

NATIONAL LAW CENTER ON HOMELESSNESS & POVERTY

Barbara McDowell & Jerry Hartman Foundation Final Report

We are pleased to update the Barbara McDowell & Jerry Hartman Foundation on the National Law Center on Homelessness & Poverty's activities over the last year and outline a vision for where our litigation is going over the next year.

With the Foundation's generous support, the Law Center and its pro bono partner, Akin Gump LLP, have maintained their challenge of a Dallas law that severely restricts the ability of local faith-based groups to share food with homeless persons in public spaces. On behalf of the plaintiffs, Big Hart Ministries and Rip Parker Memorial Homeless Ministry, the Law Center and Akin Gump assert that the city's law: 1) violates the plaintiffs' right to freely express their religious beliefs under the First Amendment and the Texas Religious Freedom Restoration Act; 2) violates the plaintiffs' right to due process, guaranteed by the Fourteenth Amendment; 3) violates homeless persons' liberty interests in the right to food, as guaranteed by the Fourteenth Amendment; and 4) violates the Equal Protection Clause of the Fourteenth Amendment.

During the first half of the grant period, the Northern District of Texas issued its ruling denying pending cross motions for summary judgment and parties began preparing for trial. In denying the City's summary judgment motion, the Court focused on the Texas Religious Freedom Restoration Act claim and found that Plaintiffs had "submitted sufficient evidence from which a jury could conclude the Ordinance substantially burdens Plaintiffs' free exercise of religion." The Court declined to address Plaintiffs' constitutional claims on summary judgment, given the possibility that the case may be resolved on the statutory ground.

Based on the Court's decision, the parties agreed to bifurcate the trial to allow the Court to consider the Texas Religious Freedom Restoration Act (TRFRA) claim first. Arguments on this claim were initially scheduled for the week of April 9, 2012. However, the trial was delayed for several months after the judge hearing the case underwent emergency heart surgery.

The trial on the TRFRA claim began the week of June 25, 2012. The Court has taken the case under advisement and requested post-trial briefing on the application of trial evidence to the applicable legal standards. In addition, Defendants filed a motion for partial judgment on the TRFRA claim.

Parties will submit initial briefs by August 20 and responses by September 4, and hope that Court will rule on the TRFRA claim shortly thereafter. The court urged both sides to explore a potential settlement, but none was agreed upon.

If the TRFRA claim is resolved in our favor, the Court has said it would not address the federal constitutional claims. Were that to happen, the City would appeal the TRFRA claim. Should the

Court rule in the City's favor, the Law Center will move forward with its federal claims—likely resulting in additional briefing and a hearing or trial.