

NATIONAL LAW CENTER ON HOMELESSNESS & POVERTY

Barbara McDowell & Jerry Hartman Foundation Grant Progress Report

The National Law Center on Homelessness & Poverty is pleased to report its progress on the \$10,000 grant awarded by the Barbara McDowell & Jerry Hartman Foundation and lay out a vision for where its litigation is going in the coming months.

With support from the Foundation, the Law Center and its pro bono partner Akin Gump, LLP have continued 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 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 our grant period, the Northern District of Texas issued its ruling denying pending cross motions for summary judgment and parties have been 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 based on the possibility that the case may be resolved on this statutory ground.

Based on the Court's decision, parties agreed to bifurcate the trial to allow the Court to consider the Texas Religious Freedom Restoration Act claim first. Trial on this claim was initially scheduled for the week of April 9, 2012, and the Law Center and Akin were preparing for trial. However, in late March, we learned that the judge hearing the case would be unavailable due to emergency heart surgery and time needed for recovery. We are in the process of consulting with our witnesses, opposing counsel, and the Court to reschedule the trial and anticipate that this will occur in late June of this year.

Please find attached the opinion of Judge Jorge A. Solis on the summary judgment motions, as well as an evidentiary motion. For additional information on the case, please contact Law Center Civil Rights Attorney Heather Johnson at: (202) 638-2535, or hjohnson@nlchp.org.