

## **Wayside Cross Ministries Lawsuit Summary**

7-20-19

This lawsuit filed on behalf of 19 residents of a Wayside Cross Ministries residential facility seeks injunctive and declaratory relief in federal court following the city of Aurora's notice to the residents instructing them to vacate the premises due to the facility's alleged proximity to a park containing a centrally located fountain and two rocking horses. The city maintains that continued residence in the facility by the Plaintiffs violates an Illinois statute prohibiting sex offenders from residing within 500 feet of a playground. In its view, the presence of the fountain and two rocking horses renders the entire park a "playground."

The lawsuit first seeks injunctive relief under the U.S. Constitution's First Amendment guarantee of free exercise of religion and freedom of assembly as the facility is not only Plaintiffs' residence, but also a location of assembly where they practice religion through the facility's sponsored ministry. When a First Amendment violation is alleged, a court applies "strict scrutiny" to determine if the challenged action furthers a governmental interest and, as well, if the challenged action is the least restrictive means to accomplish that interest. To prove a lack of a governmental interest, the lawsuit cites, among other examples, to the recent Illinois Sex Offender Task Force's conclusion that residency restrictions cause severe collateral consequences that weaken protective factors that reduce the risk of re-offending. Furthermore, Plaintiffs assert that vacating the facility where they live and practice religious activities is not the least restrictive means available to the city. The lawsuit cites, for example, to various alternative and less severe actions the city could take, including working with the facility to assure that the residents

are not allowed on portions of the facility's property within 500 feet of the park or verifying Plaintiffs' claim that the only unlocked door to the facility is at least 500 feet away from the nearest edge of the park. The lawsuit also seeks similar injunctive relief under the Illinois Religious Freedom Restoration Act based on Plaintiffs' right to free exercise of religion within the facility which is also a residential religious community.

Finally, the lawsuit seeks a Declaratory Judgment by the Court that the city has misconstrued not only the applicability of the law, but its measurement of the 500-foot distance. Plaintiffs assert that the fountain and two rocking horses do not make the entire park a "playground" as proclaimed by the city. In the alternative, Plaintiffs believe the 500-foot distance should be measured from the area of the park claimed to constitute the "playground" and not from the edge of the park itself. Plaintiffs emphasize that the facility is not within 500 feet of the fountain or rocking horses; and, thus, Plaintiffs are not in violation of any law and should be permitted to continue to reside at the facility.