-free lifestyle by decreasing reliance on animal products for nutritional and other purposes. Through its website and outreach efforts, Plaintiff HACA provides information for vegans and the general public about the benefits of veganism to animals, the environment, and health. Plaintiff HACA's website, www.haca.org, serves as a practical resource for vegan recipes, health information, and volunteer opportunities. Plaintiff HACA coordinates volunteer activities at local animal shelters, produce markets, and health clinics and supervises affordable vegan food-cooperatives throughout the State of Ames. Plaintiff HACA currently has approximately 3,000 members residing in Ames and expects this number to grow as more individuals learn about the benefits of veganism. A copy of Plaintiff HACA's website homepage is attached hereto as Exhibit A. Pursuant to the Ames Non-Profit Corporation Act, Plaintiff HACA is empowered to sue when one or more of its members would otherwise have standing to sue in his or her own right.

5. Defendant Theodora Springfield ("Defendant Springfield") serves as the Executive Director of the Department of Motor Vehicle Services ("DMVS") for the State of Ames. In that capacity, she has the power and duty of administering the Motor Vehicle Code of Ames and promulgating rules and regulations as are necessary to carry out the Code. As part of her duties, she is responsible for the administration of all automobile registration license plates for Ames motorists. Ames Code Ann. §20-4-102. Defendant Springfield is being sued in her official capacity for actions taken under color of state law.

FACTUAL ALLEGATIONS

6. Motor vehicles registered in the State of Ames must bear license plates issued by the DMVS under the oversight and direction of Defendant Springfield. The standard motor-vehicle license plate is issued under Ames Stat. § 20-4-105 and costs \$15. The current standard plate depicts a magnolia tree – the state tree of Ames, on a white background, accompanied by the phrase www.travel2ames.com across the bottom of the plate. A copy of Ames Code Ann. § 20-4-100 et seq. is attached hereto as Exhibit B.

7. On November 12, 2003, Ames passed a statute, codified at Ames Code Ann. § 20-4-320 et seq. ("Specialty License Plate Act"), authorizing the Executive Director of the DMVS to issue specialty license plates on behalf of qualified non-profit organizations that fulfill the requirements of an application process that is not specifically detailed in the statute. The purpose of the statute is to provide non-profit organizations registered in Ames with an opportunity to raise awareness about their cause and funds for their "charitable contributions" through the sale of specialty license plates bearing the "organization's name, identifying phrase, or graphic." Ames Code Ann. §§ 20-4-321. Specialty license plates also provide Ames motorists, regardless of their affiliation, an outlet (i.e., their license plate) to express their allegiance to a sponsoring non-profit organization's purpose or charitable works. A copy of the Specialty License Plate Act is attached hereto as Exhibit C.

8. According to the statute, a Specialty License Plate Review Committee of at least five individuals appointed by the Secretary of State of Ames must review each non-profit organization's application. Once the Specialty License Plate Review Committee accepts an application, final approval of a non-profit organization's request is to be made by the Executive Director of the DMVS.
9. The Specialty License Plate Act provides that a portion of the proceeds from the purchase of specialty license plates will benefit the sponsoring non-profit organizations. Each specialty plate is to be sold for \$40, \$20 of which will be paid to the sponsoring non-profit organization for use for activities that "improve, inform, or educate the Ames community." Ames Code Ann. § 20-4-329.
10. The DMVS advertises the availability of the Specialty License Plate Program through a variety of means, including *inter alia* through its website as well as leaflets containing the same information available at local DMVS offices throughout the state. In her message, Director Springfield specifically states that the Program will give motorists the "chance to support their special interests." A copy of Director Springfield's message regarding the Specialty License Plate Program for non-profit organizations from the DMVS website is attached hereto as Exhibit D.
11. The statute allows the Director of the DMVS to issue "guidelines" for the Specialty License Plate Program. The statute fixes cursory standards by which access to a new specialty license plate for a non-profit organization is determined. No statutory provision requires either the Committee or the Executive Director to provide review in the event that a non-profit organization's application is denied.
12. On December 1, 2003, the DMVS issued a Policy for the Specialty License Plate Program for Non-Profit Organizations ("Policy"). A copy of the Policy can be accessed on the DMVS website and is attached hereto as Exhibit E. The Policy states that an organization qualifies for the program if it provides "service to the community, which results in a contribution to the welfare of others."
13. According to the Policy, after the Committee reviews an application, the Committee will recommend whether the application should be granted or denied. The Executive Director of the DMVS has final say regarding whether a specialty license plate may be issued. The Executive Director therefore has exclusive control over which non-profit organizations, and therefore which non-profit organizations' messages, have access to the Specialty License Plate Program.
14. Plaintiff HACA, through its representative Jenny Fisher, filed a specialty license plate application with the DMVS for a license plate with the phrase "Meat is Murder" on January 25, 2008. This message was chosen by Plaintiff HACA as a symbol of its members' commitment to not using animal products for nutritional or personal purposes. A copy of the application form filed by Fisher on behalf of Plaintiff HACA is attached hereto as Exhibit F.

15. Upon information and belief, Plaintiff HACA complied with all of the requirements of the Specialty License Plate Program as outlined in the application and the Policy and had obtained the names and addresses of at least 500 Ames motorists interested in purchasing a "Meat Is Murder" specialty license plate.

16. Plaintiff HACA was informed on February 28, 2008 by a letter from Defendant Springfield that its specialty license plate application was denied. No review process for this decision was noted in the letter. The only justification for the rejection was that Plaintiff HACA's proposed specialty license plate might be "considered potentially offensive, controversial, or inappropriate to the public." Director Springfield's letter is attached hereto as Exhibit G.

17. Upon information and belief, prior to Plaintiff HACA's application in February, 2008, non-profit organizations such as the Ames Dairy Farmers Association ("ADFA") and the Ames Fisheries Foundation ("AFF") have successfully obtained specialty plates via the Specialty License Plate Program. The ADFA's license plate contains the phrase "Celebrating 300 Years of Dairy Farming" along with a picture of a cow on the left-hand side of the plate. Proceeds from the sale of this plate are to be used by the ADFA to help fund free milk programs in Ames public elementary schools. The AFF's license plate contains the phrase "Eat Fish for a Healthy ♥." Proceeds from the sale of this license plate are used for television and print advertisement encouraging the consumption of fish raised locally within the state as a healthy food option. The specialty license plates of these organizations are attached hereto as Exhibits H and I. The names of the organizations are not listed on either specialty license plate.

18. A complete list of the non-profit organizations whose applications have been approved under the Specialty License Plate Program as of January 1, 2008, as well as the names and proposed messages of non-profit organizations whose applications have been denied under the Program, is attached hereto as Exhibit J. Upon information and belief, the Executive Director continues to review and approve the specialty license plate applications of other non-profit organizations.

19. In a March 2, 2008 article posted on AmesNews.com regarding the Specialty License Plate Program, Defendant Springfield stated that she "would not approve a specialty license plate that supported alternative lifestyle choices" because she "believe[s] that wouldn't be the wish of the majority of Ames residents." When asked specifically whether she thought veganism was an acceptable lifestyle choice, Defendant Springfield replied, "There's nothing wrong with veganism per se. But yes, it is different from what I would say is normal. The real problem with the license plate message HACA wanted was that it was just too aggressive and would rub people the wrong way. People do not want to read moral judgments on license plates just because they like eating cheeseburgers. I think the group could conceivably have come up with a different, more acceptable message." A copy of the article in which Defendant Springfield and Fisher are quoted is attached hereto as Exhibit K.

20. The proliferation of motor vehicles and of available specialty license plates demonstrates that the state of Ames intended to create a public speech forum. However, because of Defendant Springfield's well-publicized views on veganism, Plaintiff HACA has no reasonable way to express its chosen message through the Specialty License Plate Program. Plaintiff HACA is especially aggrieved by the denial of its application by Defendant Springfield because the Specialty License Plate Act does not have a review process through which Plaintiff HACA, or any other similarly situated non-profit organization, can challenge the Act.

21. The challenged statute infringes upon Plaintiff's exercise of free speech in violation of the First Amendment and constitutes impermissible viewpoint discrimination. The protected speech at issue in this litigation involves plaintiff organization's pro-vegan views, as encompassed by HACA's slogan, "Meat is Murder." Specifically, Plaintiff's injuries arise from Defendant Springfield's rejection of Plaintiff's desire to express its message in a forum specifically created to display messages from non-profit organizations.

22. The challenged statute also violates the protections accorded to Plaintiff by the Equal Protection Clause because it permits viewpoint discrimination in the issuance of special license plates, a State-created forum for private speech, at the unbridled discretion of the Executive Director of the DMVS and places an unequal burden on organizations whose messages are not considered mainstream. HACA suffers direct harm from the Defendant Springfield's standardless discretion because it (a) cannot receive funds generated from the sale of specialty license plates, (b) cannot benefit from the advertising and marketing exposure generated by the appearance on the plate of recognizable logos, pictures, or messages, and (c) cannot provide members of HACA with an outlet (i.e., license plates) to express their views in a forum open to other viewpoints.

FIRST CAUSE OF ACTION: VIOLATION OF THE RIGHT TO FREEDOM OF SPEECH UNDER THE UNITED STATES CONSTITUTION

23. HACA re-alleges and incorporates herein, as though fully set forth herein, all previous paragraphs of this Verified Complaint and does further allege as follows:

24. The Free Speech Clause of the First Amendment to the U.S. Constitution provides that "Congress shall make no law ... abridging the freedom of speech." The Free Speech Clause applies with full force and effect to the acts of state officials under the Fourteenth Amendment's Due Process Clause.

25. To the extent that the Specialty License Plate Program has created a private speech forum within the State of Ames, Defendant Springfield's refusal to grant HACA's application violates the Free Speech Clause by privileging the expression of non-vegan beliefs and, therefore, discriminating on the basis of viewpoint. The Act allows Defendant Springfield, acting on behalf of the state of Ames, to privilege the expression of viewpoints supported by Springfield, such as those listed in Exhibit I, without providing a materially equivalent opportunity for the expression of legitimate, differing

viewpoints.

26. As evidenced by previously approved specialty license plates, other non-profit organizations have been allowed to express their chosen messages via slogans, advocacy phrases, commonly used phrases names, and/or other identifiers under the Specialty License Plate Act.
27. The government may not exclude protected speech in a state-created private speech forum on the basis of its content, absent a compelling governmental interest. Defendant Springfield has failed to identify a compelling government interest to justify excluding HACA's application.
28. Defendant Springfield denied Plaintiff HACA's plate application solely based upon her disagreement with the viewpoint expressed by the plate. Nothing in the statute prevents Defendant from exercising this type of reckless judgment. Defendant Springfield engaged in content-based and viewpoint-based discrimination and the exercise of unbridled discretion during the course of review and ultimate denial of HACA's requested plate.
29. The lack of reasonable standards supports Plaintiff HACA's facial constitutional challenge to the Specialty License Plate Act.
30. In privileging the messages and viewpoints of other non-profit organizations over Plaintiff's HACA's message and viewpoint under the Specialty License Plate Program, Defendant has violated Plaintiff HACA's First Amendment rights.
31. Defendant Springfield's arbitrary denial of access to the forum created by the Specialty License Plate Program chills the exercise of First Amendment rights by other non-profit organizations seeking their own specialty license plates through the Program.
32. Unless and until Defendant Springfield is enjoined from discriminating against the Plaintiff HACA's speech, as manifested by the rejection of the organization's requested specialty plate, Plaintiff HACA will continue to suffer irreparable harm to its constitutional rights.
33. Unless and until Defendant Springfield ceases unlawful discrimination against Plaintiff HACA's speech, Plaintiff HACA will suffer the loss of funding it would otherwise have obtained from the sale of its specialty license plate.
34. Therefore, Defendant Springfield's failure to approve Plaintiff HACA's requested specialty license plate violates the Free Speech Clause of the First Amendment to the United States Constitution.

SECOND CAUSE OF ACTION: VIOLATION OF THE RIGHT TO EQUAL PROTECTION UNDER THE UNITED STATES CONSTITUTION

35. HACA re-alleges and incorporates herein, as though fully set forth herein, all previous paragraphs of this Verified Complaint and does further allege as follows:

36. The Specialty License Plate Program violates the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution and 42 U.S.C §1983 because it allows for, and in fact has resulted in, impermissible viewpoint discrimination among otherwise similarly-situated non-profit organizations in permitting access to a State-created speech forum. The Equal Protection Clause requires that the government treat equally all persons similarly situated.

37. The Act and its attendant Policy is not narrowly drawn to achieve a compelling or any other governmental interest in allowing certain Ames non-profit organizations to express themselves on special license plates and refusing to allow other Ames non-profit organizations to do the same. Defendant Springfield has failed to articulate a compelling governmental interest to justify disparate treatment of Plaintiff HACA under the Specialty License Plate Program.

38. Defendant Springfield has allowed other similarly situated, non-profit organizations to participate in the Specialty License Plate Program using names and logotypes that include slogans, mottos, symbols, advocacy messages, phrases, and other similar identifiers. In privileging the messages and viewpoints of other non-profit organizations over Plaintiff HACA's message and viewpoint under the Specialty License Plate Program, Defendant has violated Plaintiff HACA's Equal Protection Rights.

39. Defendant Springfield has granted specialty license plate applications to other non-profit organizations in an *ad hoc* and arbitrary manner.

40. Defendant Springfield denied Plaintiff HACA similar access to the Specialty License Plate Program because of the content and viewpoint of its speech, which violates the Equal Protection Clause. By denying Plaintiff HACA's application, Defendant Springfield either engaged in, or facilitated, content-based and viewpoint-based discrimination.

41. Defendant Springfield exercised unfettered discretion and relied on vague and overbroad policies when she refused to approve Plaintiff HACA's requested specialty license plate.

42. Plaintiff HACA has suffered irreparable harm as a result of Defendants' refusal to approve its requested plate. Specifically, Plaintiff HACA has been unable to make use of a public forum to disseminate its message of "Meat Is Murder" and has lost funds it would potentially have received from the sale of specialty license plates.

43. Unless and until Defendant Springfield is enjoined from discriminating against

the Plaintiff HACA's message, as is manifested by the rejection of the organization's requested specialty plate, Plaintiff HACA will continue to suffer irreparable harm to its constitutional rights.

44. Unless and until Defendant Springfield ceases unlawful discrimination against Plaintiff HACA's speech, Plaintiff HACA will suffer the loss of funding it would otherwise have obtained from the sale of its specialty license plate.

45. Therefore, Defendant Springfield's failure to approve HACA's requested specialty license plate violates the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.

WHEREFORE, Plaintiff prays for the following relief:

A. Issuance of a declaratory judgment declaring that defendant Springfield's process, scheme and system for awarding, approving, creating, and distributing specialty license plates violates the First and Fourteenth Amendments to the United States Constitution, and the Civil Rights Act, 42 U.S.C. §1983;

B. Issuance of a temporary restraining order, preliminary injunction, and permanent injunction, enjoining and restraining Defendant, Theodora Springfield, acting in her Official Capacity as Executive Director for the Department of Motor Vehicle Services, and all those in active concert or participation with her, from awarding, approving, creating, or distributing any new specialty license plates absent a viewpoint-neutral and content-neutral set of guides, criteria, and standards for obtaining specialty plates, administered in an objective, neutral fashion, and in which individual decisions would be explained in writing, based on objective grounds rationally related to legitimate governmental concerns, and subject to appropriate judicial review;

C. Issuance of similar equitable relief tailored to prevent the renewal or extension of existing specialty license plates, expressing a favored viewpoint, as approved by the current constitutionally tainted, discriminatory system;

D. An award of attorneys fees, costs, and expenses, pursuant to 42 U.S.C. §1988, and any other applicable law; and

E. Such other relief as the Court may deem just and proper upon these premises in accordance with law.

Dated: April 1, 2008

Respectfully submitted,

Lisa H. Simpson

Lisa H. Simpson
Attorney for Plaintiff HACA
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Suite 300
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Exhibit A

HUMANS AGAINST the CONSUMPTION of ANIMALS

For the Animals.
For the Environment.
For Your Health.

What is a Vegan? A **vegan** (pronounced VEE-gun) is someone who chooses to avoid using or consuming animal products for a variety of spiritual, ethical, moral, and health-conscious reasons. While vegetarians choose not to eat flesh foods, vegans also avoid dairy and eggs, as well as fur, leather, wool, down, and cosmetics or chemical products tested on animals.

Why Veganism? Veganism is an essential component of a cruelty-free lifestyle. Living vegan provides numerous benefits to animals' lives, to the environment, and to our own health. Put simply, we believe "Meat is Murder" and that we are all better off not abusing God's creatures.

WEEKLY HEALTH TIP

The incidence of Diabetes is growing in American and is a serious health issue for both vegans and non-vegans. Please share the information below with your non-vegan friends and family and urge them to check their blood sugar levels at the health fair co-sponsored by HACA on May 5 at the Amestown Community Clinic.

Top Vegan Friendly Foods To Help Control Blood Sugar

- 1. Almonds:** Almonds are bulky and filling, so you feel that you are getting some substance without the spike in blood sugar.
- 2. Quinoa:** Although quinoa looks like a grain, it's actually the seed of a green leafy plant.
- 3. Millet:** This is rich both in fiber, which makes your stomach feel full longer, and in protein, which keeps your blood sugar even, although it has the texture of a carbohydrate.
- 4. Hummus:** Because hummus is packed with protein, it fills you up, but again without any blood sugar spiking.
- 5. Avocado:** Avocados offer a range of nutrients and help you absorb other nutrients more effectively.
- 6. Lentils:** Lentils are nutritious, flavorful, and are easy to prepare. Lentils, like beans, are a good source of protein. Lentils also provide calcium and phosphorus, vitamin B and iron.
- 7. Walnuts:** Walnuts are a great snack food that will fill you up and help you to feel less hungry.

Our Mission

HACA is a non-profit organization dedicated to educating the residents of Ames about the benefits of a vegan, cruelty-free lifestyle. We also hope to provide a meaningful community for vegans living in Ames, both new and old. Regardless of whether you wish to embrace veganism, everyone can learn something valuable from HACA and our ultimate goal is to improve the quality of life for all!

Our Board

Learn More: Religion,
Spirituality and Veganism

Vegan Recipes

Vegan Friendly in Ames

Restaurants

Clothing

Beauty Products

Monthly Vegan Mingles

Meet like-minded neighbors every Tuesday of the Month at 6 pm at the Vegan Paradise Restaurant at Deer Crossing Shopping Pavilion in Amestown. Members will engage in Buddhist meditation following dinner.

Volunteer

HACA organizes various community services projects throughout Ames with animal shelters, local farmers, and health clinics. Please send an email to Phil Stone for more information on upcoming events.

Membership Information

Contact Us

Exhibit B

Ames Code Ann., § 20-4-100

TITLE 20 MOTOR VEHICLES
CHAPTER 4 CERTIFICATES OF TITLE, REGISTRATION, AND
TAXATION OF MOTOR VEHICLES
PART 1 REGISTRATION

Ames Code Ann., § 20-4-100 (2009)

20-4-100. Short title. This section may be cited as the "Motor Vehicle Licensing Act."

20-4-101. Purpose. A system of licensing is required by the State to identify motor vehicles and drivers. When registering a motor vehicle in Ames, a person is entitled to a set of registration plates to affix to his or her vehicle, bearing the numbers or numbers and letters that have been assigned by the Department of Motor Vehicle Services. License plates are the primary method law enforcement officials use to track individuals.

20-4-102. Administering and enforcing laws. The Executive Director of the Department of Motor Vehicle Services is hereby vested with the power and is charged with the duty of administering and enforcing the provisions of this Article and of all laws regulating the operation of vehicles or the use of the highways, the enforcement or administration of which is now or hereafter vested in the Department of Motor Vehicle Services.

20-4-103. Registration. The Department upon registering a vehicle shall issue to the owner one registration plate for a motorcycle, trailer or semitrailer and two for every other motor vehicle. Registration plates issued by the Department under this Article shall be and remain the property of the State, and it shall be lawful for the Executive Director or her duly authorized agents to summarily take possession of any plate or plates which she has reason to believe is being illegally used, and to keep in her possession such plate or plates pending investigation and legal disposition of the same. Whenever the Executive Director finds that any registration plate issued for any vehicle pursuant to the provisions of this Chapter has become illegible or is in such a condition that the numbers thereon may not be readily distinguished, she may require that such registration plate, and its companion when there are two registration plates, be surrendered to the Division. When said registration plate or plates are so surrendered to the Division, a new registration plate or plates shall be issued in lieu thereof without charge. Every license plate shall have displayed upon it the registration number assigned to the vehicle for which it is issued, the name of the State of Ames, and the year number for which it is issued or the date of expiration. Such registration plate and the required numerals thereon, except the year number for which

Exhibit B

issued, shall be of sufficient size to be plainly readable from a distance of 100 feet during daylight. Registration plates issued for a motor vehicle other than a motorcycle, trailer, or semitrailer shall be attached thereto, one in the front and the other in the rear.

20-4-104. Issuance of Plates and Certificates. All registration plates, registration certificates, and certificates of title shall be issued through the employees of the Department.

20-4-105. Standard License Plate. From January 1, 2005 through December 31, 2010, the standard motor vehicle license plate issued under this section shall cost \$15. The standard motor vehicle license plate shall depict a magnolia tree, the state tree of Ames, on a white background, accompanied by the phrase www.travel2ames.com at the bottom of the plate. The website www.travel2ames.com is run by the Tourism Board for the State of Ames, a government agency whose purpose is to increase tourism revenue for the State.

EXHIBIT C

Ames Code Ann., § 20-4-320

TITLE 20 MOTOR VEHICLES
CHAPTER 4 CERTIFICATES OF TITLE, REGISTRATION, AND TAXATION OF
MOTOR VEHICLES
PART 4 SPECIAL REGISTRATION

Ames Code Ann., § 20-4-320 (2009)

20-4-320. Short title. Sections 20-4-320 through 20-4-329 may be cited as the "Ames Specialty License Plate Act."

20-4-321. Purpose of Ames Specialty License Plate Act. This Act provides non-profit organizations an opportunity to apply to sponsor a specialty license plate through the Ames Department of Motor Vehicle Services ("DMVS"). The purpose of the specialty plates is to raise awareness of a qualifying non-profit organization's mission and to raise funds for their charitable contributions to the Ames community by allowing a non-profit organization to design a representative license plate bearing the organization's name, identifying phrase, or graphic. The organization's name, identifying phrase, or graphic can be used on a specialty license plate to express the sponsoring non-profit organization's message. Any motorist in Ames may purchase a specialty plate issued under this Act, regardless of whether he or she is affiliated with the non-profit organization's sponsoring the license plate.

20-4-322. Implementation of the Act. The Secretary of State of Ames will appoint a Specialty License Plate Review Committee of at least five members of the State Legislature to assist the Executive Director of the DMVS in carrying out the purpose of this Act. In recognition of the Executive Director's superior expertise in license plate administration, the Executive Director shall have final approval over all specialty license plate applications under this Act. In addition, the Executive Director will approve a set of guidelines and application form for non-profit organizations seeking a specialty license plate that complies with all sections of this Act.

20-4-323. Qualifying Non-Profit Organizations. To qualify under the Specialty License Plate Act, a non-profit organization must demonstrate the following:

- (1) The organization has tax-exempt status with the Internal Revenue Service as a 501(c)(3), 501(c)(7), or 501(c)(8) organization.
- (2) The organization's headquarters or base of operations is in Ames or, if the organization is a chapter or branch of an international, national, or regional organization, the chapter or branch located in Ames is in good standing and has authorization in writing from the

EXHIBIT C

parent organization to use the name and graphic of the parent organization.

- (3) The primary purpose of the organization is service to the Ames community through specific programs that promote improving public health, education, or general welfare.
- (4) The organization does not promote any goals or objectives that are contrary to the public policy of the State of Ames.

20-4-324 Application Process. To apply for a specialty license plate an organization shall:

- (1) Designate one of its members as the organization specialty license plate liaison. The liaison is responsible for all communications with the DMVS regarding the organization's application for a specialty license plate
- (2) Complete an application form as prescribed by the DMVS.
- (3) Provide examples on how the funds raised by the sale of the specialty plate will be used to improve public health, education, or general welfare within the State of Ames.
- (4) Submit a proposed design for the specialty license plate.
- (5) Certify that the organization has collected the names of 500 motorists in the State of Ames who would purchase the organization's proposed specialty license plate.
- (6) Submit a plan to market the sale of the special license plate.
- (7) Submit an application fee, not to exceed five thousand dollars, to defray the DMVS's costs for issuing, developing and programming the implementation of the specialty plate, if authorized.

20-4-325. Specialty License Plate Design. The proposed license plate design must contain the following:

- (1) The organization's name, identifying phrase, or graphic that will be placed on the specialty license plate,
- (2) The organization's name, identifying phrase, or graphic must not:
 - a. invoke connotations offensive to good taste and decency;
 - b. promote, advertise, or endorse a product, brand, or service provided for sale;
 - c. promote any particular religious beliefs;
 - d. infringe or otherwise violate a trademark, trade name, service mark, copyright, or other proprietary or property right; or
 - e. obscure the generic specialty license plate letters or numbers that the department assigns to each license plate issued in Ames.

All sponsor names, identifying phrases, and graphics intended for use on specialty license plates must be approved by the Committee and the Executive Director prior to the manufacture of the plates. The application may require a statement under oath from the organization representative that the organization is authorized to use the name, identifying phrase, and graphic submitted for display on a generic specialty license plate and that no infringement or violation

EXHIBIT C

of any property right exists, together with an agreement to defend and hold harmless the state of Ames, its employees, or its agents for any liability as a result of an infringement or violation of any property right.

20-4-326. Procedure for Approval. After the DMVS receives an application and conducts an initial screening to ensure adherence to applicable DMVS rules and regulations, the DMVS will forward the application to the Committee for review.

- (1) The Committee must ensure that the proposed design meets all of the agency's design specifications, including that the plate design not include slogans, names, or other text, unless the text appears within the sponsoring organization's emblem, seal, logo, or other representative symbol. Furthermore, the Committee must deem the design appropriate as representing the State's best interests. This requires, at the least, that the proposed specialty license plate may not be offensive and must meet community standards of propriety. See 20-4-327. The Committee has 60 days from the date it receives an application to make its decision.
- (2) The Committee can approve or reject a non-profit organization's application.
- (3) If the Committee rejects the application, it must notify the non-profit organization within 10 days of reaching its decision. The letter must identify one of the reasons listed in 20-4-327(1-11) for the rejection.
- (4) If the Committee approves the application, it forwards its recommendation for approval to the Executive Director who must also review and approve the application. The Executive Director has 10 days from the date it receives the Committee's approval of an application to make her decision.
 - a. If the Executive Director rejects the application, she must notify the non-profit organization within 5 days of her decision by letter. The letter must identify one of the reasons listed in 20-4-327(1-11) for the rejection.
 - b. If the Executive Director approves the application, she will notify the non-profit organization within 5 days of her decision by letter.
 - c. Once a non-profit organization receives an approval notice from the Executive Director, the organization will work with the DMVS on a final specialty license plate design to be produced by the DMVS.

20-4-327. Reasons for denying application. Designs displayed on state license plates are approved by the State and all license plates issued by the DMVS are the sole responsibility of the State. While the DMVS can be flexible in considering a range of potential specialty license plates, the public must also be protected from state action that might be construed as using taxpayer-generated funding to create messages or impressions that are not appropriate for a governmental entity.

Application by a non-profit organization for a special plate can be denied for the following reasons:

- (1) Low projected sales or lack of statewide appeal

EXHIBIT C

- (2) Controversial, or litigations in other states,
- (3) Considered not to be cost beneficial to the state,
- (4) Partisan or misrepresentation concerns,
- (5) Design considered potentially offensive, controversial, or inappropriate to the public,
- (6) Design conveys a religious, faith-based, or anti-religious message,
- (7) Design will substantially interfere with plate identification for law enforcement purposes,
- (8) Similar plate/design already exists,
- (9) Proliferation of specialty plates, workloads and costs to the state,
- (10) Design promotes, advertises, or endorses a specific product, brand name, or service that is offered for profit or is discriminatory.
- (11) Use of funds considered controversial or in violation of statute/constitution

20-4-328. Responsibility for design of specialty license plates -- numbering -- rulemaking -- approval -- registration decal -- listing of plate sponsors.

- (1) The DMVS shall adopt rules that prescribe:
 - a. the minimum and maximum number of characters that a specialty license plate may display;
 - b. the general placement of the sponsor's name, identifying phrase, or graphic; and
 - c. any specifications or limitations on the use or choice of color or detail in the sponsor's graphic design.
- (2) The DMVS shall maintain a list of the non-profit organizations that have been approved to promote the sale and issuance of specialty license plates, the initial distribution date for sale of each sponsored generic specialty license plate, and the donation fee established by the sponsor for each sponsored generic specialty license plate. The department shall, upon request, make copies of this list available to interested members of the public.
- (3) The DMVS may, in its discretion, revoke its previous approval of a non-profit organization's specialty license plate sponsorship if:
 - a. the non-profit organization fails to comply with any of the provisions in this Act.
 - b. fewer than 500 sets of a sponsor's specialty license plate have been sold or renewed in the 12-month period immediately preceding the third anniversary of the date of initial distribution of the sponsored generic specialty license plate; or
 - c. the department has reliable information that the sponsor is no longer qualified for sponsorship under the Act.
- (4) Upon revocation of a sponsor's specialty license plate sponsorship status, the issuance and sale of the sponsor's specialty license plates must be terminated.
 - a. A person who owns a motor vehicle displaying valid specialty license plates affiliated with a sponsor whose sponsorship status has been revoked may continue to display those generic specialty

EXHIBIT C

license plates on the person's motor vehicle if the motor vehicle's registration is properly renewed in subsequent years and the plates remain legible.

- b. Following revocation of a sponsor's sponsorship status, the DMVS may not issue replacements or duplicates of generic specialty license plates affiliated with that sponsor if the license plates are destroyed or mutilated.

20-4-329. Fees for specialty license plates -- disposition. Each specialty license plate is to be sold for \$40. The non-profit organization receives \$20 for each plate sold to be placed in a fund for use in activities that improve, inform, or educate the Ames community. The DMVS will retain \$5 of each purchase price for the administration of the Specialty License Plate Program. The non-profit organization shall provide a yearly report to the DMVS and the State Legislature regarding its use of funds for projects beneficial to the state.

Ames Department of Motor Vehicle Services

DMVS announces specialty license plate for non-profit organizations

December 1, 2003

Message from Executive Director Theodora Springfield

Pursuant to the Specialty License Plate Act passed by the Ames State Legislature, the DMVS is pleased to announce that established non-profit organizations may request a specialty license plate to promote and raise funds for their programs dedicated to improving public health, education, or general welfare in Ames. Interested non-profit organizations should review the Policy on the Specialty License Plate Program which can be accessed on the DMVS website or obtained at a local DMVS office. All interested groups are welcome to fill out an application.

Please note the restrictions to the program as outlined in the Policy. The DMVS and the State Legislature maintain exclusive control over all license plates in Ames.

The DMVS looks forward to working with your non-profit organization in the near future and giving motorists this chance to support their special interests. Together, the DMVS and local organizations can improve the lives of all Ames residents!

Applying for New Specialty License Plates

Please click [here](#) to access the Policy on Specialty License Plates for Non-Profit Organizations and Application Form. Please call the DMVS with any questions at (444)-613-3999.

Recycling Old License Plates

After you receive a new license plate, your old plate is no longer valid. License plates are made of aluminum and can be brought to your local DMVS office for recycling.

**SPECIALTY LICENSE PLATE
Policy for the State of Ames
Department of Motor Vehicle Services
Issued December 1, 2003**

PURPOSE OF POLICY

The purpose of this policy is to outline the procedures for the Ames Specialty License Plate Program. The Program gives interested and qualified non-profit organizations that provide a substantial benefit to the residents of Ames an opportunity to help their members purchase a uniquely designed license plate. Proceeds from plate sales go directly to the organizations' activities that improve public health, education, or general welfare for Ames residents.

All organizations requesting specialty license plates must follow this policy.

Organizations requesting information should be given this policy.

The Executive Director of the DMVS reserves the right to make content-based decisions regarding any non-profit organization's proposed message. All specialty license plate designs must reflect the state's best interests.

SECTION I: DEFINITIONS

Applicable non-profit organization: Non-profit organization currently classified as a 501(c)(3), 501(c)(6), 501(c)(7), or 501(c)(8) organizations under Federal Internal Revenue Code guidelines as evidenced by documentation from the Internal Revenue Service (IRS).

501(c)(3): Tax exempt status granted under Federal Internal Revenue Code to organizations commonly referred to as charitable organizations.

501(c)(6): Tax exempt status granted under Federal Internal Revenue Code to business league, board of trade and chamber of commerce organization.

501(c)(7): Tax exempt status granted under Federal Internal Revenue Code to social clubs organized for pleasure, recreation, and other similar non-profitable purposes and substantially all of their activities must be for these purposes.

501(c)(8): Tax exempt status granted under Federal Internal Revenue Code to Fraternal Organizations.

Plate Text: Sequence of letters and numbers uniquely identifying each license plate.

Sponsoring Organization: Organization sponsoring the plate production. Applications must be submitted in the sponsoring organization's name.

Sponsoring Organization Agent: A sponsoring organization can designate one agent or agent organization that is authorized to act on the organization's behalf and to serve as intermediary between the sponsoring organization and the DMVS. The sponsoring organization can also designate that the Department distribute proceeds of the plate to the agent.

SECTION II: PURPOSE/BACKGROUND

Non-profit organizations meeting the requirements of Ames Code Ann. § 20-4-320 can apply directly to the DMVS for a specialty license plate.

Ames Code Ann. §§ 20-4-324 prescribes the process for application for specialty motor vehicle license plates by qualified non-profit organizations.

Organizations applying for approval of a specialized plate must meet all application requirements established under this policy before the DMVS will consider the proposed license plate design. Qualified non-profit organizations must not discriminate for any reason, including, but not limited to, race, marital status, gender, religion, national origin, handicap or age.

Requested plates may have imprinted on the plate the logo, catchphrase, emblem, a seal, or other symbol of applicable organizations that the DMVS considers representative of the organization. It is the intent of the DMVS to ensure that all designs submitted for consideration are not offensive and meet community standards of propriety. *Designs displayed on state license plates are approved by the State for display to all audiences on the public highways and are the sole responsibility of the State.* While the Department can be flexible in considering a range of potential specialty license plates, *the public must also be protected from state action that might be construed as using taxpayer-generated funding to create messages or impressions that are not appropriate for a governmental entity.*

This policy is also intended to protect the DMVS, as a public entity acting on behalf of all the citizens, from allegations that it improperly sponsored partisan messages, divisive positions, or inappropriate language or designs. To that end the DMVS will employ criteria published in this policy during its design review process.

SECTION III: GUIDELINES

A. Application for Design Approval

1. All Applications for organization plates. In order to request approval for a specialty plate governed under this policy, the sponsoring organization must provide the following to the DMVS:

- a. An Application for Approval of Specialty Plate (Form MV-45) completed in the name of the sponsoring organization, along with an authorized contact within the sponsoring organization.
- b. Written certification that sponsoring organization has the use of any copyrighted or registered logo, trademark, or design to be used on the plate.
- c. License plate artwork for the design of the plate must be attached to the application. Artwork for plate design must meet all specifications set forth in Section III.B.2. below.
- d. A marketing plan that includes target audience, media to be used, and text of media messages.
- e. The sponsoring organization must certify that it has collected the names of 500 Ames motorists interested in purchasing the proposed specialty license plate.
- f. Non-profit organizations applying for a special plate under the Specialty License Plate Act are authorized to assess a special plate fee of \$20 in addition to the regular plate fee. Organizations must specify on the application form how the fee will be used or distributed for the benefit of Ames residents.
 - All non-profit organizations should be aware that a portion of the total specialty license plate fee will be retained by the DMVS to defray the expenses of producing and administering special license plates.
 - The DMVS will disburse funds collected from the special fee directly to the sponsoring organization or its designated agent. It is the sponsoring organization's or agent's responsibility to ensure the funds are used properly.

B. Design Review Process

1. Specialty License Plate Review Committee

- a. The Ames Secretary of State will appoint a Specialty License Plate Review Committee to consist of no fewer than five members of the Ames State Legislature.
- b. The Committee is charged with the following functions:
 - Receive and review all applications from organizations for special plate designs;
 - Handle all correspondence with organizations requesting a special plate;
 - Make recommendations to the Executive Director on approval or rejection of all plate designs.
- c. The Executive Director has final decision-making authority on all plate designs.

2. General Requirements for Organizational Plates

a. Plate Specifications

- Organizational plate designs may include only an emblem, a seal, logo, or other symbol representative of the sponsoring organization that the DMVS deems appropriate.

- The name of the sponsoring organization may appear as part of the plate design.
- Plate designs may not include slogans or other text, except if such text appears within the sponsoring organization's emblem, seal, logo, or other representative symbol, or unless a specific text is authorized by the Executive Director.
- The organization's emblem, seal, logo, catchphrase or other representative symbol must be confined to the area specified on the plate design template provided by the Department. The template currently provides that an applicant may place organization specific designs across the bottom of the plate or along the left-hand side of the plate.
- In order to maintain consistency among special plates and to facilitate law enforcement the word "AMES" must be located above the plate numbers as part of the plate design. The plate prefix and plate text must be displayed in black.

b. Use of design

If the design uses any copyrighted or registered logo, trademark, or design, the organization must certify that it is authorized to use the name, identifying phrase, and/or graphic submitted for display on the proposed specialty license plate and that no infringement or violation of any property right exists. The organization must agree to defend and hold harmless the state of Ames, its employees, or its agents for any liability as a result of an infringement or violation of any property right.

- The background of submitted designs must contrast sufficiently with the plate number text so that law enforcement can easily read the plate.
- Designs must follow guidelines established within this policy.

3. Design Criteria

It is the intent of the DMVS to ensure that all designs submitted for consideration are not offensive and meet community standards of propriety. The Committee and the Executive Director can choose to reject the production of any plate based on any of the following characteristics of the plate:

- Does not promote positive image for the state
- Low projected sales, lack of statewide appeal
- Controversial, low sales, or litigation in other states
- Production considered not to be cost beneficial to the state
- Partisan or misrepresentative of the sponsoring organization or another organization
- Potentially offensive, controversial, or inappropriate to the public
- Design conveys a religious, faith-based, or anti-religious message,
- Similar plate/design already exists/Proliferation of specialty plates, workloads and costs to the state
- Advertises commercial logos or symbols
- Use of proceeds from plate sales considered controversial or in violation of statute/constitution
- Sexual or vulgar connotation
- Derogatory reference to an individual or group
- Implication extolling alcohol, drugs or other illegal activities or substances

- n. Misrepresentation of organization as law enforcement or other government entity
- o. Use of copyrighted emblem, seal, symbol, logo or registered trademark without written authorization from the owner
- p. Design interferes with legibility or readability of plate number and raises safety concerns.

C. Approval Options

Based on the criteria listed above, the Committee will review and either approve or deny the application. The Committee will forward approved applications to the Executive Director for review.

1. Approval – Recommend approval of the design

- a. If the Committee and the Executive Director approve a design, the non-profit organization will be notified by letter. The non-profit organization must notify the DMVS of its desire to proceed with production with 30 days of the notification letter.
- d. The sponsoring organization must submit with the letter a check for \$4000 to cover production costs.
- e. After the DMVS receives notice and the required fee from the non-profit organization, it will instruct its vendor to produce a final design proof.
- f. The design proof must be approved by the sponsoring organization's contact person and the Executive Director.
- g. Once the final design proof has been approved, the Department will have sample plates produced:
 - The plate will be forwarded to Highway Patrol for legibility approval.
 - Once Highway Patrol has approved the plate, the plate will be forwarded to the organizational contact for approval.
 - Once the organizational contact has approved the plate, the plate will be forwarded to the Executive Director for final approval.
- h. The Executive Director will authorize the plate for production.

2. Rejection – An organization will receive notice of rejection from either the Committee or the Executive Director depending on the level of review at the time the decision is made. There is currently no review process for organizations not receiving approval from the Executive Director. An organization may reapply for a specialty license plate one year after the date of the notification letter.

D. Production, Distribution and Issuance of Approved Plates

- 1. If the organization has paid a flat four thousand dollar fee, the DMVS will produce sufficient plates for distribution in field offices through-out the state based on anticipated statewide demand.
- 2. Based on anticipated statewide demand, the DMVS reserves the right to require that certain plates be available only through the mail.
- 3. Unless otherwise specified by statute, specialty license plates must be issued or revalidated for a biennial period which expires 24 months from the month it is

issued.

4. If the DMVS receives fewer than 300 biennial applications and renewals for a particular plate, it shall not produce additional plates in that series, unless required by law to do so. The DMVS shall continue to issue plates of that series until the existing inventory is exhausted.

F. Fees

1. Special Plate Fees

Non-profit organizations will receive \$20 out of a total cost of \$40 for each specialty plate sold. The DMVS will retain \$5 for production and administration costs in addition to the \$15 normal registration fee for every specialty license plate sold. The non-profit organization must provide the DMVS with yearly reports on the activities funded with the proceeds.

2. The initial additional fee amount requested by the organization may be changed only every five years or by statute after the first year the plate is issued.

Exhibit F

Application for Specialty License Plate Program

FORM MV-45 (12/01/03)

Please Print or Type

I hereby make application for a Special License Plate. I have read the Guidelines for the Specialty License Plate Program and understand the conditions under which special license plates are to be issued. The license plate will be used for services to the community relating to public health, education, or general welfare.

NAME OF ORGANIZATION

Humans Against the Consumption of Animals ("HACA")

PURPOSE OF ORGANIZATION

To educate Ames residents regarding the social, environmental and health benefits of veganism.

PLEASE LIST ACTIVITIES ORGANIZATION WILL SPONSOR WITH FUNDS GENERATED FROM THE SPECIALTY LICENSE PLATE PROGRAM

HACA plans to use all funds raised by the sale of plates to benefit its volunteer activities with local animal shelters and educational programs regarding the benefits of veganism.

ORGANIZATION REPRESENTATIVE NAME AND TITLE

Jenny Carol Fisher, co-founder and president of HACA

ORGANIZATION ADDRESS AND PHONE NUMBER

Humans Against the Consumption of Animals
450 Orchard Boulevard
Amestown, Ames
444) 532-9348

I, Jenny Carol Fisher certify on behalf of HACA that the organization has collected the names of at least 500 Ames motorists who will purchase the specialty license plate proposed in this application. I further certify that the organization is authorized to use the name, identifying phrase, and/or graphic submitted for display on the proposed specialty license

plate and that no infringement or violation of any property right exists. The organization agrees to defend and hold harmless the state of Ames, its employees, or its agents for any liability as a result of an infringement or violation of any property right.

PLEASE ATTACH PROPOSED LICENSE PLATE DESIGN TO THIS APPLICATION

See attached proposed specialty license plate design for HACA's application.

PLEASE DESCRIBE ORGANIZATION'S MARKETING PLAN THAT INCLUDES TARGET AUDIENCE, MEDIA TO BE USED, AND TEXT OF MEDIA MESSAGES

HACA's target audience for the specialty license plate proposed in this application is individual motorists in Ames who are currently vegan or vegetarian. We will advertise the availability of these plates on our website (www.haca.org), at vegan and vegetarian restaurants in Ames, and at local Hindu and Buddhist temples. The advertisements shall state the organization's name, our purpose, a picture of the license plate depicting the phrase "Meat is Murder," and a brief explanation of how we plan to use the funds from the sales to help the Ames vegan and non-vegan community through the sponsorship of health fairs and community service projects at animal shelters. We also will rely on motorists reviewing the availability of specialty plates on the DMVS's website to purchase HACA's plate because they relate to or wish to support the message.

SIGNATURE OF ORGANIZATION REPRESENTATIVE

Jenny Carol Fisher

DATE: 5/31/07

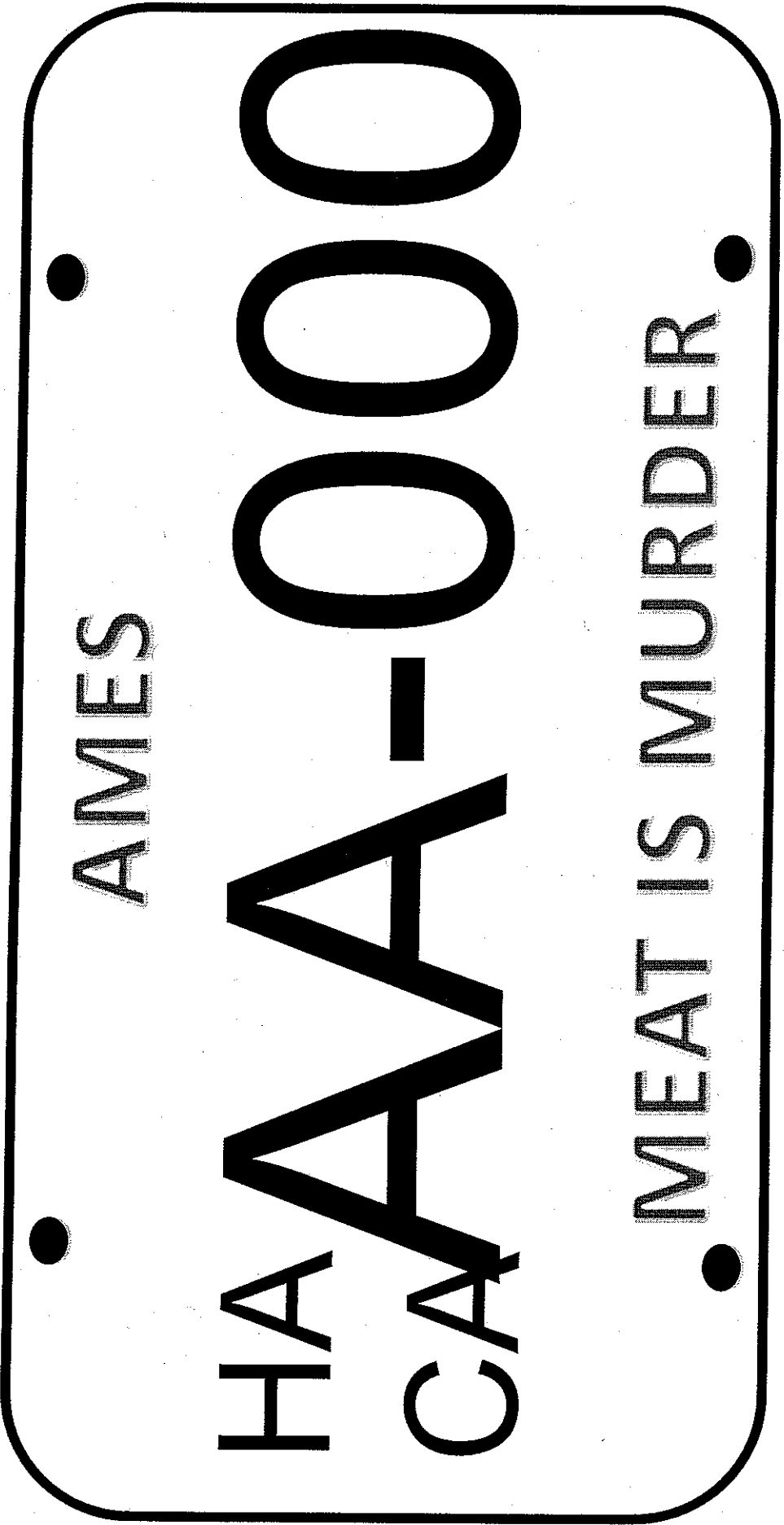


EXHIBIT F

Exhibit G

Ames Department of Motor Vehicle Services

Office of the Executive Director

February 28, 2008

Dear Ms. Fisher,

This letter informs you that, after careful thought and consideration, your organization's application for a specialty license plate is denied. I have discussed the application with both the Specialty License Plate Review Committee, which initially approved HACA's application, as well as several State Senators and members of my staff, and we have all agreed that the State of Ames is not prepared to align itself with HACA's message. Ames believes the message your group has chosen might be "considered potentially offensive, controversial, or inappropriate to the public." Ames Code Ann. § 20-4-327. In addition, your proposed message will likely create confusion in the public given specialty license plates of other Ames non-profit organizations, such as the Ames Association of Dairy Farmers and the Ames Fisheries Foundation, that the State has already approved and are currently in circulation.

We appreciate the efforts your group put forth in completing an application, and your understanding with regards to this matter is appreciated. It is our hope that HACA continues its charitable works on behalf of Ames residents.

Sincerely,

Theodora Springfield

Theodora Springfield
Executive Director
Department of Motor Vehicle Services
for the State of Ames

AMES



AAA-000

Celebrating 300 Years of Dairy Farming

EXHIBIT H

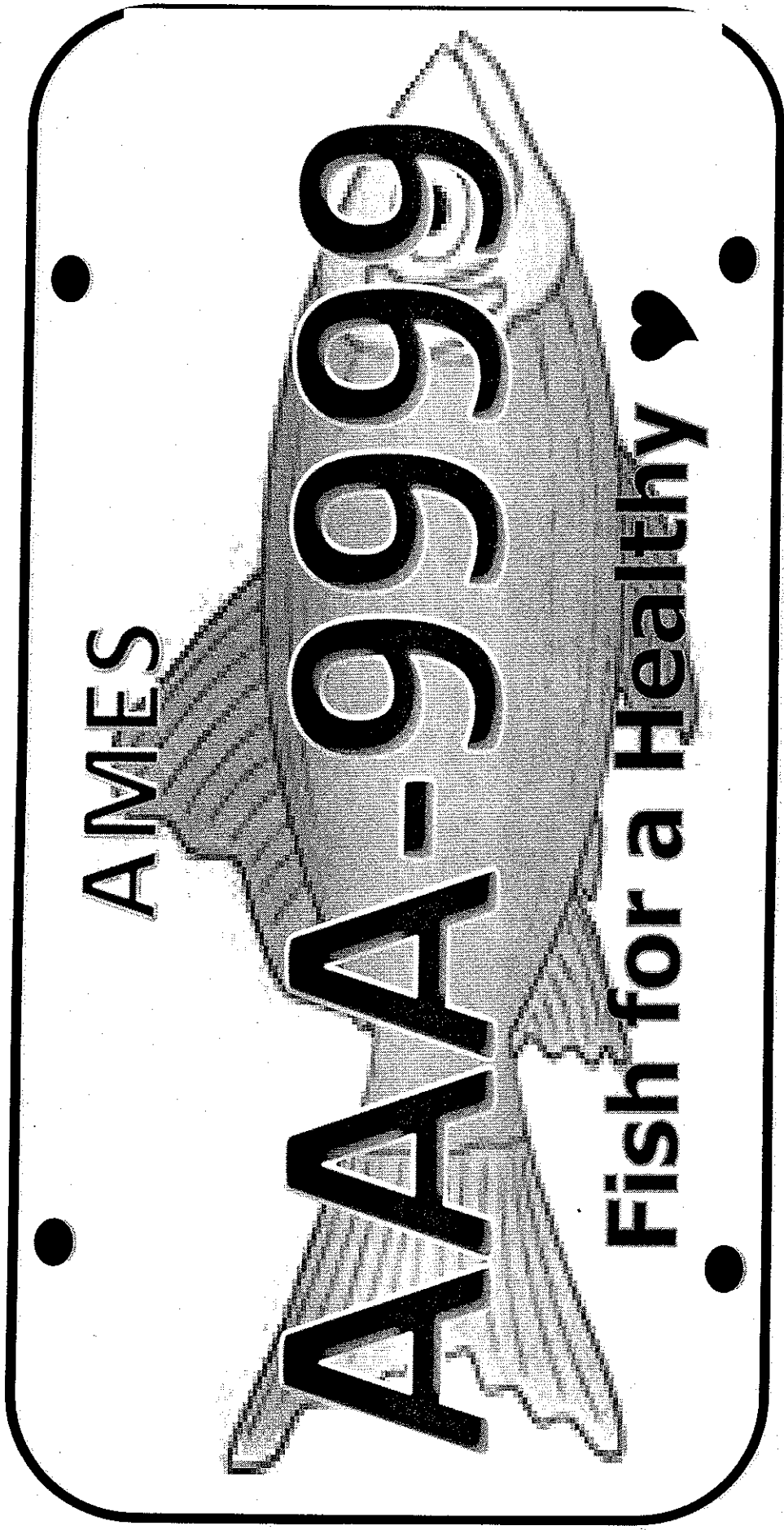


EXHIBIT I

Ames Department of Motor Vehicle Services

List of Approved Specialty License Plates as of 1/1/2008

Organization, Plate Message, Purpose of Funds from Plate Sales	Organization, Plate Message, Purpose of Funds from Plate Sales
<p>Parents for Healthy Kids "Children – Our Greatest Natural Resource" Proceeds benefit free healthcare clinics for children under age 5 in Ames.</p>	<p>Cyclists Alliance Cycle Ames Proceeds support activities that promote bicyclist safety in Ames.</p>
<p>Tennis Players United "Play More Tennis" Proceeds benefit the maintenance of free public tennis courts in Ames.</p>	<p>Breast Cancer Awareness Society "End Breast Cancer" Proceeds fund mammogram screenings in Ames.</p>
<p>YMCA "Spirit - Mind – Body" Proceeds go to supporting local programs sponsored by the Ames YMCA.</p>	<p>Ames Dairy Farmers Association "Celebrating 300 Years of Dairy" Funds go to providing free milk for elementary school students in Ames.</p>
<p>Ames Support Our Troops, Inc. "Support Our Troops" Proceeds fund care packages for Ames soldiers serving abroad.</p>	<p>Lions Club of Ames "We Serve" Proceeds fund Lions Club Scholarship Program for Outstanding Ames high school students.</p>
<p>Ames Heart Association "We Love Your Heart" Proceeds benefit free cholesterol testing centers in Ames.</p>	<p>Save the Lemurs "Save the Lemurs" Proceeds benefits educational programming on the dangers to lemur populations in Ames.</p>
<p>Ames Rotary Club "Service Above Self" Proceeds help to fund the Rotary Club's volunteer work in senior citizen homes in Ames.</p>	<p>Ames Arborists Association "Protect Our Trees" Proceeds help fund tree plantings in Ames public spaces.</p>

Exhibit J

Organization, Plate Message, Purpose of Funds from Plate Sales	Organization, Plate Message, Purpose of Funds from Plate Sales
<p>Ames 4-H To Make the Best Better Proceeds help support 4-H activities within Ames.</p>	<p>Big Brothers Big Sisters of Ames Change A Life: Become A Big Brother or Sister Proceeds go to recruiting volunteers and maintaining superior programs for children across Ames.</p>
<p>Ames Reads Libraries: Get Your License to Read Proceeds used to make grants to fund programs at public libraries that promote reading.</p>	<p>Ames Agricultural Society Good People. Great Produce. Proceeds help fund advertising for locally grown produce to boost state economy.</p>
<p>Special Olympics Ames Everyone is a Winner Proceeds go to the Special Olympics Ames account to be used to pay for costs associated with training and with area and regional competitions.</p>	<p>Young Lawyers Coalition of Ames Justice for All Proceeds go to Basic Civil Legal Services to assist Ames residents who could otherwise not afford legal advice.</p>
<p>Ames Realtors Association Support Affordable Housing Proceeds go to promote housing initiatives for first time homebuyers.</p>	<p>Ames Medical Association Have You Seen Your Doctor Lately? Proceeds go to providing healthcare services for low-income families in Ames.</p>
<p>Ames Fisheries Foundation "Eat Fish for a Health [Heart]" Proceeds go to educational programs for Ames residents on the benefits of locally raised fish to heart health.</p>	<p>Citizens for Water Conservation "Turn Off Your Faucets" Proceeds are used to fund educational materials regarding water conservation in Ames.</p>
<p>Ames Historical Society Visit Historic Ames Proceeds help maintain historic neighborhoods in Ames to encourage tourism.</p>	<p>Ames Darwinian Society We Believe Proceeds go to maintaining the dinosaur exhibit at the Natural History Museum of Ames.</p>

Exhibit J

List of Requested Specialty License Plates Not Receiving Approval Between 12/1/03 – 1/1/08

Organization/Proposed Plate Message	Reason for Denial
Ames Home Schooling Association Education Begins At Home	Misrepresentation concerns; against public policy interests of the State.
Choose Life Ames Choose Life	Promotes a faith-based message; misrepresentation concern regarding State's position on abortion debate.
Catholic Charities Trust in the Lord	Promotes a religious message; misrepresentation concern that State is endorsing a particular religious tradition.
Freemasons Better men make a better world	Discriminates against women.
Knights of Columbus In Service to One, Service to All	Promotes a religious message.
Shriners Brotherly love, Relief and Truth	Discriminates against women.
Secular Humanists of Ames In Reason We Trust	Promotes anti-religious message.
Ames Queer Alliance Support EveryBODY's Right to Marry	Misrepresentation concern regarding State's view on gay marriage.
Ames Irish-American Association Kiss Me. I'm Irish.	Misrepresentation concerns regarding State favoritism of particular ethnic group; potentially offensive.
Children International Real Help. Real Hope.	Does not provide a direct benefit to the Ames community.
Ames American Life League From Creation to Natural Death	Misrepresentation concerns; concerns over use of funding.

AmesNEWS.com

Bringing You Real-Time News From and About Ames

Department of Motor Vehicle Services Says No to Vegan Group's Specialty License Plate Request

By Adam Devine

March 2, 2008

The Executive Director of Ames's Department of Motor Vehicle Services, Theodora Springfield, has been getting a lot of flack lately from an unusual source – the seemingly peaceful members of local non-profit organization Humans Against the Consumption of Animals. The group, known by the abbreviation HACA, encourages veganism and eschews the use of animal products such as leather. According to its members, HACA has good reason for getting its fur up against the Department headed by Springfield. Last week HACA's founder and president Jenny Fisher received a letter from Director Springfield informing her that the DMVS denied the group's specialty license plate application, which requested a plate containing the phrase "Meat is Murder." HACA's website claims that this phrase summarizes their beliefs regarding the use of animal products.

Fisher stated that Springfield's rejection letter came as a shock in part because Springfield did not provide any reasons, other than that HACA's message was offensive, for the denial. Fisher stated, "I fail to see how veganism is controversial enough to have the state take such a hard line on our application without further explanation, especially when they have approved license plates that I believe glorify the abuse of animals such as those of the Ames Dairy Farmers Association and the Ames Fisheries Foundation. I can only assume that the Director is simply unsupportive of our message. It never in a million years would have occurred to me that the message 'Meat Is Murder' would seem inappropriate to the state when so many people in Ames hold this view. HACA specifically identifies with this message because of the imagery it invokes of animals being and tortured and slaughtered. We want people to think about that when they pull up to a fast food place for a cheeseburger."

The statute authorizes the DMVS to issue specialty license plates to non-profit organizations registered in Ames to provide the organizations with publicity and to generate funds for their charitable efforts. Even though the DMVS has rejected other non-profit organizations' requests, there has not been much of a stir until now. Several specialty license plates have been issued and thousands have been sold supporting a wide variety of causes, ranging from saving natural resources to providing kids in Ames with healthcare.

For her part, Springfield has said she simply does not understand what all of the fuss is about. She explained that as Director of the Department charged with issuing these

Exhibit K

specialty license plates, she felt she had an "obligation" only to approve messages that would not be offensive to a majority of Ames residents. Springfield stated that she "would not approve a specialty license plate that supported an alternative lifestyle choice" because she "believe[s] that wouldn't be the wish of the majority of Ames residents." When asked specifically whether she thought veganism was an acceptable lifestyle choice, Director Springfield replied, "There's nothing wrong with veganism per se. But yes, it is different from what I would say is normal. The real problem with the license plate message HACA wanted was that it was just too aggressive and would rub people the wrong way. People do not want to read moral judgments on license plates just because they like eating cheeseburgers. I think the group could conceivably have come up with a different, more acceptable message." Director Springfield added, "To be perfectly honest, I understand that vegetarianism is very important to many religious beliefs such as Hinduism and Buddhism and that many vegans in Ames may be members of these groups. I support that fully – but any phrase that contains the word 'murder' simply does not have a place on our highways."

State Senator Bickerson Bolling has openly supported Director Springfield's decision despite protests outside of Amestown city hall yesterday, stating he understood the decision to also be economically driven. "In these difficult times, it is unreasonable for a group like HACA to think Ames will undermine the livelihood of the state's dairy farmers and fishermen just so they can get their message across. It would not be fair to those hard-working Americans for our State to endorse any cause that vilifies their way of life. Why would the state want to support that on its own property?"

For its part, HACA has stated it is fully prepared to litigate the matter and let the judicial system decide whether its specialty license application should have been approved. According to Fisher, a former lawyer, "The First Amendment, as well as our beliefs, are on the line here. We won't be silenced easily." Looks like there will be plenty of fur flying to come.

Dated June 10, 2008

Respectfully submitted,

Savarnas Choi-Gupta

Savarnas Choi-Gupta
Attorney for Defendant
Office of the Attorney General
State of Ames
8000 Blue Heron Avenue
Amestown, Ames
(444) 321-8319

UNITED STATES DISTRICT COURT
DISTRICT OF AMES

Humans Against the)	
Consumption of Animals,)	
)	
Plaintiff,)	
)	
v.)	Civ. No. 08-256
)	
Theodora Springfield,)	
in her Official Capacity,)	
)	
Defendant.)	
)	

STIPULATED FACTS

1. The Parties agree that Plaintiff HACA has standing to bring this suit against Defendant Springfield. The Parties also agree that Defendant Springfield is the proper defendant in this action and that she is sued only in her official duties as Executive Director of the Department of Motor Vehicle Services for the State of Ames

2. The Specialty License Plate Act was enacted to allow the DMVS to issue specialty license plates to non-profit organizations that provided a benefit to the Ames community. The purpose of the specialty license plate is to contain some identifying design or motto to spread the message of the non-profit and to raise funds for their charitable activities within the state of Ames. Not all specialty license plates approved under the Specialty License Plate Program contain information that clearly identifies the sponsoring non-profit organization.

3. The DMVS claims ownership of all license plate designs submitted through the application process but requires indemnification from litigation related to copyright or trademark infringement from a sponsoring non-profit organization.

Date June 10, 2008

Respectfully submitted,

Savarnas Choi-Gupta

Savarnas Choi-Gupta
Attorney for Defendant
Office of the Attorney General
State of Ames
8000 Blue Heron Avenue
Amestown, Ames
(444) 321-8319

Lisa H. Simpson

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454 Flying Squirrel Road
Suite 300
Amestown, Ames
(444) 495-3450

UNITED STATES DISTRICT COURT
DISTRICT OF AMES

Humans Against the)
Consumption of Animals)
)
Plaintiff,)
)
v.) Civ. No. 08-256
)
Theodora Springfield,)
in her Official Capacity,)
Defendant.)
_____)

**MEMORANDUM AND ORDER ON DEFENDANT'S
MOTION FOR SUMMARY JUDGMENT**

Before the court is Defendant Springfield's motion for summary judgment.

This court now enters into the murky waters of government versus private speech jurisprudence. We note at the outset that there is no consensus amongst the Federal Circuits regarding whether specialty license plates constitute government speech, private speech, or a hybrid of both and what, if any, government restrictions are appropriate in the two latter cases. As yet, there is simply no guidance from the Ames Circuit. We thus enter the quagmire of specialty license plate litigation with not a small amount of trepidation. Having considered the parties' memoranda in light of their Stipulated Facts and the oral argument of their counsel, the Court finds that there are no genuine issues of material fact and that Defendant Springfield is entitled to entry of judgment in their favor as a matter of law pursuant to Fed.R.Civ.P. 56.

Background

The Specialty License Plate Program ("Program") in the State of Ames was created by statute in 2003. Ames Code Anno. § 204-230 et seq. ("Ames Specialty License Plate Act"). According to the statute, authority to implement the Ames Specialty License Plate Act rests with the Department of Motor Vehicle Services for the State of Ames ("DMVS") and the DMVS's Executive Director. The DMVS set forth a Policy on the Specialty License Plate Program ("Policy") and application form on December 1, 2003. According to the Policy, the "Program gives interested and qualified non-profit organizations that provide a substantial benefit to the residents of Ames an opportunity to help their members purchase a uniquely designed license plate." The sale of approved

specialty license plates inure to the benefit of the non-profit organization's charitable activities within the State of Ames. Such specialty license plates may "bear a non-profit organization's logo, catchphrase, emblem, a seal, or other symbol"¹ [] that the DMVS considers representative of the organization."

Since December, 2003, 24 non-profit organizations have successfully applied for specialty license plates that can be sold to any motor vehicle owner within the State. For each sale, the non-profit organization receives \$20, which must be used to fund the organization's activities that improve public health, education, or general welfare within the State of Ames. A list of the non-profit organizations with approved specialty license plates, along with the messages contained on their specialty license plates and what activities will be funded, is available on the DMVS website. The DMVS also provides on its website a list of non-profit organizations whose applications were denied along with a brief statement of the reason for the denial.

In its complaint, Plaintiff Humans Against the Consumption of Animals ("Plaintiff" or "HACA") alleges that Defendant Theodora Springfield, the Executive Director of the DMVS, violated Plaintiff's First and Fourteenth Amendment rights by denying its specialty license plate application. In her denial letter to Plaintiff HACA, Defendant Springfield stated that the reason the application was denied was that its proposed message of "Meat Is Murder" might be "considered potentially offensive, controversial, or inappropriate to the public." Ames Code Ann. § 20-4-327. Defendant Springfield also suggested that Plaintiff HACA's proposed message might create confusion with previously approved specialty license plates that ostensibly encourage dairy and fish consumption.

As the Specialty License Plate Program provides no method of review of an application denial, Plaintiff HACA filed suit against Defendant Springfield in this court asserting that the Act and Policy were unconstitutional and that its First Amendment rights were violated as a result. At the heart of Plaintiff HACA's claim is that Defendant Springfield violated its First Amendment rights by rejecting its application without providing a justification for the denial that could survive First Amendment strict scrutiny. Plaintiff HACA further alleges that there is a lack of discernible guidance in the statute regarding the approval of specialty license plates and that the Program allows Ames to favor certain viewpoints while arbitrarily denying others. Neither party disputes that Plaintiff HACA is a qualified and eligible non-profit organization according to the State's Policy or that Executive Director Springfield is a proper defendant in this suit nor the authority of the DMVS to issue specialty license plates. Rather, the parties' disagreement arises from two distinct but related inquiries. First, the parties dispute whether the Specialty License Plate Program implicates government or private speech. Second, assuming the Program does involve private speech and Plaintiff HACA's First Amendment Rights, the parties differ on whether Defendant Springfield's denial of HACA's application constitutes impermissible viewpoint discrimination or a valid, content-based decision. We will deal

¹ For ease of analysis, "a non-profit organization's logo, catchphrase, emblem, a seal, or other symbol" will be referred to simply as the non-profit organization's "message."

with each of these issues in turn.

Government Versus Private Speech

Specialty license plate programs are currently available in several states. These programs differ in whether specialty license plates can be obtained through an administrative process, such as in Ames, through a legislative process, or some combination of the two processes. Judicial inquiry into the First Amendment ramifications of these various state specialty license plate programs has resulted in plethora of caselaw, none of which individually fully satisfies this court. However, several opinions on the topic of specialty license plates have informed our decision today and shall be cited or distinguished as necessary.

The first question we must deal with is whether the government is said to be speaking for itself when it issues specialty plates - making them government speech - or whether the government encouraged or facilitated expression of individual ideas - making the plates a form of private speech subject to First Amendment protection. If the Specialty License Plate Program is properly classified as government speech, then Plaintiff HACA's First Amendment claim must naturally fail. A finding of private speech in the Specialty License Plate Program will require this court to make yet another inquiry into the type of forum Ames has created to determine whether the state's actions were permissible under the First Amendment.

Defendant Springfield, acting on behalf of the State of Ames, claims that any message contained on a license plate issued by the DMVS is government speech because the essential purpose and nature of license plates, regardless if they are standard or specialty, is governmental. States issue license plates to identify automobiles and their owners and to show compliance with state registration laws to government officials. Under the Specialty License Plate Program in Ames, non-profit organizations may choose to apply for a specialty license plate bearing the organization's message because of the benefit the organization will likely get from being closely associated with, and ostensibly, endorsed by the State. Under Defendant Springfield's view of the Program as government speech, it is irrelevant that a non-profit organization has designed a license plate containing its chosen message or that it benefits financially from the sale of the plate because the message must meet the criteria set forth in the Policy designed to represent the "best interests" of Ames.

Defendant Springfield also states that an objective observer would likely consider that a state-issued license plate carries the endorsement of the state. The DMVS acknowledges this likelihood in its Policy: "[D]esigns displayed on state license plates are approved by the State for display to all audiences on the public highways and are the sole responsibility of the State." Policy at Section II. Thus, just as a reasonable, objective observer would likely conclude that the state of Ames was promoting tourism with the website address "Travel2Ames.com" on its standard-issue plate, according to Defendant Springfield, that same observer could reasonably believe that the state is endorsing the message that "Meat Is Murder" on a specialty license plate. By not endorsing this slogan by placing it on a license plate with the State's name on it, Defendant Springfield argues

that Ames was properly and constitutionally exercising its right to regulate its own speech.

Plaintiff HACA counters Defendant Springfield's view by arguing that the Specialty License Plate Program explicitly invites qualified non-profit organizations to exercise their Free Speech rights by using specialty license plates as a means of spreading their message and generating funds for their activities.

As a general rule, the government has the undeniable right to speak for itself and to advocate and defend its own policies subject only to the review of the electoral and political processes. Bd. of Regents of Univ. of Wisconsin Sys. v. Southworth, 529 U.S. 217, 235 (1995). Defendant Springfield argues that the mere fact that the State of Ames has allowed non-profit organizations to suggest messages through its Specialty License Plate Program, does not mean the State has abdicated its right to control speech on state issued license plates. Johanns v. Livestock Mktg. Ass'n, 544 U.S. 550, 562 (2005) (finding that the government is not precluded from relying on the government speech doctrine merely because it solicits assistance from non-governmental sources in developing specific messages).

There has been considerable debate among the Circuits regarding what inquiry should be made in the specialty license plate context to determine whether the speech falls under the government speech doctrine or is more properly classified as a mixture of government and private speech. Even Circuits that agree on the appropriate method of inquiry have come out with different results. See e.g., Ariz. Life Coal., Inc. v. Stanton, 515 F.3d 956, 965-68 (9th Cir. 2008) (finding private speech), Planned Parenthood of S.C., Inc. v. Rose, 361 F.3d 786, 793-95, reh'g en banc denied, 373 F.3d 580 (4th Cir. 2004) (finding a mix of government and private speech), and Sons of Confederate Veterans, Inc. v. Comm'r of the Va. Dep't of Motor Vehicles, 288 F.3d 610, 617-21, reh'g en banc denied, 305 F.3d 241 (4th Cir. 2002) (finding private speech), with Am. Civil Liberties Union of Tenn. v. Bredezen, 441 F.3d 370, 378-79 (6th Cir.2006) (finding government speech).

Keeping in mind the Supreme Court's recent decision in Johanns, as well as the four-factor inquiry articulated by several of Circuits, we find that the Ames Specialty License Plate Program is a hybrid of both government and private speech. We have no doubt that a reasonable person would view a message on a specialty license plate as jointly owned by the State and by the non-profit organization. This is especially the case in this situation where Plaintiff HACA's identifying emblem will not be easily recognizable to an ordinary observer. The State of Ames bears ultimately responsibility for any messages appearing on its license plates, regardless of the messages' origin.

Forum Determination

Since we have determined that messages on specialty license plates implicate private speech, we now turn to the issue of whether Ames's Specialty License Plate Program has created a public forum, a limited public forum, or a non-public forum. The extent to which Ames may limit access to the Specialty License Plate Program depends on whether

the forum, the license plate itself, is public or nonpublic. Cornelius v. NAACP Legal Def. & Educ. Fund, 473 U.S. 788, 797 (1985). In either type of public forum, government restrictions of free speech are subject to strict scrutiny. The government is therefore prevented from even making content-based decisions in public forums. It is clear that "[a] law or policy permitting communication in a certain manner for some but not for others raises the specter of content and viewpoint censorship." Lakewood v. Plain Dealer Publ'g Co., 486 U.S. 750, 763 (1988). The Supreme Court has found that "[t]his danger is at its zenith when the determination of who may speak and who may not is left to the unbridled discretion of a government official." Id. "[W]ithout standards governing the exercise of discretion, a government official may decide who may speak and who may not based upon the content of the speech or viewpoint of the speaker." Id. at 763-64. It is exactly this view of the Program that Plaintiff urges us to take in this case by finding that the Specialty License Program has created a public forum and that defendant Springfield acted impermissibly and without standards in rejecting HACA's message.

Plaintiff HACA asserts that the Specialty License Plate Program in practice is increasingly analogous to the traditional public forum, such as parks, parades, and sidewalks, where individuals have always been free to speak their minds on any topic, including those with which the government does not agree. In the alternative, Plaintiff HACA argues that at the very least the Program has created a limited public forum.

As evidence of its view, Plaintiff HACA points to the proliferation of motor vehicles within Ames as well as the numerous specialty license plates already available in the State. Plaintiff HACA argues that motorists now use license plates as a form of self-expression and that this function is not only condoned by the government but encouraged. According to Plaintiff HACA, by instituting the Specialty License Plate Program, the government of Ames has invited private speakers to voice their opinions on a variety of topics, which is evidenced by the growing number of specialty license plates available within the State. Although the alpha-numeric combinations on license plates still serve a governmental purpose, Plaintiff HACA urges that Ames's invitation to non-profit organizations to design a specialty license plate encourages motorists to express their ideological as well as aesthetic preferences.²

We disagree and find that Ames has not "intentionally opened a nontraditional forum for

² We pause to acknowledge a separate argument cited by Plaintiff HACA to boost its public forum argument. Plaintiff HACA cites the Commonwealth of Virginia's website https://www.dmv.virginia.gov/dmvnet/plate_purchase/intro.asp (last visited September 2, 2009) as evidence that nationally motor vehicle license plates have taken on public fora characteristics or at the very least that the State has created a limited public forum. This government website invites Virginia motorists to "Create Your Plate in Minutes!" Using this website, Virginia motorists can create unique and expressive license plates where they choose the design of their license plates out of hundreds of options and can further customize the alpha-numeric identifier on the plate (commonly referred to as "vanity plates"). Plaintiff HACA notes that there is no limitation as to the number of specialty license plates that may become available in Ames under the Specialty License Plate Program and that in addition to other types of license plates (collegiate, government agency, etc.) and the possibilities afforded by vanity plates, the nature of expression on license plates within Ames is limitless. While this court notes that this is an interesting observation, we decline to opine on Virginia's actions or on the impact of vanity plates in forum determination.

public discourse,” Cornelius, 473 U.S. at 802, and that specialty license plates are a non-public forum. Relevant factors in the analysis include “the policy and practice of the government” and “the nature of the property and its compatibility with expressive activity.” Id. The primary purpose of license plates remains motorist identification, and “[t]he First Amendment does not forbid a viewpoint-neutral exclusion of speakers who would disrupt a nonpublic forum and hinder its effectiveness for its intended purpose.” Id. 811. Given the level of scrutiny given to specialty license plate applications, as well as the long list of messages the State has declined to entertain, Ames appears to be highly solicitous regarding which messages it chooses to endorse. We specifically reject Plaintiff HACA’s claim that Defendant Springfield acted with unbridled authority or that she rejected Plaintiff HACA’s viewpoint on the propriety of the consumption of meat. The State has made a rational decision that it does not want to offend or confuse its residents. In addition, license plates are by their very nature limited in space and not compatible with expression as it has come to be understood in First Amendment jurisprudence. We find that Defendant Springfield’s decision was reasonable and does not violate Plaintiff HACA’s First Amendment rights.

We find the Supreme Court’s sole case considering license plate speech, Wooley v. Maynard, 430 U.S. 705 (1977), instructive on this point. Maynard was a compelled-speech case involving a standard license plate and New Hampshire’s state motto, “Live Free or Die.” In a 6-to-3 decision, the Court held that New Hampshire could not constitutionally require citizens to display the state motto upon their vehicle license plates. The Court found that the statute in question effectively required individuals to “use their private property as a ‘mobile billboard’ for the State’s ideological message.” The Court held that the State’s interests in requiring the motto did not outweigh free speech principles under the First Amendment, including “the right of individuals to hold a point of view different from the majority and to refuse to foster. . . an idea they find morally objectionable.” Just as the Supreme Court found that the state could not force a motorist (in that case, a Jehovah’s Witness, whose very creed prohibited the entire concept of choosing between living free or dying) to bear the message “Live Free or Die,” we find it equally palatable to hold that the state of Ames can make a reasonable decision not to issue license plates with the motto “Meat is Murder.” A contrary finding would leave the State vulnerable to and overburdened by applications from a myriad of unsavory organizations such as hate groups.

Because there has been no deprivation of Plaintiff HACA’s Free Speech rights, its Equal Protection Argument is moot. Similarly, we need not reach Defendant Springfield’s Establishment Clause argument.

Defendant’s motion for summary judgment is granted.

SO ORDERED

Dated: August 20, 2008

Erik Ludwig

Erik Ludwig
United District Court Judge

based determination in denying Appellant/Cross-Appellee's HACA's proposed specialty license plate message.

We, therefore, **REVERSE** the judgment of the District Court granting summary judgment in favor Appelle/Cross Appellant Springfield and **REMAND** the case to the District Court for further proceedings consistent with this decision.

Dated: January 4, 2009

Robert Lowell

Robert Lowell,
Circuit Judge

