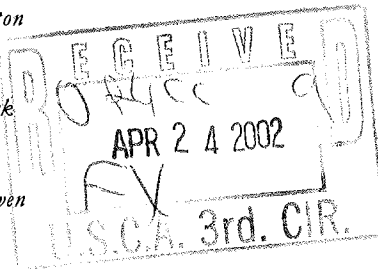


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April 23, 2002

VIA FEDERAL EXPRESS

Ms. Marcia Waldron, Clerk
United States Court of Appeals
for the Third Circuit
United States Courthouse
601 Market Street, Room 21400
Philadelphia, PA 19106-1790

Re: **Tenafly Eruv Association, Inc., et al. v. Borough of Tenafly, et al.**
No. 01-3301

Dear Ms. Waldron:

Oral argument in the above case was heard on March 21, 2002, before a panel of Circuit Judges Nygaard, Roth and Ambro. This letter is being submitted pursuant to Rule 28(j) of the Federal Rules of Appellate Procedure to advise the Court of the following language in the majority opinion of the Supreme Court of the United States in *Ashcroft v. Free Speech Coalition*, No. 00-795, decided April 16, 2002, at p. 17:

The argument, in essence, is that protected speech may be banned as a means to ban unprotected speech. This analysis turns the First Amendment upside down.

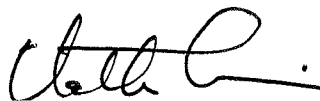
The Government may not suppress lawful speech as the means to suppress unlawful speech. Protected speech does not become unprotected merely because it resembles the latter. The Constitution requires the reverse.

MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C.

Ms. Marcia Waldron, Clerk
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This language is relevant to the questions asked at oral argument concerning Tenafly's constitutional authority to prohibit the eruv as a means of avoiding an Establishment Clause violation.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Nathan Lewin". The signature is fluid and cursive, with a long horizontal stroke at the end.

Nathan Lewin
Attorney for Appellants Chaim Book, Yosifa Book
and Stephen Brenner

NL:mdd

cc: Bruce S. Rosen, Esq. (all via facsimile)
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