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December 12, 2024

Via Email:

Board of Trustees
Northbrook Public Library
1201 Cedar Lane
Northbrook, Illinois 60062
board@northbrook.info

Dear Board Members:

The ACLU of Illinois was dismayed to learn about a scheduled film screening that was recently derailed due to the Northbrook Public Library's policy allowing the library "to charge additional fees" for room reservations "in the interest of safety." We agree that the safety of those using the library is important. But the library may not address safety concerns by imposing extra fees on constitutionally protected but controversial speech. The policy is unconstitutional, and we request that you promptly rescind it.

Based on the library's September 11, 2024, post entitled "Important Update re: September 18 Film Screening,"¹ we understand that a private individual or group reserved a library meeting room to screen the film "Israelism." The library received multiple angry emails, some of which expressed an intent to protest the event, but none of which threatened violence. Nonetheless, the Northbrook Police Department advised the library that it was necessary to hire an outside security firm for the screening. The library then required the reservation holder to provide payment for the outside security and liability insurance ahead of the scheduled event. In response, the reservation holder cancelled the screening.

In short, due to the angry reaction to the film's ideas, the library imposed a fee that ultimately prevented the film from being shown. This was the wrong outcome for an institution that is meant to provide "information presenting all points of view on current and historical issues" and to make library facilities available "on an equitable basis, regardless of the beliefs or affiliations of individuals or groups requesting their use."² Further, the library's handling of the controversy encourages members of the public who are unhappy about a group's use of a library room to shut down the event by creating sufficient hue and cry to instigate a cost-prohibitive "public safety" fee.

¹ Available at <https://northbrook.info/keep-in-touch/news/important-update-re-september-18-film-screening>.

² American Library Association, *Library Bill of Rights*, rev. Jan. 29, 2019, available at <https://www.ala.org/advocacy/intfreedom/librarybill>. See also *Meeting Rooms: An Interpretation of the Library Bill of Rights*, available at <https://www.ala.org/advocacy/intfreedom/librarybill/interpretations/meetingrooms#Notes>.

The library's policy, and its application to the "Israelism" screening, also violates the First Amendment. The library imposed an extra financial burden on those who wanted to show the film because its viewpoint was unpopular and was expected to draw protesters. Such a "heckler's veto" violates the First Amendment, as the Supreme Court and other courts have held repeatedly.³ When the government makes speakers pay for the expected consequences of *other people's* reaction to their speech, it penalizes controversial, minority viewpoints.⁴ In effect, it allows those who disagree with the speech to suppress it merely by making their intent to counterprotest clear.

Moreover, the library policy provides unbounded authority to government officials to determine whether and how much to charge patrons to ensure the public safety. In the absence of objective guidelines governing such fees, government officials have the power to make disfavored ideas more expensive to express. This power is another reason the new policy is unconstitutional.⁵

To summarize, the library may not charge a premium on a rented room because the renter will express controversial ideas that may cause *others* to act badly. The responsibility for protecting speakers, counter-speakers, and others lies with the library and with the Village of Northbrook (and specifically, the Norfolk Police Department). They may not fob off the cost of this obligation onto those engaged in constitutionally protected speech.

For these reasons, we urge you to rescind your policy allowing the library to charge "safety" fees to some groups and individuals who use library rooms.

Thank you for your attention to this matter. If you would like to discuss this matter further, please do not hesitate to contact me at rglenberg@aclu-il.org.

Sincerely,



Rebecca K. Glenberg
Chief Litigation Counsel: First Amendment

cc: Kate Hall, Executive Director, khall@northbrook.info

³ See *Forsyth County, Ga. v. Nationalist Movement*, 505 U.S. 123, 134-35 (1992); *Surita v. Hyde*, 665 F.3d 860, 876 (7th Cir. 2011).

⁴ Discrimination based on viewpoint is unconstitutional regardless of whether the library rooms are characterized as "designated," "limited," or "nonpublic" forums. *Shurtleff v. City of Boston, Massachusetts*, 596 U.S. 243, 247 (2022); *Rosenberger v. Rector & Visitors of Univ. of Virginia*, 515 U.S. 819, 829-31 (1995); *Ezell v. City of Chicago*, 651 F.3d 684, 707 (7th Cir. 2011).

⁵ *Forsyth County* at 132-33.