

CGB-CC-0525

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JAN 17 2012

Federal Communications Commission
Bureau / Office

Before the
Federal Communications Commission
Washington, D.C. 20554

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JAN 27 2012

Federal Communications Commission
Bureau / Office

In the Matter of :)
)
Hillcrest Baptist Church) CGB-CC-0525
) CSR
Video Programming Accessibility)
)
Closed Captioning)

To: Deputy Chief, Policy Division, Media Bureau:

PETITION FOR EXEMPTION

1. HILLCREST BAPTIST CHURCH of El Paso, TX ("Hillcrest"), by its counsel, herewith submits the instant PETITION FOR EXEMPTION pursuant to 47 C.F.R. Section 79.1 (f) of the Rules and Regulations of the Federal Communications Commission. In support whereof, the following is stated:

2. In *Implementation of Section 305 of the Telecommunications Act of 1996 – Video Programming Accessibility*, the Commission established rules and implementation schedules for the closed captioning of video programming.¹ In enacting Section 713, Congress recognized that, in certain limited situations, the costs of captioning might impose an undue burden on video programming providers or owners, and it authorized the Commission to adopt appropriate exemptions.² Congress defined “undue burden” to mean “significant difficulty or expense.”³

3. In May of 2006, Hillcrest filed a Petition for Exemption that was granted. On October 20, 2011, the Commission released a *Memorandum Opinion and Order*, FCC 11-159 in

¹ *Implementation of Section 305 of the Telecommunications Act of 1996 - Video Programming Accessibility*, 13 FCC Rcd 3272 (1997) (“*Report and Order*”).

² 47 U.S.C. § 613(d)(1).

³ 47 U.S.C. § 613(e).

which it reversed its grant of exemption for a number of petitioners, including the exemption granted to Hillcrest (CGB-CC-0525), *M, O & O* at p. 46. In the Order, at para. 28, the Commission afforded petitioners an opportunity to file a new petition for exemption within 90 days of the release of said Order and indicated the documentation that should be submitted in such a petition, stating that "each petition should contain current documentation in accordance with the original factors outlined in section 713(e) of the Act and 79.1(f) of Commission's rules, to support a claim that providing closed captions would be economically burdensome (would result in a "significant difficulty or expense") as defined by the following criteria: (1) the nature and cost of the closed captions for the programming; (2) the impact on the operation of the provider or program owner; (3) the financial resources of the provider or program owner; and (4) the type of operations of the provider or program owner." Attached hereto as Exhibit 1 is a letter from the Associate Pastor of Hillcrest setting forth the required elements in support of an "economically burdensome" exemption under the rules. Included with the letter is a Declaration verifying the truth and accuracy of the facts set forth in the Petition.

4. The petition provides the following required information. (1) the nature and cost of the closed captions for the programming: the cost of closed captioning as needed to provide captioning for a church worship service, based on estimates received from closed captioning providers, would be \$125.00 per week, resulting in an expense of \$6,500.00 per year. (2) the impact on the operation of the provider or program owner: the church currently pays \$10,400.00 per year to KSCE (TV) to air the church's weekly worship service. This service allows handicapped individuals, who might otherwise be unable to attend, to watch worship services from their home. As can be seen, the cost of providing closed captioning would significantly increase the total cost for airing church services for the benefit of the handicapped by more than 50%. This increased cost would have an excessive impact on the ability to provide this service

with the unintended consequence of eliminating a valuable service to the handicapped in the community served by this programming. (3) the financial resources of the provider or program owner: the church's current Profit and Loss Statement is attached to the petition. As stated in Exhibit 1 "Hillcrest Baptist Church does not generate any income from the broadcast...." This broadcast service is ancillary to the primary mission of the church. The church is dependent on the donations of its members for revenues, and the members have a right to expect that revenues received will be used for the church's primary ministry and not diverted to programs not specifically earmarked in their donations. (4) the type of operations of the provider or program owner: the programming owner is a local church whose primary mission includes an offering of weekly worship services in the church building.

5. This programming is particularly beneficial to the handicapped who are unable to go to church in person. Certainly, the needs of the handicapped who value this service would not be met if the programming had to be discontinued because the cost of captioning is economically burdensome. The church members have the right to give to their church to provide for the religious needs of their community as they see fit. Their constitutional right of freedom of religion (First Amendment to the U.S. Constitution) should not be undermined by having the government impose its will on the church members as to how they should spend their money.

6. It is also pointed out that it would be unreasonable to expect KSCE television, the distributor airing this programming, to contribute to the captioning expense, and KSCE has indicated that it is unable to do so. As previously stated, the cost of captioning is more than 50% of what is currently being paid to KSCE for air time. This would not be a case where KSCE might be willing to absorb a portion of the expense from revenues. The expense is far too great to be absorbed by KSCE.

WHEREFORE THE PREMISES CONSIDERED, it is respectfully requested that the

Commission accept Hillcrest's showing that it would be "economically burdensome" for Hillcrest to comply with the captioning requirement and grant Hillcrest an exemption from the requirements of 47 C.F.R. 79.1 of the Commission's Rules.

Respectfully submitted,

Law Offices
JAMES L. OYSTER
108 Oyster Lane
Castleton, Virginia 22716-9720

(540) 937-4800

January 17, 2011

HILLCREST BAPTIST CHURCH

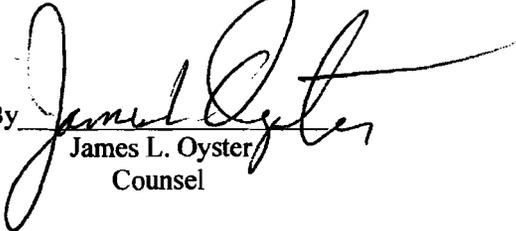
By 
James L. Oyster
Counsel

EXHIBIT 1

Joe Dickinson
PASTOR



Bob Stewart
Pastor Emeritus



Adam Garber
Associate Pastor



Matthew Boehnlein
Youth Pastor



Martin Chilando
Missions Intern



JJ Lusk
Associate Pastor



Aaron King
Music Director

"The Church For You"

January 16, 2012

Office of the Secretary
Federal Communications Commission
Attention: Disability Rights Office, Room 3-B431
445 12th Street SW
Washington, DC 20554

Subject: Formal Petition for Exemption to the Closed Captioning requirements on the Economically Burdensome Basis 713 (e) & 79.1 (f).

To Whom It May Concern:

Hillcrest Baptist Church broadcast is a local production of weekly church worship services. We are a small church located in the city limits of El Paso, Texas. This program began eleven years ago as a ministry to inform local residents of the church's location, the various ministries that are offered, style of worship, and to provide Bible teaching. This broadcast is aired locally and we have no immediate plans to extend the viewing are beyond our current location.

Hillcrest Baptist Church does not employ a broadcast media staff. Our camera and editing positions are filled by the members our church as a ministry. The cost of providing additional staff positions to supply in house captioning in not a possibility for us.

We have looked into having the program captioned and encoded by an outside third party. We have been quoted \$125 a week for our weekly program. his would be an annual cost of \$6,500 a year. This expense would create a serious hardship on our working budget to provide weekly captioning.

We currently pay \$10,400 a year for the airing of our services. Hillcrest Baptist Church does not generate ay income from the broadcast regard- sales or products of solicitation of funds for support.

Hillcrest Baptist Church
4710 Hercules Avenue
El Paso, TX 79904
915.755.0400
www.hillcrestbaptist.cc

Joe Dickinson
PASTOR



Bob Stewart
Pastor Emeritus



Adam Garber
Associate Pastor



Matthew Boehnlein
Youth Pastor



Martin Chilando
Missions Intern



JJ Lusk
Associate Pastor



Aaron King
Music Director

"The Church For You"

DECLARATION

Adam Garber hereby makes the following declaration:

1. I am ASSOCIATE PASTOR of Hillcrest Baptist Church.

I declare under penalty of perjury that the information contained in the foregoing petition is true and correct.

Executed on January 16, 2012.

Adam Garber
1/16/2012

Adam Garber
Associate Pastor
Hillcrest Baptist Church
915.755.0400 ext. 34

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- Accrual Basis

Hillcrest Baptist Church
Profit & Loss
 January through December 2011

	Jan - Dec 11
Income	
2011 Purposeful Parenting Semin	380.00
Audio/Video Ministries	241.00
Building & Medical Insurance	11,845.98
Camp	4,461.38
Deposit Correction	7,563.59
Dual check income	126,056.84
Faith Promise	220,292.00
Faith Promise 10%	102,661.30
For Such a Time	196,617.50
Freedom thru Faith	11,032.00
HBC Yard Signs	5.00
International Checks	3,300.00
Ladies Special Outing	331.00
Missionary Support Checks	45,549.00
Missions services - Amex paymen	14,549.74
Other Income	
Interest Income	109.95
Love offering	37,204.00
Total Other Income	37,313.95
Outreach - Books	86.69
Patch The Pirate Income	714.00
Reimbursement	13,448.58
Teen Cafe	480.76
Teen Church	56.00
The Church/Its Ordinances	9.69
Tithes & Offering	926,851.18
VBS	603.68
Youth Activity Receipts	9,880.85
Youth Amex Receipts	3,763.21
Total Income	1,738,094.92
Expense	
General Amex	1,153.77
Youth Amex	8.93
Missions Amex	1,008.00
Medical Amex	724.72
Foreign Checks Adjustment	141.84
Funeral Expenses	31.08
Adjustment Charge	7.14
Defence Finance & Accounting Se	2,863.84
Reconciliation Discrepancies	-10,293.64
Youth Expenses	
Teen Cafe	157.56
Youth Expenses - Other	560.00
Total Youth Expenses	717.56
Accounting Expense	375.00
Amex receipts	14,549.74
Armored Service Expense	1,165.73
Bank correction - Debit	117.00
Bank Services Charges	
Monthly Service Charge	3,871.44
Returned check	1,362.75
Total Bank Services Charges	5,234.19
Building Insurance	8,185.00
Building Maintenance	19,908.73
Building Needs	
Decorations	100.00
Furniture	1,693.50
Goods/Supplies	2,704.39
Permits	80.00
Repairs	2,463.80
Building Needs - Other	5,722.21
Total Building Needs	12,763.90

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Accrual Basis

Hillcrest Baptist Church
Profit & Loss
 January through December 2011

	Jan - Dec 11
Building Payments	0.00
Childcare	3,047.06
Choir	
Choir Ministry	135.00
Total Choir	135.00
Contract Labor	
Music	29.98
Nursery	1,000.00
Pest Control	10,604.50
Total Contract Labor	11,634.48
Couple's Retreat	856.00
Depreciation Expense	
Family Life Center Depreciation	41,784.00
Total Depreciation Expense	41,784.00
Educational	
Sunday School	200.00
VBS	575.48
Educational - Other	180.00
Total Educational	955.48
Equipment Rental	19,997.47
FSATAT expenses	
Interest Expense - Mortgage Int	133,257.35
Property Taxes	46.90
Total FSATAT expenses	133,304.25
Insurance	
Ivy Mitchell	4,024.91
Joe Dickinson	2,001.00
Medical Insurance	35,995.05
Medical Reimbursement	3,397.00
Total Insurance	45,417.96
License Renewal for Music Minis	445.00
Love offering	
Ladies Bible Study	121.00
Love offering - Other	47,345.00
Total Love offering	47,466.00
Medical Expense	6,609.88
Mission Fund	500.00
Missions Conference	1,879.96
Missions Conference - Travel	438.80
Music Ministry	
Repairs & Maintenance	715.00
Music Ministry - Other	1,954.23
Total Music Ministry	2,669.23
Other Expenses	140.00
Outreach	
Advertising	35,730.60
Books, Tapes, Tracts	12,050.43
Curriculum	889.29
Meals	291.52
Reproduction Expense	28.00
Special Functions	
Music Conference	50.00
Veteran's Day Banquet	848.94
Graduation Banquet	22.25
Ladies Fellowship	607.27
Ladies Spring Banquet	-1,397.50
Marriage Retreat (Couple's)	249.19
Mother's Day	67.66
Special Functions - Other	-759.00
Total Special Functions	-311.19

Hillcrest Baptist Church
Profit & Loss
 January through December 2011

	Jan - Dec 11
Subscriptions	59.95
Outreach - Other	11,992.63
Total Outreach	60,731.23
Outside Dual Checks	103,030.00
Pastor's Cell Phone	2,643.87
Patch The Pirate Ministries	1,660.56
Payroll Expenses	
Federal Withholding	15,467.70
Moving Expenses	1,331.54
Reimbursement	5,510.16
Salary	187,245.41
Payroll Expenses - Other	476,384.55
Total Payroll Expenses	685,939.36
Postage	6,982.52
Reinbursement	714.34
shelbysystems - office computer	1,018.00
Supplies, Church	2,440.60
Supplies, Kitchen	460.17
Supplies, Nursery	64.10
Supplies, Office	109,742.68
Support Expenses	0.00
Outside Church Expenses	985.00
Support - Other	224,190.32
Total Support	225,175.32
Utilites Expense	
Electric	
3701	2,424.90
5100	5,997.58
Electric - Other	22,133.98
Total Electric	30,556.46
Natural Gas	
4710	2,102.01
Natural Gas - Other	3,333.75
Total Natural Gas	5,435.76
Telephone	
Internet Services	3,600.00
Telephone - Other	3,769.71
Total Telephone	7,369.71
Water Expense	
3701	547.64
4701	261.96
5100	713.12
Timberon	65.00
Water Expense - Other	12,471.20
Total Water Expense	14,058.92
Utilities Expense - Other	2,673.05
Total Utilities Expense	60,093.90
Vehicle Expense	
Insurance	3,048.01
Registration	134.20
Repairs & Maintenance	1,299.38
Total Vehicle Expense	4,481.59
Wedding Fund Expense	125.17
Wednesday Visitation Dinner	21.00
Wells Fargo-Trifer from General	15,500.00
Youth Alliance Amex	3,763.21
Youth Rally	800.00

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Accrual Basis

Hillcrest Baptist Church
Profit & Loss
January through December 2011

	<u>Jan - Dec 11</u>
Youth Support	
CAMP	13,775.00
Fund Raiser	1,198.58
Youth Support - Other	99.32
Total Youth Support	<u>15,072.90</u>
Total Expense	<u>1,676,403.62</u>
Net Income	<u><u>61,691.30</u></u>