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ACLU-MN Pleased With Settlement in Brainerd Parade Case

St. Paul, MN -- The ACLU of Minnesota is pleased that the Brainerd City Council has accepted a proposed settlement agreement between the City, Brainerd Community Action (BCA) and the Brainerd Area Coalition for Peace (BACP). The mediated settlement agreement and joint news release (attached) is in response to the denial of BACP's application to march in the 2003 Brainerd Fourth of July Parade. "We are pleased that this matter could be resolved without litigation," said Teresa Nelson, ACLU-MN Legal Counsel. "Our hope is that this experience will serve as an educational opportunity and that nothing like this will happen in the future." The settlement agreement includes three important aspects:

1. The City and BCA have acknowledged that the effect of their denial of BACP's parade application prevented the BACP from exercising its free speech rights during the parade. While the City and BCA may have had sincere public safety concerns about a potential hostile reaction from onlookers, Courts have consistently held that government officials cannot use what amounts to a "heckler's veto" to justify silencing a group's message. Generally, government officials may not consider the content of a group's message in determining whether or not to allow them to speak. It is equally impermissible for government officials to take into consideration the potential for a hostile reaction from listeners.
2. The City and BCA have agreed to make changes to their procedures in order to ensure that individuals are able to participate in the parade without regard to the content of their proposed message. The new procedures are designed to prevent arbitrary decision-making and ensure that groups are given a fair opportunity to participate in the parade.
3. The City, BCA and BACP have agreed to a symposium entitled The Right to Free Speech In The 21st Century Under the United States and Minnesota Constitutions. The League of Minnesota Cities will arrange the symposium and both the ACLU-MN and the League will choose faculty for the program.

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