IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

MARCUS SABO, MAXWELL BURKERT, RODNEY CAMPBELL, MICHAEL DOUGLAS, ROBERT DUKE, EDWARD FOLTZ, ROBERT GATEWOOD, GREGORIO GONZALEZ, DEMETRIUS HUGHES, NIKOS KASTRINSIOS, ROBERT LAMMERS, DOUGLAS EARL MARTIN, RICHARD MOORE, NICHOLAS NARISH, DANE NEYLAND, CARLOS RIVERA, DAVID ROCHEVILLE, EDWARD ASKEW, and DELQUISE ALLEN,	)	19 CV 4837
Plaintiffs,	)	
v.	)	
CITY OF AURORA,	)	**Jury demand**
Defendant.	)	

COMPLAINT

Plaintiffs Marcus Sabo, Maxwell Burkert, Rodney Campbell, Michael Douglas, Robert Duke, Edward Foltz, Robert Gatewood, Gregorio Gonzalez, Demetrius Hughes, Nikos Kastrinsios, Robert Lammers, Douglas Earl Martin, Richard Moore, Nicholas Narish, Dane Neyland, Carlos Rivera, David Rocheville, Edward Askew, and Delquise Allen through counsel, complain against Defendant City of Aurora as follows:

JURISDICTION AND VENUE

1. This is an action brought to enforce Plaintiffs' rights under the Federal Civil Rights Act, 42 U.S.C. § 1983, the Illinois Religious Freedom Restoration Act, 775 ILCS 35/1, *et seq*., and the Illinois Declaratory Judgment Act, 735 ILCS 5/2-701.

2. This Court has jurisdiction over Plaintiffs' federal claim pursuant to 28 U.S.C. §§ 1331 and 1343(a)(3).

3. Plaintiffs further invoke the supplemental jurisdiction of this Court, pursuant to 28 U.S.C. § 1367(a), to consider state law claims arising out of the same subject matter as Plaintiffs' federal claim.

4. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b) because, as a municipality located in this judicial district, Defendant "resides" in this judicial district and the events giving rise to the claims asserted herein occurred in this judicial district.

RELEVANT FACTS

Wayside Cross Ministries

5. Founded in 1928, Wayside Cross Ministries ("WCM") ministers to people whose lives are in crisis. WCM offers six Bible-based transformational programs for men, women, women with children, at-risk youth, the incarcerated, and ex-offenders.

6. The Plaintiffs are 19 residents of WCM's residential facility located at 215 E. New York Street, Aurora, Illinois. Plaintiffs are all participants in WCM's Master's Touch Ministry.

7. The Master's Touch ministry is a comprehensive residential, life transformation ministry for troubled men whose lives are out of control as a result of drugs, alcohol, or other destructive behavior patterns. The program helps them confront their problems and empowers them to change through spiritual development, biblically based mentoring, work rehabilitation, education, partnerships with local churches and transitional housing.

8. Plaintiff Robert Gatewood describes the Master's Touch ministry as "a spiritual family" where the residents are committed to transforming their lives through deepening their connection with God and supporting their fellow residents' spiritual progress.

9. Plaintiff Gregorio Gonzales describes his experience at WCM as "transformational" because the residents "pray together, read the Bible together and are learning together how to be productive people and to do it for the glory of God."

10. There are presently 90 men in WCM's resident population at 215 E. New York Street, 9 of whom are Resident Staff and the rest of whom are working their way through the program.

11. WCM has provided its ministry in downtown Aurora for more than 90 years, and has been at its current location for more than 60 years. As reported by the *Chicago Tribune*, "Even the Aurora Police Department acknowledges Wayside runs a tight ship that has resulted in fewer problems than other areas of the city."

The City's Notice Instructing Plaintiffs to Move Out of WCM

12. Each of the Plaintiffs has been convicted of a sex offense that makes him subject to the restrictions set forth in 720 ILCS 5/11-9.3(b-10) (hereinafter "the Residency Law"), a section of the Illinois Criminal Code which prohibits individuals who have been convicted of sex offenses involving minors from living within 500 feet of "a playground, child care institution, day care center, part day child care facility, day care home, group day care home, or a facility providing programs or services exclusively directed toward persons under 18 years of age."

13. Defendant City of Aurora, through its police department, has given each of the Plaintiffs written notice that he is prohibited from continuing to reside at WCM because doing so violates the Residency Law.

14. The substance of each of these notices is identical. The notice states that the Plaintiffs are "required to relocate within 30 days" because their living at 215 E. New York Street violates the Residency Law because WCM is located within 500 feet of McCarty Park. The notice states that if the men "fail to move" they "may be charged with a class 3 felony violation of the registration act." To date, Aurora police have given these notices to 19 residents of Wayside Cross Ministries.

15. Plaintiffs Sabo, Burkert, Campbell, Douglas, Duke, Foltz, Gatewood, Gonzalez, Hughes, Kastrinsios, Lammers, Martin, Moore, Narish, Neyland, Rivera, Rocheville, and Askew have been given until July 26, 2019 to move out of Wayside Cross Ministries.

16. Plaintiff Allen has been given until August 15, 2019 to move out of Wayside Cross Ministries.

McCarty Park

17. McCarty Park is a public park located in downtown Aurora at 350 E. Galena Boulevard. As shown on the Google satellite image attached hereto as Ex. 1, McCarty Park is situated between E. New York Street on the North, W. Park Place on the West, E. Galena Blvd. on the South, and E. Park Place on the East.

18. McCarty Park has been at that location for more than 100 years.

19. McCarty Park is open to the public and contains benches, landscaping, paved pathways and a fountain.

20. The fountain has been located in the center of McCarty Park for approximately 10 years.

21. Within the past two months, the City added two children's rocking horses to the lawn on the East side of the park near E. Park Place. Ex. 2, Photo.

22. Google Maps' measuring tool shows that the easternmost boundary of 215 E. New York Street is within 500 feet of the westernmost boundary of McCarty Park. Ex. 1.

23. The fountain at the center of McCarty Park is more than 550 feet from the easternmost boundary of 215 E. New York Street. *Id.*

24. The rocking horses on the east side of McCarty Park are more than 700 feet from the easternmost boundary of 215 E. New York Street. *Id.*

The Relevant Provisions of Illinois Law

25. Because of their criminal convictions, all of the Plaintiffs are subject to the Residency Law, which sets forth restrictions on where they may reside. *See* 720 ILCS 5/11-9.3(b-5) and (b-10). The statute makes it illegal for Plaintiffs to reside within 500 feet of schools, playgrounds, daycare facilities, and facilities providing programs or services directed exclusively towards minors.

26. The provision prohibiting residency within 500 feet of playgrounds went into effect on July 7, 2000. 720 ILCS 5/11-9.3(b-10).

27. It is a Class 4 felony for an individual subject to the Residency Law to reside in a prohibited location. 720 ILCS 5/11-9.3(f).

28. Notably, there is no statute that prohibits Plaintiffs or other individuals subject to the Residency Law from living within 500 feet of a "park."

29. Illinois law defines a "playground" as "a piece of land owned or controlled by a unit of local government that is designated by the unit of local government for use *solely or primarily for children's recreation*." 720 ILCS 5/11-9.3(d)(13) (emphasis added).

30. Per 720 ILCS 5/11-9.3(e), the 500 foot distance is measured from "the edge of the property comprising the … playground … to the edge of the child sex offender's place of residence."

31. Under Illinois law, an individual who is required to register as a sex offender must register his address and other identifying information annually "with

the chief of police in the municipality in which he or she resides." 730 ILCS 150/3 (a)(1).

32. It is within the discretion of each local registration authority (*i.e.*, the local police department) to apply the Residency Law to addresses within its jurisdiction and determine whether a registrant is permitted to register a particular address.

33. Prior to June 26, 2019, the City registered all of the Plaintiffs at WCM using 215 E. New York Street as their home address. Indeed, the City has permitted individuals who have been convicted of sex offenses against minors to register at WCM for decades and never raised a concern that WCM is too close to McCarty Park.

34. The City will no longer allow individuals subject to the Residency Law to register at WCM because the City has determined that 215 E. New York Street does not comply with the Residency Law due to its proximity to McCarty Park.

35. In particular, the City has decided to treat the entirety of McCarty Park as a "playground" due to the presence of a fountain in the center of the park and two rocking horses on the east side of the park.

36. Failure to register and/or providing false registration information is a Class 3 felony. 730 ILCS 150/10.

Security Provisions at WCM

37. The residential building of WCM where Plaintiffs all reside is located at 215 E. New York Street. The residents of the Master's Touch ministry are only permitted to enter and exit the residential building through a door on the west side

of the building. This door is more than 500 feet from the nearest boundary of McCarty Park.

38. The residents of the Master's Touch ministry are restricted from leaving the residence property at night because of a 9:30 p.m. curfew and also because they are closely supervised by the staff at WCM.

39. WCM is prepared to secure written agreements from the Plaintiffs that they would not be permitted on portions of Wayside's property that are less than 500 feet from the McCarty Park property line after the close of business.

The Plaintiffs Will Be Seriously Harmed If the City's Notice Is Enforced

40. Each of the Plaintiffs came to WCM because his life was in crisis after he was convicted of a serious crime. The Plaintiffs are at WCM seeking to transform their lives through deepening their faith in God, working to break negative patterns of behavior, and building skills that will allow them to be independent.

41. If Plaintiffs are forced to leave WCM, they will be deprived of the stability, services and supportive religious community that are essential to their growth and progress towards leading law abiding, productive lives.

42. For example, Plaintiff Askew states that during his time at WCM, he has begun to change his life through prayer, seeking forgiveness, and putting his faith in God, but he fears that if he leaves WCM, he will return to a life "on the streets" because he is "a drug addict and not yet strong enough to fight this battle alone."

43. Similarly, Plaintiff Martin states that living and working at WCM and participating in its programs has "restored [his] self-worth" and deepened his

Christian faith. But if he is kicked out of the program, he will have no job, no money, and would become homeless.

44. Plaintiffs Gatewood, Sabo, Foltz, Campbell, Rivera, Kastrinsios, Askew, Martin, Narish, Rocheville, Gonzales, Neyland, Douglas, Burkert and Moore will all become homeless if they are forced to move out of WCM. They do not have sufficient resources to obtain their own housing and do not have family members who can take them in.

45. Plaintiffs Lammers, Duke and Hughes each have a small amount of savings that they would seek to put towards obtaining housing, but they fear that if they move out of WCM their lives and their employment will be destabilized and they will also be at risk of homelessness.

46. If the Plaintiffs do not have housing, they will be forced to sleep outside because most homeless shelters in Illinois will not accept individuals who are required to register as sex offenders.

COUNT I
DEPRIVATION OF FIRST AMENDMENT RIGHTS TO FREE EXERCISE OF RELIGION AND TO ASSOCIATION
42 U.S.C. § 1983

47. Plaintiffs repeat and reallege paragraphs 1–46 of the Complaint as if set forth in their entirety in Count I.

48. Plaintiffs are participants in the Master's Touch program at WCM, which is a residential recovery program for troubled men.

49. The program empowers its participants to experience spiritual transformation through the power of the gospel of Christ. Components of the

program include prayer, spiritual development, Biblically-based discipleship with Wayside's staff, and individual mentor relationships with members of local churches.

50. Participants in the program reside together in dormitory-style housing where they support each other's journeys towards becoming disciples of Christ.

51. Plaintiffs have experienced spiritual transformation through WCM's Bible-based, Christ-centered ministry. They are joined to WCM and to each other in living a religious life and providing each other with religious fellowship. Their relationship with WCM and each other is akin to a parishioner's with his church, or a monk's with the monastery where he lives.

Legal Standard

52. 42 U.S.C. § 1983 authorizes civil actions to redress the deprivation, under color of state law, of rights secured by the Constitution.

53. The First Amendment to the U.S. Constitution provides in part: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof." U.S. Const., amend. I, § 1. The First Amendment also protects the "right of individuals to associate to further their personal beliefs." *Healy v. James*, 408 U.S. 169, 181 (1972).

54. A government action that burdens the exercise of religion is subject to strict scrutiny when the "religiously motivated action . . . [involves] the Free Exercise Clause in conjunction with other constitutional protections," such as the "freedom of association." *Employment Div. v. Smith*, 494 U.S. 872, 881-82 (1990).

55. Where strict scrutiny applies, the government must demonstrate that its actions are in furtherance of a compelling governmental interest, as well as the least restrictive means of furthering that interest. *See Wisconsin v. Yoder*, 406 U.S. 205 (1972); *Sherbert v. Verner*, 374 U.S. 398 (1963).

Plaintiffs' Free Exercise of Religion and Freedom of Association

56. Defendant's actions as described in this Complaint impose a substantial burden on Plaintiffs' exercise of religion and violate Plaintiffs' right of free association, thus triggering strict scrutiny for their actions.

57. Defendant has substantially burdened and continues to substantially burden Plaintiffs' exercise of religion by requiring them to move out of their residences at Wayside or face criminal prosecution.

58. Plaintiffs reside at WCM as part of its Bible-based, Christ-centered ministry. Their residency at WCM is essential to their ability to practice their faith. By imposing the threat of criminal prosecution if Plaintiffs do not remove themselves from their faith community, Defendant has substantially burdened Plaintiffs' exercise of religion.

59. Additionally, Defendant's actions violate Plaintiffs' right of free association by requiring them to sever their connection with WCM and their faith community or face criminal prosecution.

60. Courts "have long understood as implicit in the right to engage in activities protected by the First Amendment a corresponding right to associate with others in

pursuit of a wide variety of political, social, economic, educational, religious, and cultural ends." *Roberts v. United States Jaycees*, 468 U.S. 609, 622 (1984).

61. Plaintiffs have a right to associate with other members of WCM's Master's Touch program in their pursuit of spiritual growth and enlightenment. If Plaintiffs are required to remove themselves from WCM, they will be unable to continue practicing their faith with the group of their choosing. By imposing the threat of criminal prosecution if Plaintiffs do not remove themselves from their faith community, Defendant has violated Plaintiffs' right of association.

Defendant's Actions Are Not Justified by a Compelling Governmental Interest

62. In determining whether the government has demonstrated a compelling governmental interest, courts must "look[] beyond broadly formulated interests justifying the general applicability of government mandates and scrutinize[] the asserted harm of granting specific exemptions to particular religious claimants." *Gonzales v. O Centro Espirita Beneficente Uniao do Vegetal*, 546 U.S. 418, 431 (2006).

63. Defendant cannot show that it has a compelling governmental interest in preventing these particular Plaintiffs from living on a property whose boundary is less than 500 feet from the property line of McCarty Park for several reasons:

a. The dormitory where Plaintiffs reside is more than 500 feet from the fountain and two hobby horses that Defendant asserts convert McCarty Park into a "playground."[1]

[1] Plaintiffs dispute Defendant's characterization of McCarty Park as a "playground." *See* Count III, *infra*.

b. Plaintiffs are restricted from leaving the property because the gate outside their dormitory is locked and because Plaintiffs are closely supervised by the staff at Wayside.

c. Wayside has provided its ministry in the same location for over ninety years while maintaining good relations with the City of Aurora and the Aurora police department. As reported by the *Chicago Tribune*, "Even the Aurora Police Department acknowledges Wayside runs a tight ship that has resulted in fewer problems than other areas of the city."

64. In December 2017, the Illinois Sex Offenses and Offender Registration Task Force, which was established by the Illinois General Assembly with the mandate to "examine the implementation and impact of the state's sex offender registration and residency restrictions," released its Final Report ("Report")[2] which concluded:

> No research was available on whether [residency] restrictions would prevent sexual offending prior to implementation in states and local jurisdictions across the nation. Since that time, research has shown residency restrictions neither lead to reductions in sexual crime or recidivism, nor do they act as a deterrent. One reason for this null finding is that while residency restrictions were premised on preventing sexual abuse by strangers, research has shown most offenders are not strangers to their victims and abuse tends to happen in a private residence rather than identified public locations. At the same time, registry restrictions produce collateral consequences that stem from the inability to secure stable housing and employment or meaningfully participate in civic, social, or religious activities. Many of these collateral consequences weaken protective factors that reduce the risk of criminal behavior, such as family support, and aggravate factors that increase risk, such as homelessness or unemployment.

Id., pp. 22-23.

[2] Sex Offenses and Sex Offender Registration Task Force Final Report (2017), http://www.icjia.state.il.us/assets/articles/SOTF_report_final_12292017.pdf.

65. In this case, just such "collateral consequences" are likely to result if Plaintiffs are required to remove themselves from their support network at WCM. As such, far from furthering a compelling governmental interest, Defendant's actions are likely to exacerbate the very risk that it purportedly wishes to prevent.

66. The Report establishes that the Residency Law does not promote the identified governmental interest in child safety.

Defendant's Actions Are Not the Least Restrictive Means of Achieving Any Compelling Governmental Interest

67. Assuming *arguendo* that Defendant has a compelling governmental interest in preventing contact between minors and individuals who have been convicted of sex offenses, Defendant's actions are not the least restrictive means of furthering that interest.

68. The very existence of a government-sanctioned exception to a regulatory scheme that is purported to be the least restrictive means can demonstrate that other, less-restrictive alternatives exist. *See Burwell v. Hobby Lobby Stores, Inc.,* 573 U.S. 682, 730-31 (2014).

69. The Illinois Criminal Code provides an exception to the general rule that a child sex offender may not reside within 500 feet of a playground. This exception applies to child sex offenders who own property that was purchased before July 7, 2000. 720 ILCS 5/11-9.3(b-10).

70. This government-sanctioned exception suggests that requiring Plaintiffs to leave WCM is *not* the least restrictive means of furthering any interest in protecting minors.

71. The Report recommended ways to "[e]nsure [r]estrictions are [n]arrowly [t]ailored to [i]mprove [p]ublic [s]afety," also suggesting those restrictions are not currently narrowly tailored. Report, p. 28.

72. There are less restrictive options that would ensure the protection of minors in McCarty Park without substantially burdening Plaintiffs' free exercise of religion including, for example:

a. Securing agreements from WCM and Plaintiffs that they would not be permitted on portions of Wayside's property that are less than 500 feet from the McCarty Park property line after the close of business;

b. Obtaining a statement from WCM describing the precise supervision and restrictions placed on each of the Plaintiffs; and

c. Allowing Defendant to verify that the only unlocked entrance to Plaintiffs' residence building is more than 500 feet from McCarty Park.

73. Defendant can itself ensure child safety simply by utilizing its general law enforcement resources to patrol McCarty Park or place surveillance cameras in the area.

WHEREFORE, Plaintiffs respectfully request the following relief from this Court:

A. An injunction directing Defendant to permit Plaintiffs to maintain their residency and registration at Wayside Cross Ministries without the threat of criminal prosecution;

B. Attorney's fees and the costs of this proceeding pursuant to 42 U.S.C. § 1988(b); and

C. Such other and further relief as may be necessary and appropriate to effectuate the Court's judgment and to protect Plaintiffs' rights.

COUNT II
VIOLATION OF THE ILLINOIS
RELIGIOUS FREEDOM RESTORATION ACT
775 ILCS 35/1, *et seq.*

74. Plaintiffs repeat and reallege paragraphs 1-73 of the Complaint as if set forth in their entirety in Count II.

75. The Illinois Religious Freedom Restoration Act, 775 ILCS 35/1, *et seq*. ("Illinois RFRA"), is and was in effect at all times relevant to this Complaint.

76. Illinois RFRA provides, in pertinent part:

> Government may not substantially burden a person's exercise of religion, even if the burden results from a rule of general applicability, unless it demonstrates that application of the burden to the person (i) is in furtherance of a compelling governmental interest and (ii) is the least restrictive means of furthering that compelling governmental interest.

775 ILCS 35/15.

77. Defendant has substantially burdened and continues to substantially burden Plaintiffs' exercise of religion by requiring them to move out of their residences at Wayside or face criminal prosecution. *See* Count I, *supra*.

78. "[T]he hallmark of a substantial burden on one's free exercise of religion is the presentation of a coercive choice of either abandoning one's religious convictions or complying with the governmental regulation." *Diggs v. Snyder*, 333 Ill. App. 3d 189, 195 (5th Dist. 2002) (citing *Yoder*, 406 U.S. at 217-18).

79. Defendant placed a substantial burden on Plaintiffs' free exercise of religion by presenting a coercive choice—namely, Plaintiffs must abandon their lives in a religious community and move out of WCM or face criminal prosecution.

80. Moreover, Defendant's actions are not in furtherance of a compelling governmental interest. *See* Count I, *supra*.

81. Finally, assuming *arguendo* that Defendant has a compelling governmental interest in preventing contact between children and individuals who have been convicted of sex offenses, Defendant's actions are not the least restrictive means of furthering that interest. *See* Count I, *supra*.

WHEREFORE, Plaintiffs respectfully request the following relief from this Court:

A. An injunction directing Defendant to permit Plaintiffs to maintain their residency at Wayside Cross Ministries without the threat of criminal prosecution;

B. Attorney's fees and the costs of this proceeding pursuant to 775 ILCS 35/20; and

C. Such other and further relief as may be necessary and appropriate to effectuate the Court's judgment and to protect Plaintiffs' rights.

COUNT III
Declaratory Judgment
735 ILCS 5/2-701

82. Plaintiffs repeat and reallege paragraphs 1-81 of the Complaint as if set forth in their entirety in Count III.

83. Plaintiffs believe that the City's determination that Plaintiffs must move out of WCM is wrong for two reasons: (1) the City is misinterpreting the statute defining what constitutes a "playground" under Illinois law; and (2) the City is using the wrong method for measuring the distance between a playground and a residence.

84. First, the entirety of McCarty Park does not meet the statutory definition of a "playground" because most of the park is not designated for use "solely or primarily for children's recreation." *See* 720 ILCS 5/11-9.3(d)(13) (defining a "playground" as "a piece of land owned or controlled by a unit of local government that is designated by the unit of local government for use solely or primarily for children's recreation.")

85. McCarty Park is a general use park open to members of the public (adults and children alike) which contains paved walking paths, open green space, landscaping, a fountain and other amenities. Ex. 1, Google Maps Satellite Image. There are two rocking horses on the eastern side of McCarty Park. Ex. 2. The presence of these two small rocking horses does not convert the entirety of McCarty Park, including the parts that are used primarily by adults, into a "playground."

86. Second, assuming *arguendo* that the two rocking horses meet the statutory definition of a "playground," it is Plaintiffs' contention that the proper measurement of the 500-foot distance is not from the edge of McCarty Park to the edge of 215 E. New York Street, but rather from the boundary of the particular area of the park which meets the statutory definition of a playground (*e.g.,* where the rocking horses are located on the eastern side of the park) to the residence.

87. Pursuant to the Illinois Declaratory Judgment Act, 735 ILCS 5/2-701, Plaintiffs seek a declaration that setting forth the following two points:

a. That under 720 ILCS 5/11-9.3(b-10) the distance between a residence and a "playground" is measured from the edge of the property line of the residence to the edge of the particular area that meets the statutory definition of a "playground"; and

b. That 215 E. New York Street, Aurora, Illinois, is not within 500 feet of a "playground," as that term is defined in Illinois law.

88. The Illinois Supreme Court has explained that a declaratory judgment is appropriate where the plaintiff "seeks construction of a governmental regulation or written instrument and a declaration of the rights of the parties involved." *Am. Family Mut. Ins. Co. v. Savickas*, 193 Ill. 2d 378, 390, 250 Ill. Dec. 682, 689, 739 N.E.2d 445, 452 (2000) (*citing* 735 ILCS 7/2-701(a) (West 1998)).

89. Where, as here, a plaintiff brings a declaratory judgment action concerning the validity or proper application of a statute, the plaintiff "must have sustained, or be in immediate danger of sustaining, a direct injury as a result of enforcement of the statute." *Lebron v. Gottlieb Mem'l Hosp*., 237 Ill. 2d 217, 266-67, 341 Ill. Dec. 381, 410, 930 N.E.2d 895, 924 (2010) (*citing Village of Chatham v. County of Sangamon*, 216 Ill. 2d at 419-20 (2005)).

90. A declaration of law is necessary and proper here because the parties are in disagreement concerning the proper interpretation of 720 ILCS 5/11-9.3(b-10) and whether 215 E. New York Street is within 500 feet of a "playground" under Illinois law, and the resolution of these disputes will have a substantial and immediate impact on the parties' respective legal rights and responsibilities.

91. As explained in ¶¶40–47 above, Plaintiffs will sustain an immediate and serious injury if the City refuses to allow them to continue living at WCM. Plaintiffs will face an untenable choice between sleeping on the streets or facing potential felony charges for violation of the Sex Offender Registration Act. It is a Class 4

felony for an individual subject to the Act to reside in a prohibited location (720 ILCS 5/11-9.3(f)) and a Class 3 felony to fail to accurately register one's address (730 ILCS 150/10).

92. Second, a proper interpretation of 720 ILCS 5/11-9.3(b-10) is necessary so both Plaintiffs and the City know their legal rights and responsibilities.

93. Plaintiffs have a legal obligation to not reside within 500 feet of a playground and can face felony prosecution if they fail to abide by this restriction. 720 ILCS 5/11-9.3(f). It is thus necessary for them to know how the distance between a playground and a residence will be measured so they can conform their conduct to the law. Likewise, the City has a legal responsibility to register individuals who have been convicted of sex offenses residing within its jurisdiction. 730 ILCS 150/3 (a)(1). Thus, the City has to know how to properly measure the distance between a between a playground and a residence so it can properly carry out its obligation to administer the registration law and register individuals such as Plaintiffs.

WHEREFORE, Plaintiffs respectfully request the following relief from this Court:

A. A declaratory judgment setting forth the following:

a. That under 720 ILCS 5/11-9.3(b-10), the distance between a residence and a "playground" is measured from the edge of the property line of the residence to the edge of the particular area that meets the statutory definition of a "playground"; and

b. That 215 E. New York Street, Aurora, Illinois, is not within 500 feet of a "playground," as that term is defined in Illinois law, and thus Plaintiff is permitted to reside and register at that address;

B. An injunction directing Defendant to permit Plaintiffs to maintain their residency at Wayside Cross Ministries without the threat of criminal prosecution;

C. Plaintiffs' costs of suit;

D. Any further relief the court finds just and equitable.

Respectfully submitted,

/s/ Adele D. Nicholas
/s/ Mark G. Weinberg
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