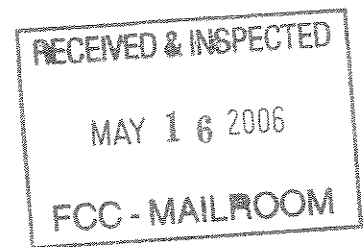


LGB CC-0525



LAW OFFICES  
JAMES L. OYSTER  
108 OYSTER LANE  
CASTLETON, VIRGINIA 22716-2839  
(540) 937-4800

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joyster@crosslink.net

May 10, 2006

Marlene H. Dortch, Secretary  
Federal Communications Commission  
Office of the Secretary  
445-12th Street, SW  
Washington, DC 20554

Re: Petition for Exemption, Closed Captioning

Dear Ms. Dortch:

On behalf of Hillcrest Baptist Church (El Paso, TX), there are submitted herewith an original and two (2) copies of its *Petition for Exemption* pursuant to 47 C.F.R. Section 79.1 (f).

Should any additional information be desired in connection with this matter, please communicate with this office.

Sincerely,

A handwritten signature in black ink, appearing to read "James L. Oyster".

James L. Oyster

RECEIVED & INSPECTED  
MAY 16 2006  
FCC - MAILROOM

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

In the Matter of : )  
 )  
Hillcrest Baptist Church )  
 ) 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.<sup>1</sup> 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.<sup>2</sup> Congress defined "undue burden" to mean "significant difficulty or expense."<sup>3</sup> When determining if the closed captioning requirements will impose an undue burden, the statute requires the Commission to consider the following factors: (1) the nature and cost of the closed

<sup>1</sup> *Implementation of Section 305 of the Telecommunications Act of 1996 - Video Programming Accessibility*, 13 FCC Rcd 3272 (1997) ("Report and Order").

<sup>2</sup> 47 U.S.C. § 613(d)(1).

<sup>3</sup> 47 U.S.C. § 613(e).

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.<sup>4</sup> A petition for exemption must be supported by sufficient evidence to demonstrate that compliance with the requirements to close caption video programming would cause an undue burden.<sup>5</sup> Petitioners also are instructed to submit any other information they deem appropriate and relevant to the Commission's final determination.<sup>6</sup>

3. In this regard, Section 79.1(f) requires a petition for exemption from the closed captioning requirements to demonstrate that compliance would cause significant difficulty or expense.<sup>7</sup> Attached hereto as Exhibit 1 is a letter petition from the Executive Pastor of Hillcrest setting forth the required elements in support of an "undue burden" 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 cost of providing closed captioning for the church service would be \$10,400.00 per year. (2) The church currently pays \$5,200.00 to KSCE (TV) to air this programming, which is a public service to the community. As can be seen, the cost of providing closed captioning would be double what the church is currently paying to air its worship service, thereby tripling the cost. Accordingly, this increased cost would have an excessive impact on the ability to provide this service. (3) The financial resources of the church are set forth in the Profit and Loss Statement that is attached to the petition. As can be seen, the church has no surplus, spending nearly \$43,000.00 more than it takes in. (4) The programming at issue is a local production of the weekly church worship

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<sup>4</sup> *Id.*; see also 47 C.F.R. § 79.1(f).

<sup>5</sup> 47 C.F.R. § 79.1(f)(2).

<sup>6</sup> 47 C.F.R. § 79.1(f)(3).

<sup>7</sup> 47 C.F.R. § 79.1(f)(2).

services of Hillcrest Baptist Church. Details are provided.

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 of an undue economic burden. As a church, the bulk of the church's budget goes to supporting the religious purposes of the church and not its television production operations. This is a non-profit religious institution that provides religious services to its community. It would be an "undue burden" to require the church to triple the cost of airing programming that supports its community service mandate.

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 double 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 twice the revenues and cannot be absorbed by KSCE.

WHEREFORE THE PREMISES CONSIDERED, it is respectfully requested that the Commission accept Hillcrest's showing that it would impose an "undue burden" 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.

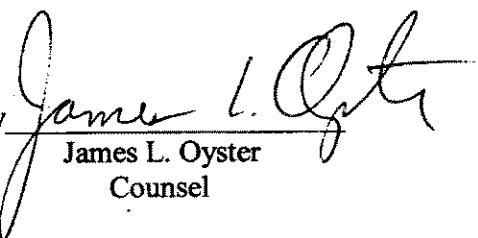
Respectfully submitted,

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

(540) 937-4800

May 10, 2006

HILLCREST BAPTIST CHURCH

By   
James L. Oyster  
Counsel

**EXHIBIT 1**

**W. A. Mitchell**  
Pastor



**"The Church For You"**

**Bob Stewart**  
Pastor Emeritus



**Sara Binswanger**  
Family Pastor



**Ray Athey**  
Executive Pastor



**Darrel Petry**  
Pastor's Assistant



**Dan Souders**  
R. L. Director



**Joe Dickinson**  
Youth Pastor



**Jason DeBrabant**  
Children's Pastor

Commission's Secretary  
Office of the Secretary  
Federal Communications Commission  
Attention:

May 4, 2006

To Whom It May Concern:

This is a formal petition for exemption to the Closed Captioning requirements on the basis of undue burden 47 C.F.R. & 79.1 (f).

Hillcrest Baptist Church's broadcast is a local production of weekly church worship services. We are a small church located in the city limits of El Paso, Texas. The program began five 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. The broadcast is aired locally and we have no immediate plans to extend the viewing area beyond our current location.

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

We have looked into having the program captioned and encoded by an outside third party. We have been quoted \$200 dollars a week for our two programs. This would be an annual cost of \$10,400 a year. This expense would create a serious hardship on our working budget to provide weekly captioning.

We currently pay \$5,200.00 a year for the airing of our services. Hillcrest Baptist Church does not generate any income from the broadcast regarding sales of product's or solicitation of funds for support.

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

W. A. Mitchell  
Pastor



"The Church For You"

Bob Stewart  
Pastor Emeritus



Sam Binswanger  
Family Pastor



Ray Athey  
Executive Pastor



Darrel Petry  
Pastor's Assistant



Dan Souders  
P. U. Director



Joe Dickinson  
Youth Pastor



Jason DeBrabant  
Children's Pastor

Hillcrest Baptist Church is a non-profit religious institution and our major operation is to minister to the El Paso area. The television broadcast provides the opportunity to reach those in our area that are not able to attend the services for various reasons.

Respectfully submitted,  
Hillcrest Baptist Church

By:

Ray Athey, Executive Pastor  
4710 Hercules  
El Paso, Texas 79904  
915.755.0400  
915.757.2230 FAX

Hillcrest Baptist Church  
4710 Hercules Avenue  
El Paso, TX 79904  
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Pastor's Assistant

Dan Souders  
U. Director

Joe Dickinson  
Youth Pastor

Jason DeBrabant  
Children's Pastor

### Declaration

I, Ray Athey, am the Executive Pastor (Financial Director) of Hillcrest Baptist Church, and I have reviewed the Petition for Exemption for Closed Captioning Requirements filed on behalf of Hillcrest Baptist Church in this matter, and upon information and belief, believe statement regarding our organization to be true and accurate.



Ray Athey, Executive Pastor  
May 4, 2006



W. A. Mitchell  
Pastor



"The Church For You"

Bob Stewart  
Pastor Emeritus



Sam Binswanger  
Family Pastor



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Joe Dickinson  
Youth Pastor



Jason DeBrabant  
Children's Pastor

Commission's Secretary  
Office of the Secretary  
Federal Communications Commission  
Attention:

May 4, 2006

To Whom It May Concern:

Upon reviewing our records, we have provided a 2005 Profit and Loss statement. You will find this document enclosed.

If you have further questions, please feel free to contact me at 915.755.0400.

Sincerely,

Ray Athey  
Executive Pastor

Encl.

Hillicrest Baptist Church  
4710 Hercules Avenue  
El Paso, TX 79904  
915.755.0400  
www.hillicrestbaptist.cc

Hillcrest Baptist Church  
**Profit & Loss**  
 January through December 2005

|                                  | <u>Jan - Dec 05</u>         |
|----------------------------------|-----------------------------|
| <b>Income</b>                    |                             |
| 50 th Annv. Funds                | \$6,677.55                  |
| Audio/Video Ministries           | \$3,095.00                  |
| Building Fund                    | \$30,562.00                 |
| Chairs - Special Fund            | \$391.00                    |
| Faith Promise                    | \$201,306.39                |
| Faith Promise 10%                | \$96,911.53                 |
| Journey of Faith (JOF)           | \$268,469.00                |
| Patch The Pirate Income          | \$3,193.70                  |
| Reformer's Unanimous Fund        | \$404.53                    |
| Tithes & Offering                | \$873,991.85                |
| Wedding Fund                     | \$525.00                    |
| <b>Total Income</b>              | <u>\$1,485,527.55</u>       |
| <b>Expense</b>                   |                             |
| 50th Annv. Expense               | \$219.93                    |
| Armored Service Expense          | \$1,040.04                  |
| Audio/Video Ministries Expenses  | \$2,849.85                  |
| Bank Services Charges            | \$967.41                    |
| Building Needs                   | \$21,173.44                 |
| Contract Labor                   | \$5,307.00                  |
| Deprec. Exp.-Furniture & Equip   | \$7,062.28                  |
| Depreciation Expense -Main Bldg. | \$12,930.09                 |
| Educational                      | \$2,615.80                  |
| Equipment Rental                 | \$23,161.02                 |
| Housing Allowance                | \$21,300.00                 |
| Insurance                        | \$91,404.40                 |
| Interest Expense - Notes         | \$30,350.08                 |
| Janitorial                       | \$18,645.00                 |
| Journey of Faith Expenses        | \$268,469.00                |
| Land Payment                     | \$32.41                     |
| Love offering                    | \$7,166.29                  |
| Men's Advance                    | \$3,005.99                  |
| Mission Fund                     | \$287,955.10                |
| Modular Bldg.                    | \$4,531.68                  |
| Multimedia                       | \$2,093.04                  |
| Music Ministry                   | \$2,819.37                  |
| Outreach                         | \$41,389.08                 |
| Patch The Pirate Ministries      | \$3,365.67                  |
| Payroll Expenses                 | \$501,610.16                |
| Postage                          | \$3,145.96                  |
| Reformer's Unanimous Expenses    | \$2,812.43                  |
| Supplies, Church                 | \$6,854.17                  |
| Supplies, Kitchen                | \$1,840.63                  |
| Supplies, Nursery                | \$2,829.90                  |
| Supplies, Office                 | \$33,533.60                 |
| Utilities Expense                | \$75,382.84                 |
| Vehicle expense                  | \$29,099.79                 |
| Wedding Fund Expense             | \$477.75                    |
| Youth Support                    | \$10,793.93                 |
| <b>Total Expense</b>             | <u>\$1,528,285.13</u>       |
| <b>Net Income</b>                | <u><b>(\$42,757.58)</b></u> |