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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

Harbor Missionary Church  
Corporation,  
  
Plaintiff,  
  
v.  
  
City Of San Buenaventura, et al.,  
  
Defendants.

Case No. 2:14-cv-03730 R (VBKx)  
  
**ORDER DENYING PLAINTIFF’S  
MOTION FOR PRELIMINARY  
INJUNCTION (DKT. 6)**  
  
**Action filed: May 14, 2014  
Trial Date: Not yet assigned**

Before the Court is Plaintiff’s Motion for a Preliminary Injunction (Dkt. 6) “to enjoin Defendants from enforcing land use regulations against Plaintiff in a manner that that prohibits, interferes with, or abridges [Plaintiff’s] continued use of its property at 3100 Preble Avenue” to conduct its Operation Embrace at that location. The Motion was brought under Federal Rule of Civil Procedure 65.

The Court considered the evidence submitted by Plaintiff in support of the Preliminary Injunction Motion, the evidence submitted by Defendants in opposition to that motion, the briefs, authorities, and evidence filed by all parties regarding their respective positions, the oral arguments of counsel, and the live testimony presented at a multi-hour hearing in open court on June 16, 2014. Among the evidence received and considered by the Court were 60 declarations from

1 residential neighbors who live in the vicinity of the 3100 Preble Avenue property.  
2 The Court advised the parties in open court on July 9, 2014 that the motion was  
3 denied. This Order describes the Court’s reasoning and basis for denying  
4 Plaintiff’s Motion for a Preliminary Injunction.

5 **I. BACKGROUND**

6 **A. History Of The Property**

7 Harbor occupies a church building located at 3100 Preble Avenue (the  
8 “Property”). Built in 1961, the church is located in a residential neighborhood and  
9 abuts, or is within a hundred feet of, an elementary school, day care center, and  
10 public park. Various congregations have occupied the church building during the  
11 last 50 years. Between 1968 and 2004, Ventura Friends Church, the church’s  
12 previous owner, operated its congregation and a children’s day care center there  
13 under a conditional use permit (CUP-259). Evidence was presented that Ventura  
14 Friends Church regularly applied to the City for permission to amend CUP-259 for  
15 proposed changes to its church operations. CUP-259 did not authorize the  
16 provision of meals, clothing, and showers to the homeless on the Property.

17 Ventura Friends Church sold the church to Harbor in 2004. Between 2004  
18 and 2008, Harbor conducted religious services on Wednesdays and Sundays.  
19 During that time period, it did not provide meals, clothing, showers, or other  
20 services to the homeless.

21 Sam Gallucci became Harbor’s head pastor in 2007. In April 2008, Harbor  
22 began “Operation Embrace,” a program to provide meals, showers, laundry, and  
23 other services to the homeless at the Property. Harbor started the program, which  
24 was a change in its operations from what Harbor had undertaken since 2004,  
25 without applying for a permit from the City.

26 Operation Embrace provides services to homeless people five days a week,  
27 with hours scheduled from “approximately” 8:30 a.m. to 2:00 p.m. Monday through  
28 Thursday, and to 11:30 a.m. on Fridays. Homeless participants walk, bike and

1 drive through the Preble Avenue neighborhood to reach the Property. In the fall of  
2 2012, the City began receiving complaints from Harbor's neighbors that Operation  
3 Embrace's secondary impacts were harming the neighborhood. The evidence  
4 established that Harbor's neighbors began complaining about Operation Embrace's  
5 impact on the neighborhood in 2011-2012, instead of in 2008, because Harbor  
6 began "ramping up" its operation in those years. Neighbors reported that Harbor's  
7 homeless participants were remaining in the neighborhood and regularly  
8 committing crimes such as assault, burglary, larceny, vandalism, trespassing, public  
9 urination and defecation, and camping day and night.

10 The City investigated the complaints and engaged in discussions with Harbor  
11 to learn more about Operation Embrace. City planning staff determined that  
12 Operation Embrace was not permitted within Harbor's existing CUP (which allows  
13 church and children's day care uses), but was a change in use that required a new  
14 CUP. Harbor applied for the new CUP on February 21, 2013.

15 **B. The Planning Commission Denied Harbor's CUP Application And**  
16 **The City Council Deadlocked On Its Appeal**

17  
18 After Harbor applied for the CUP, its application was scheduled for a public  
19 hearing before the City's Planning Commission. There was substantial  
20 neighborhood opposition to the application. To accommodate the interests of those  
21 in favor and opposed to Harbor's application, the Planning Commission held public  
22 hearings on July 29, 2013, September 11, 2013 and October 9, 2013. Planning staff  
23 recommended that if the Commission were inclined to grant a CUP for Harbor's  
24 program, it should consider imposing conditions intended to mitigate Operation  
25 Embrace's well-documented adverse impacts.

26 City staff proposed numerous conditions to Harbor during the application  
27 process. The evidence shows that Harbor objected to many of the conditions Staff  
28 suggested. Harbor primarily objected to conditions Staff proposed to address and

1 mitigate Operation Embrace's adverse impacts on the neighborhood. The weight of  
2 the evidence received by the Court supports the conclusion that Harbor accepted  
3 mainly those conditions aimed at its internal operations and safety, but objected to  
4 conditions designed to protect the health, safety, and welfare of its neighbors.

5 Based on the evidence and testimony presented during the three public  
6 hearings, the Planning Commission voted to deny Harbor's CUP application at the  
7 conclusion of the October 9 hearing. The Commission adopted a formal resolution  
8 of denial, with findings, at its next meeting on November 13, 2013. Harbor then  
9 appealed the Planning Commission's decision to the City Council.

10 Harbor's appeal again generated substantial community opposition. Like the  
11 Planning Commission, the City Council held three public hearings to enable those  
12 supporting and opposing Harbor's appeal to be heard. The hearings occurred on  
13 January 27, 2014, March 3, 2014 and May 12, 2014. During those meetings,  
14 Harbor's residential neighbors presented additional testimony and evidence  
15 concerning incidents involving frightening, disruptive and threatening acts by  
16 Harbor's homeless participants during the months between the Planning  
17 Commission's decision and the Council hearings. They also testified about  
18 Harbor's failure to provide sufficient security to address Operation Embrace's  
19 negative secondary impacts. David Wilson, the Assistant Police Chief from the  
20 Ventura Police Department, testified that the Police Department had experienced a  
21 sharp increase in calls for service in the Preble Avenue neighborhood between 2008  
22 and 2014, which the Police Department attributed to Operation Embrace.

23 The evidence showed that during the proceedings before the Planning  
24 Commission and City Council, Harbor consistently denied that its program had  
25 caused problems in the neighborhood, and instead stated that any problems were in  
26 the neighborhood itself or were exaggerated by the neighbors and the police.  
27 Alternatively, Harbor argued that if there were problems associated with the  
28 program, it could not be held responsible for correcting or mitigating them. The

1 Court finds that the weight of the evidence presented supports Defendants' position  
2 that Operation Embrace was responsible for the increase in crime testified to by its  
3 neighbors and Assistant Police Chief Wilson.

4 At the conclusion of the three public hearings, the City Council was unable to  
5 act on Harbor's appeal. Two members of the seven-person Council had recused  
6 themselves from participating due to perceived bias, because both had made  
7 statements prior to the public hearings indicating they had already formed opinions  
8 on the matter. A third Councilmember was absent due to illness. The remaining  
9 four members deadlocked 2-2 on successive motions, the first to sustain the  
10 Planning Commission's denial of the CUP, and the second to overrule the Planning  
11 Commission and grant the CUP subject to conditions. Under the City's rules of  
12 procedure, the effect of the tie votes was that the Council took no action, and the  
13 decision of the Planning Commission remained intact.

14 On May 14, 2014, Harbor voluntarily discontinued Operation Embrace. It  
15 filed this action and moved for a preliminary injunction the next day.

16 **C. The TRO and Injunction Briefing and Argument**

17 On May 27, 2014, Harbor filed an ex parte application for a Temporary  
18 Restraining Order with supporting evidence. Defendants filed opposition and  
19 evidence the next day. The Court granted the TRO on May 30, 2014. Dkt. 70. The  
20 Order, which was based on a limited factual record, noted that the Court could not  
21 determine whether the public safety problems were connected to Harbor's program,  
22 that the public interest weighed only "slightly" in favor granting the TRO, and that  
23 on the "limited factual record the balance of equities tips slightly in favor of  
24 Harbor. Dkt. 70 at 6-7. On that basis, the Court issued a TRO enjoining and  
25 restraining Defendants from enforcing any regulation that prohibited Harbor from  
26 operating its Homeless Program. However, the Court also ordered Harbor to  
27 comply with conditions it had agreed to comply with during the CUP application  
28 process. Dkt. 70 at 7.

1 Harbor's Motion for a Preliminary Injunction came on regularly for hearing  
2 on June 16, 2014. Before the hearing, both parties submitted evidence in support of  
3 and in opposition to the Motion. The Court heard oral argument over a period of  
4 several hours, and accepted live testimony from Pastor Sam Gallucci. The Court  
5 deemed the matter submitted at the end of the hearing. The Court extended its  
6 Order granting the TRO until July 9, 2014, subject to additional conditions that  
7 counsel for the Defendants suggested at the hearing. Dkt. 98. The Order granting  
8 the TRO was time-limited and with the denial of the Preliminary Injunction  
9 Motion, the TRO was and is hereby dissolved.

## 10 **II. LEGAL STANDARD AND ANALYSIS**

11 "A plaintiff seeking a preliminary injunction must establish that he is likely  
12 to succeed on the merits, that he is likely to suffer irreparable harm in the absence  
13 of preliminary relief, that the balance of equities tips in his favor, and that an  
14 injunction is in the public interest." *Winter v. Natural Res. Defense Council, Inc.*,  
15 555 U.S. 7, 20 (2008). Preliminary injunctive relief is available if the party meets  
16 one of two tests: (1) a combination of probable success and the possibility of  
17 irreparable harm, or (2) the party raises serious questions and the balance of  
18 hardship tips in its favor. *Arcamuzi v. Continental Air Lines, Inc.*, 819 F.2d 935,  
19 937 (9th Cir.1987). "These two formulations represent two points on a sliding  
20 scale in which the required degree of irreparable harm increases as the probability  
21 of success decreases." *Id.* Under both formulations, however, the party must  
22 demonstrate a "fair chance of success on the merits" and a "significant threat of  
23 irreparable injury." *Id.*

24 As discussed below, in determining that the Preliminary Injunction Motion  
25 should be denied, the Court finds (on the basis of a much more substantial record  
26 and more fully developed legal briefing and argument than was available when it  
27 considered the TRO) that:

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- 1 • Harbor is not likely to prevail on the merits because it has failed to
- 2 carry its burden of establishing that the City’s denial of the CUP
- 3 application imposed a substantial burden on its religious exercise
- 4 under RLUIPA or the First Amendment;
- 5 • Even if Harbor had satisfied its burden, Harbor is not likely to prevail
- 6 on the merits because the City has carried its burden of establishing
- 7 that its denial of the CUP constituted the least restrictive means of
- 8 advancing the City’s compelling interest in protecting the health,
- 9 safety and welfare of the families and children that live and attend
- 10 school in the residential neighborhood that surrounds the Property;
- 11 • Harbor has failed to establish a likelihood of irreparable harm;
- 12 • The public interest weighs against granting the preliminary injunction;
- 13 and
- 14 • The balance of equities tips in Defendants’ favor.

15 **A. Likelihood of Success On The Merits**

16 Harbor contends that the City violated the Religious Land Use and  
17 Institutionalized Persons Act (“RLUIPA”), 42 U.S.C. 2000cc by denying its CUP  
18 application to provide services to homeless people at the Property. Under RLUIPA,  
19 “[n]o government shall impose or implement a land use regulation in a manner that  
20 imposes a substantial burden on the religious exercise of a person, including a  
21 religious assembly or institution, unless the government demonstrates that the  
22 imposition of the burden on that person, assembly, or institution (A) is in  
23 furtherance of a compelling governmental interest; and (B) is the least restrictive  
24 means of furthering that compelling governmental interest.” 42 U.S.C.  
25 2000cc(a)(1).

26 In order to establish a prima facie case that RLUIPA has been violated,  
27 Harbor must present evidence that the City’s decision to deny its CUP application

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1 “imposed a substantial burden” on its “religious exercise.” Harbor failed to make  
2 this showing.

3 The Ninth Circuit has defined “substantial burden” in the land use context as  
4 follows:

5 For a land use regulation to impose a substantial burden, it must be  
6 oppressive to a significantly great extent. That is, a substantial burden  
7 on religious exercise must impose a significantly great restriction or  
onus upon such exercise.

8 *Guru Nanak Sikh Soc’y of Yuba City v. Solano Cnty. Jail*, 456 F.3d 978, 988 (9th  
9 Cir. 2006). RLUIPA does not impose an affirmative obligation upon the  
10 government to facilitate the exercise of religion. *Mayweathers v. Newland*, 314  
11 F.3d 1062, 1069 (9th Cir. 2002); *The Victory Ctr. v. City of Kelso*, 2012 WL  
12 1133643, at \*4 (W.D. Wash. Apr. 4, 2012). Thus, the City’s decision to deny  
13 Harbor’s CUP application does not automatically impose a substantial burden its  
14 religious practice. *See, e.g., The Victory Ctr.*, 2012 WL 1133643, at \*4; *Wesleyan*  
15 *Methodist Church of Canisteo v. Village of Canisteo*, 792 F.Supp.2d 667, 674  
16 (W.D.N.Y. 2011) (distinguishing *Westchester Day School v. Village of*  
17 *Mamaroneck*, 504 F.3d 338 (2d Cir. 2007)); *Daytona Rescue Mission, Inc. v. City*  
18 *of Daytona Beach*, 885 F. Supp. 1554, 1560 (M.D. Fla. 1995); *Episcopal Student*  
19 *Found. v. City of Ann Arbor*, 341 F.Supp.2d 691, 703-07 (E.D. Mich. 2004); *Trinity*  
20 *Assembly of God etc. v. People’s Counsel for Baltimore Cnty.*, 962 A.2d 404  
21 (2008); *Timberline Baptist Church v. Wash. Cnty.*, 154 P.3d 759, 766-72 (Or. Ct.  
22 App. 2007). Rather, it depends on the facts.

23 Applying these principles to the present case, Harbor has failed to meet its  
24 burden of establishing that Defendants placed a substantial burden on it religious  
25 exercise. Harbor argues that the CUP denial places a “crushing” burden that  
26 “effectively terminates the church’s ministry.” The Court finds that the weight of  
27 the evidence presented establishes otherwise.

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1 First, the Ninth Circuit has held that “the burden on religious practices is not  
2 great when the government action, in the case of the denial of a use permit, does not  
3 restrict current religious practice but rather prevents a change in religious practice.”  
4 *Christian Gospel Church, Inc. v. City & Cnty. of San Francisco*, 896 F.2d 1221,  
5 1224 (9th Cir. 1990); *San Jose Christian Coll. v. City of Morgan Hill*, 2001 WL  
6 1862224, at \*3 (N.D. Cal. 2001). Here, the undisputed evidence establishes that  
7 Harbor purchased the Property in 2004. It provided neither day care nor homeless  
8 services there between 2004 and April 2008. In April 2008 Harbor, without  
9 applying for a permit from the City, began providing services to the homeless for  
10 the first time. It continued to provide those services without the requisite permit  
11 until 2013, when the City, in response to complaints from Harbor’s residential  
12 neighbors, required Harbor to apply for a Conditional Use Permit for its  
13 unpermitted use. After six public hearings (three before the Planning Commission  
14 and three before the City Council), the City denied Harbor’s application for  
15 permission to change its pre-2008 religious practice. Because the City merely  
16 denied Harbor request to change its religious practice, and has never restricted  
17 Harbor’s pre-2008 religious practice, the burden is not substantial. *Christian*  
18 *Gospel*, 896 F.2d at 1224; *San Jose Christian Coll.*, 2001 WL 1862224, at \*3.

19 Second, the Court is not persuaded that the CUP denial “forbid[s] [Harbor]  
20 from caring for the poor” or “effectively terminates the church’s ministry,” as  
21 Harbor argues. The City’s permit denial merely limits the services (including  
22 meals, clothing, laundry, and showers) that Harbor can provide to its congregants  
23 and to the public at a single location (the Property) within the city.

24 Notwithstanding the permit denial, Harbor can still hold religious services, prayer  
25 meetings, bible studies, and other religious functions at the Property as it did  
26 between 2004 and 2008. In other words, Harbor’s congregants, regardless of their  
27 housing status, can still come to Harbor for religious services and spiritual succor.

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1 Third, Harbor has adduced no evidence that its religious beliefs require it to  
2 provide meals, showers, laundry and clothing to homeless people at the Property in  
3 particular. *See Lighthouse Institute for Evangelism v. City of Long Beach*, 510 F.3d  
4 253, 273-74 (3d Cir. 2007). To the contrary, it is undisputed that Harbor applied  
5 for a CUP to operate its homeless program at another site called the Kingdom  
6 Center before it began its unpermitted homeless outreach services at the Property.  
7 This evidence indicates that Harbor's religious beliefs do not require it to provide  
8 homeless services at the Property. *Christian Gospel Church*, 896 F.2d at 1224.  
9 Evidence was also presented that Pastor Sam Gallucci (and others representing  
10 Harbor) have admitted to community members that the Property is not an  
11 appropriate location to provide homeless outreach services, and that Pastor Gallucci  
12 would like to relocate the church.<sup>1</sup> Thus, Harbor has failed to establish that the  
13 City's decision to prohibit it from providing homeless services at the Property  
14 substantially burdens its religious exercise. *See Lighthouse Institute for*  
15 *Evangelism*, 510 F.3d at 273-74.

16 Fourth, the evidence established that there are many alternative locations in  
17 the city where Harbor can provide homeless services as of right, with no  
18 discretionary CUP requirement. Four or five other existing homeless services  
19 providers – none of which operate in a residential neighborhood – operate in such  
20 areas. Given that Harbor admits its current location is inappropriate and temporary,  
21 moving to an alternative location where the operations are permitted by right is not  
22 a substantial burden on religious exercise.

23  
24 \_\_\_\_\_  
25 <sup>1</sup> This corroborates undisputed evidence Defendants submitted establishing that  
26 none of the City's other homeless service providers operate in residential  
27 neighborhoods, and that professional homeless services providers would not  
28 consider initiating a program like Operation Embrace in or next to a residential  
community because of the issues (including drug/alcohol addiction, criminal  
records, mental and physical health issues, and inappropriate behavior) and impacts  
that accompany the homeless population.

1 Under the First Amendment, reasonable time, place and manner regulations  
2 have long been an accepted means of balancing government interests and  
3 constitutional rights. Neither RLUIPA nor the Free Exercise Clause guarantees  
4 religious groups the right to exercise their religion wherever they desire or excuse  
5 them from complying with land use regulations. *Civil Liberties for Urban*  
6 *Believers v. City of Chicago*, 342 F.3d 752, 762 (7th Cir. 2003); *Westchester Day*  
7 *Sch. v. Vill. of Mamaroneck*, 417 F.Supp.2d 477, 544 (S.D.N.Y. 2006), *aff'd*, 504  
8 F.3d 338 (2d Cir. 2007). Accordingly, the Court finds that Harbor has failed to  
9 carry its burden of establishing that it is likely to succeed on the merits of its First  
10 or Second Claims.<sup>2</sup>

11 **B. Compelling Governmental Interest**

12 Even if Harbor had satisfied its burden of establishing that the City's denial  
13 of its CUP application constitutes a substantial burden under RLUIPA and the Free  
14 Exercise Clause, the Court finds that the City has carried its burden of establishing  
15 that the permit denial was the least restrictive means of advancing its compelling  
16 governmental interest in protecting the health, safety, and security of Harbor's  
17 neighbors.

18 It is well established that public safety and crime prevention are compelling  
19 governmental interests. *U.S. v. Salerno*, 481 U.S. 739, 748-50 (1987); *Schall v.*  
20 *Martin*, 467 U.S. 253, 264 (1984). Here, the record, which includes declarations  
21 from 60 of Harbor's residential neighbors and the City's assistant police chief,  
22 amply supports the City's conclusion that Harbor's homeless program has seriously  
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24 <sup>2</sup> RLUIPA is more protective of religious practice than the First Amendment.  
25 *Mayweathers v. Newland*, 314 F.3d 1062, 1070 (9th Cir. 2002). Accordingly, the  
26 Court's determination that Harbor has not established a likelihood of success on  
27 substantial burden for purposes of RLUIPA means that Harbor has not carried its  
28 burden under the First Amendment either. *E.g., See San Jose Christian Coll.*, 2001  
WL 1862224 (denying preliminary injunction sought in RLUIPA and First  
Amendment case).

1 harmed the healthy, safety, and welfare of Harbor's neighbors. The 60 declarations  
2 attest to myriad assaults, burglaries, abusive and threatening confrontations, thefts,  
3 vandalism, trespassing, public urination and defecation, loitering and camping  
4 committed by homeless people drawn to the neighborhood to receive Harbor's  
5 services. The assistant police chief also testified that, in his professional opinion,  
6 Operation Embrace is responsible for a substantial rise in vagrancy related crimes  
7 in the Preble Avenue neighborhood. The City has a compelling interest in restoring  
8 safety and security, and preventing crime in that neighborhood. The City's  
9 concerns are not speculative or generalized; they are based on Harbor's long "track  
10 record" of operating in a manner that caused serious safety impacts for its  
11 residential neighbors.

12 The City also established that its decision to deny Harbor's permit to operate  
13 its homeless program in the midst of a residential neighborhood was the least  
14 restrictive means of advancing its compelling governmental interest. As stated, the  
15 record amply supports the City's conclusion that the rise in crime and threats to  
16 public safety are the result of Harbor's provision of homeless services at the  
17 Property. It also establishes that excluding Operation Embrace from the  
18 neighborhood was the only way for the City to advance its compelling  
19 governmental interest. A declaration submitted by the Director of Social Services  
20 for the Salvation Army averred that homeless service providers have a "tremendous  
21 impact" on residential neighborhoods because of the challenging issues presented  
22 by the homeless population, which includes drug/alcohol addition, criminal records,  
23 mental issues, physical issues, and inappropriate behavior. Accordingly, he averred  
24 that he would never consider initiating a program like Operation Embrace in or next  
25 to a residential community. This was bolstered by the declaration and testimony of  
26 the Assistant Police Chief.

27 Here, the City considered less restrictive means – the issuance of a CUP  
28 subject to conditions – but ultimately determined, based on years of experience with

1 Harbor's program, that Harbor's use was so incompatible with the neighborhood,  
2 and so detrimental to the health, safety, and welfare of its neighbors, that outright  
3 denial of the permit was the only way of achieving its compelling governmental  
4 interest.

5 **C. Irreparable Harm**

6 The Court also concludes that Harbor has failed to establish the likelihood  
7 that it will suffer irreparable harm pending a trial on the merits. The first purported  
8 harm identified by Harbor is a violation of its rights under RLUIPA and the Free  
9 Exercise Clause. But as explained above, Harbor has failed to establish that the  
10 City placed a substantial burden on its religious exercise by denying its CUP  
11 application. *See San Jose Christian Coll.*, 2001 WL 1862224, at \*8.

12 Second, Harbor argues that its homeless congregants will suffer irreparable  
13 harm because they will be "forced to fend for themselves without the support  
14 offered by their church." But Harbor's homeless participants have no First  
15 Amendment or RLUIPA right to receive meals, showers, or laundry services from  
16 Harbor (or anyone else). And the City's permit denial did not affect Harbor's  
17 congregants' right to gather at the Property for religious purposes. It just limits the  
18 kinds of facially secular services (meals, laundry, showers, etc.) Harbor can provide  
19 there. The City provided evidence that Harbor's homeless guests have many  
20 alternatives for obtaining services such as showers, food and clothing, from highly-  
21 qualified homeless service providers elsewhere in the City. Thus, they have not  
22 been deprived of their church's support.

23 Third, while Harbor argues that it will face a "significant economic burden if  
24 the injunction is denied" because non-members may stop donating money and  
25 goods, and volunteers may decide to volunteer elsewhere, monetary expenses do  
26 not constitute irreparable harm and are insufficient to support an injunction. *L.A.*  
27 *Mem. Coliseum Comm'n v. NFL*, 634 F.2d 1197, 1201 (9th Cir. 1980); *Smith v.*  
28 *Fair Emp't & Hous. Comm'n*, 12 Cal.4th 1143, 1172 (Cal. 1996) (economic cost is

1 not substantial burden under Free Exercise Clause). And Pastor Gallucci's  
2 speculative and unsubstantiated fears about what third parties may or may not do  
3 with their time and money if Harbor's homeless services are discontinued pending  
4 trial is not competent evidence and insufficient to establish irreparable harm.

5 **D. Balance of Equities**

6 Defendants submitted 60 declarations from Harbor's neighbors attesting to  
7 the serious negative impacts of Harbor's homeless services on the health, safety,  
8 and security of their families. Many of those neighbors decided to move to the  
9 Preble Avenue neighborhood years before Harbor began drawing Ventura's  
10 homeless population to the neighborhood by providing homeless services. And  
11 unlike Harbor's staff and parishioners who can leave the neighborhood, those  
12 neighbors cannot escape the frequent abusive and threatening confrontations,  
13 assaults, vandalism, theft, trespass, drug use, litter, public urination, and other crime  
14 that Harbor draws into their neighborhood. Because Harbor's participants can  
15 continue to attend religious services at Harbor notwithstanding the permit denial,  
16 and may readily obtain services from other providers in the city, the balance of the  
17 equities weighs solidly against the injunction.

18 **III. CONCLUSION**

19 The Court has read the proposed order denying plaintiff's motion for  
20 preliminary injunction and finds the proposed order totally consistent with the  
21 Court's order of July 9, 2014 to "Counsel to submit the order consistent with this  
22 order." The Court denies Harbor's motion for a preliminary injunction, and  
23 dissolves the TRO that had been in effect pending the determination of this Motion.

24 **IT IS HEREBY ORDERED** that the Motion is denied as stated herein.

25  
26 DATED: July 18, 2014



27 HON. MANUEL L. REAL  
28 UNITED STATES DISTRICT JUDGE