

Gene Hoffman, Jr.
751 Sylvan Way
Emerald Hills, California 94062
Phone: + [REDACTED]
Mobile: + [REDACTED]
hoffmang@hoffmang.com

July 2, 2014

K. Kramer
Customer and Program Support Unit
Department of Motor Vehicles
Registration Operations Division
PO Box 825393
Sacramento, CA 94232-5393

RE: Denial – "LTR MRQE" License Plate, X-REF 102

K. Kramer:

At the outset, I must point out that the letter you sent is somewhat inadequate from a due process point of view. There are potentially three different criteria that you based your denial upon and your letter leaves it up to me to speculate as to which criteria my expressive plate supposedly violates.

As such, I request that if the plate "LTR MRQE" is conflicting with any existing license plate series issued, then you inform me of that fact in a subsequent letter.

Turning to whether "LTR MRQE" could be considered offensive, I will attempt to better educate you of the plate's meaning as there is no obvious offensive meaning intended or that I can come up with via speculation.

"LTR MRQE" is an abbreviation of "Letter of Marque" which is also often referred to as "Letters of Marque and Reprisal." The U.S. Constitution provides in [Article I, Sec. 8 cl. 11](#), "[t]he Congress shall have Power ... To declare War, grant Letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water[.]" The United States is last known to have issued a Letter of Marque in 1812 during the War of 1812. There are sources supporting the idea that the Goodyear Blimp *Resolute* flew anti-submarine patrols off Los Angeles in 1941 and 1942 under a letter of marque,¹ though this remains historically controversial.

¹ Shock, James R., Smith, David R., *The Goodyear Airships*, Bloomington, Illinois, Airship International Press, 2002, pg. 43, ISBN 0-9711637-0-7

Quoting Wikipedia²:

In the days of fighting sail, a **letter of marque and reprisal** was a government license authorizing a person (known as a *privateer*) to attack and capture enemy vessels and bring them before [admiralty courts](#) for condemnation and sale. Cruising for prizes with a letter of marque was considered an honorable calling combining patriotism and profit, in contrast to unlicensed [piracy](#), which was universally reviled.³

My wife and I are historians with a special interest in American History. Additionally, I am an accomplished boater and a fan of all things nautical and piratical. Additionally, I am an experienced, though unlicensed, scholar of the law. This plate's expression was intended to capture that shared identity of history, the sea, and the law for our 'new to us' convertible. Being 'honorable privateers' in a symbolic sense while riffing on obscure legal history is an important idea that we wish to convey to others in the limited public forum the state requires us to place on our automobile⁴.

To the extent that the Department of Motor Vehicles takes the position that "LTR MRQE" implies that we are receiving a Letter of Marque from the State of California, the Department is making clear legal error. At no point in history has the State or Territory of California had the legal right to issue a Letter of Marque as California statehood postdates the ratification of the U.S. Constitution. Article VI, paragraph 2 (the Supremacy Clause) makes it clear that as Congress has the exclusive power to, "grant Letters of Marque and Reprisal" the State of California can not, by law, do such an act.

I sincerely doubt that a reasonable person who reads the text of the proposed license plate "LTR MRQE" would confuse it as being anything more than a vanity plate – and certainly not a legal imprimatur from the State of California.

Finally, it appears from attempting to register the following plates at the Department's website, that the plates "PIRATE" and "PIR8" are both issued. As such, the Department would be hard pressed to state a reason why the Department would not issue an homage to the legal and respectable version of that expression.

² http://en.wikipedia.org/wiki/Letter_of_marque

³ Upton's *Maritime Warfare and Prize* pp 170-171; 176 (discussing the history of letters of marque and reprisal.)

⁴ Though I assume the Department has in the past relied upon *Kahn v. Department of Motor Vehicles* (1993) 16 Cal. App. 4th 159 [20 Cal. Rptr. 2d 6], the proper Federal authority is *Ariz. Life Coalition, Inc. v. Stanton*, 515 F.3d 956; 2008 which applies a limited public forum analysis to vanity plates that is more speech protective than *Kahn*.

Hopefully, with a better understanding of what this plate means, you will reconsider your decision and issue the "LTR MRQE" plate. It is important that the Department respect our right to express ourselves in this limited public forum.

Sincerely yours,

A handwritten signature in blue ink, appearing to read 'G. Hoffman, Jr.', with a long horizontal flourish extending to the right.

Gene Hoffman, Jr.
Also known as Eugene E. Hoffman, Jr.

Enclosures (1)

cc: Donald Kilmer, The Law Offices of Donald Kilmer



June 13, 2014

Info

Eugene E. Hoffman
751 Sylvan Way
Emerald Hills, CA 94062

LIC: LTR MRQE

X-REF 102

Dear Mr. Hoffman:

The Department of Motor Vehicles (DMV) received and reviewed your request for the purchase of the above-described environmental license plate.

The primary purpose of a review is to determine if a requested license plate configuration is appropriate to manufacture.

Unfortunately, DMV is unable to approve the requested license plate configuration for the following reason(s):

1. Per California Vehicle Code, Section 5105, the department **may refuse** any combination of letters and numbers that may be considered offensive, which could be misleading, or in conflict with any existing license plate series issued.

A charge back in the amount of \$49 will be applied to your credit card account. Please allow up to 120 days for the credit to show on your credit card statement. You may visit DMV's website at www.dmv.ca.gov to order and purchase another special interest license plate.

I am sure you can appreciate how difficult it is to balance an individual's constitutional right to free speech and expression, while protecting the sensibilities of all segments of our population. Please understand that this is a very difficult area to regulate and that not everyone feels the same way on any given subject.

If you feel that the department denied your license plate selection in error, please submit a letter of explanation for further review to:

- Provide a meaning of the license plate configuration you selected, or
- For 1969 year model vehicles, please provide a vehicle identification number.

Thank you for your interest in the California Environmental License Plate Program. If you have any questions, please call (916) 657-8035.

Sincerely,

K. Kramer, Manager
Customer and Program Support Unit
AKA:kcm