City Walk – Urban Mission Inc. v. Wakulla County Florida, No. 4:20cv244-MW/MAF, 2020 WL 3871172 (N.D. Fla. July 9, 2020)

Northern District of Florida Rules That County's Amendment to Land Development Code Placed a Substantial Burden on Religious Non-Profit Transition Home

City Walk – Urban Mission Inc. ("Plaintiff") is a church that leases property in Wakulla County (the "County"). The Plaintiff uses the property to operate a religious-based transition house for adults in need—including sex offenders. Under the County's Land Development Code ("LDC"), the transition house was considered a "family care home" and received approval from the County's Planning and Zoning Department to house up to six unrelated adults in the home at once. Because of the County's approval of the transition house, the Plaintiff signed a ten year lease on the property, beginning in 2013.

After a year of operation, local residents submitted complaints to the County because tenants of the home included registered sex offenders. In response to the complaints, the County issued a notice of violation in June of 2015 stating that the home was being illegally used as a "boardinghouse"—a use not allowed under the current zoning of the property. However, after further inspection, the County later decided that the property was in compliance with the LDC because it was operating as a "family care home." A few months later, the County amended the LDC, removing the "family care home" use from the allowable principal uses and replacing it with "community residential home" ("CRH") as the only allowable principal use. The Plaintiff was unable to qualify for the CRH principal use, nor any other principal or conditional uses, and still maintain operation of the transition house. Additionally, the LDC did not allow the Plaintiff to request a variance. Following the LDC amendment, the County again issued a notice of violation to the Plaintiff, requiring that the property discontinue housing three or more unrelated adults and threatening fines if the violation was not corrected.

In response to the LDC amendment and notice of violation, the Plaintiff brought suit against the County under the Religious Land Use and Institutionalized Persons Act ("RLUIPA"). The Plaintiff specifically requested a preliminary injunction from the Court, arguing that the County violated RLUIPA by placing a substantial burden on its ability to exercise its religion. The County argued that the Plaintiff was able to relocate to a property where the LDC allowed the transition home to operate with three or more tenants and thus was not substantially burdened by the LDC amendment. Additionally, the County argued that the substantial burden on the Plaintiff was actually just a self-imposed hardship. Lastly, the County claimed it had a compelling governmental interest to enforce its LDC and allow CRH's to operate.

The Court ruled in favor of the Plaintiff, granting a preliminary injunction based on the Plaintiff's likelihood of success on the merits of the case. First, the Court determined that Plaintiff was

performing a religious exercise—using real property for religious purposes—and that the religious exercise was substantially burdened by the LDC amendment because it put "substantial pressure on [the] Plaintiff to change its religious exercise to conform to" the LDC's new requirements. The Court rejected the County's argument that there is no substantial burden because the Plaintiff can relocate, reasoning that the Plaintiff does not have the ability to relocate anywhere in the County and still operate the transition home with three or more adults. The Court specifically noted that both the inability to relocate and the inability to obtain a variance created a substantial burden on the Plaintiff's religious exercise. Second, the Court rejected the County's claim that the hardship on religious exercise was self-imposed, stating that the Plaintiff did not "kn[o]w that it was not allowed to set up the [p]rogram at the Property prior to signing the lease" but instead obtained explicit approval from the County before opening the transition home.

Lastly, the Court determined that the County did not justify the burden placed on the Plaintiff by amending the LDC. The Court reasoned that while the County does have an interest to enforce its zoning code, the County must also show that it has a compelling interest in specifically excluding the Plaintiff from the intended uses allowed by the LDC. Additionally, the Court stated that even if the County had a compelling interest in excluding the Plaintiff's use, the County did not show that the LDC amendment was "the least restrictive means of furthering its compelling interest." The Court concluded that the Plaintiff had successfully established that the County had violated RLUIPA and that, absent an injunction, irreparable harm may occur.