



CITY OF FORT LAUDERDALE
Commission Agenda Memo
REGULAR MEETING

14-1628

TO: Honorable Mayor & Members
Fort Lauderdale City Commission

FROM: Cynthia A. Everett, City Attorney

DATE: December 17, 2014

TITLE: Motion to Approve Appeal of Court Orders Issued Against the City in the matter of Arnold Abbott, Love Thy Neighbor Fund, Inc. v. City of Fort Lauderdale, Case No. CACE 99-03583 (05)

Recommendation

It is recommended that an appeal of adverse rulings against the City in this matter be filed with the Florida District Court of Appeal, Fourth District.

Background

The matter of Arnold Abbott, Love Thy Neighbor Fund, Inc. v. City of Fort Lauderdale was resolved by Final Judgment, on or about June 14, 2000. The court's Final Judgment was affirmed on appeal in Abbott v. City of Fort Lauderdale, 783 So.2d 1213, 1215 (Fla. 4th DCA 2001), with the court reversing the denial of Mr. Abbott's post-trial motion for contempt and/or to enforce injunction, and remanding for further consideration. Upon remand, the court entered its Order on Plaintiffs' Renewed Motion for Contempt and/or to Enforce Injunction on September 6, 2001, therein holding that "the site designated by the City of Fort Lauderdale adjacent to Lockart Stadium does not reasonably comply with the requirements of the Florida Religious Freedom Restoration Act, Fla. Stats. 761.03 (1999)," and enjoined CITY from enforcing Park Rule 2.2 "to prohibit the plaintiff from feeding the homeless at the picnic area of Ft. Lauderdale beach until City fully complies with this Court's Final Judgment of June 14th 2000 by either providing a suitable site for the plaintiffs to conduct their feedings or amending the zoning codes in accordance with this court's Final Judgment."

On or about November 12, 2014, and as a result of being cited for violations of City Ordinance C-14-42, Arnold Abbott and Love Thy Neighbor Fund, Inc. filed a Motion to Enforce Injunction and/or for an Order to Show Cause Why the Defendant Should Not be Held in Contempt of Court for Violation of the Injunction. A status conference was held before the Hon. Thomas M. Lynch, IV, on or about December 2, 2014, which resulted in

the Court, on its own and without any pending motion or request, ordering a thirty (30) day stay of the City's enforcement of City Ordinance C14-42, thereby ordering that no arrests be made in furtherance thereof, and ordering the Parties to participate in mediation. Thereafter, after hearing additional argument on December 5, 2014, the Court granted Third-Party Intervenors Reverend Mark Sims' and Pastor Dwayne Black's Motions to Intervene in this post-judgment action.

The City Attorney's Office recommends an appeal of the Court's Order staying the enforcement of City Ordinance C-14-42, and the Order granting the Third-Party Intervenors' Motions to Intervene, both of which the City Attorney's Office opines were erroneous, and an abuse of the Court's discretion.

Resource Impact

No fiscal impact

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Charter Officer: Cynthia A. Everett, City Attorney