Housing Washington

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Court Rules: Woodinville's Ban on Tent City is Unconstitutional

In a recent case, the Washington Supreme Court found that the City of Woodinville had a constitutional duty to consider Tent City permit applications.

By Joshua Okrent

In mid-July, religious groups statewide applauded a state Supreme Court ruling that the City of Woodinville violated a church's constitutional rights when officials refused to consider a permit to host a Tent City homeless camp on its grounds three years ago.

The Washington high court unanimously held that the state constitution's right to religious freedom trumped a city moratorium on "conditional use" permits, which a King County Superior Court judge used to evict the roving camp from the Northshore United Church of Christ.

And two justices took it a step further, saying that the way they see it, the city has no right to even require a permit at all.

The controversy erupted in April 2006, when the city refused a permit application from the 165-member church and SHARE/WHEEL, the nonprofit that operates Tent City. A month before, the City Council had passed a moratorium on all conditional use permits in that neighborhood and some other residential zones.

Superior Court Judge Palmer Robinson refused a city request for a restraining order, and the Tent City moved in anyway, pending a trial on the issue before a different judge, Charles Mertel. But after the trial, Mertel ordered Tent City out, saying it needed a permit – which it couldn't get because of the moratorium. In July 2004, the state Court of Appeals agreed with Mertel.

The matter wound through the courts and in 2008 the Washington Supreme Court heard the case. At issue was whether the city's action burdens a sincere exercise of religion.

In its opening brief before the Washington Supreme Court, Northshore Church argued that "this was an emergency situation: without the help of the church, the residents of Tent City 4 would have been on the streets, at great risk to their health. For such a catastrophic result to emerge from a situation where vacant church and city land is ready to host a temporary encampment is a severe miscarriage of justice. While such an event would be offensive to most people, to the members of the church it holds the additional burden of being a violation of their faith."

How religious faith relates to hosting tent cities played a crucial role in this case, as

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opposing sides argued whether specific ministrations to the community – such as housing the homeless – qualified as religious practice.

The church's attorney, Robert Hyde, argued before the court that the Northshore congregation and members of tent city faced an urgent spiritual need because, absent housing in Woodinville, Tent City 4 faced disbandment.

"At the time of the application there were no alternative properties," Hyde said. "The timeline is important, your honor, because what we're talking about here is a religious exercise that is time sensitive. The Bible teaches us that you have to provide shelter to the poor and the homeless in their time of need, not six months down the road, not when you get around to it."

"We couldn't be more thrilled," said Cynthia Riggin, the pastor of Northshore United. "They affirmed our notion that we, as a church, have rights to do our mission and our ministry as we see fit."

In its July 16 ruling, the Supreme Court said that the city had a constitutional duty to consider the Tent City permit regardless of the moratorium, and also because it had signed an earlier contract with the church agreeing to consider permit applications.

The court said that its previous rulings on such matters are clear: the government can't impose undue burdens on the practice of religious beliefs.

"Rather than seeking to impose reasonable conditions on the Church's project to protect the safety and peace of the neighborhood, the City categorically prevented the Church from exercising what the City concedes was a religious practice," Justice James Johnson wrote for the majority.

In a concurring opinion, Justices Richard Sanders and Tom Chambers said the majority should have been more emphatic. The state constitution guarantees an "absolute" freedom of religion, so governments can't be "in the business of prior licensing or permitting of religious exercise any more than it can license journalists," Sanders wrote.

More information on Tent City 4 can be found at www.sharewheel.org. Thank you to Kery Murakami of the Seattle Post Globe for some of the information used in this article.

A Renewed Vision for Ending Homelessness

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the stability of a safe, affordable home where they can learn, grow and thrive.

I believe there is no bigger opportunity to prevent and end homelessness than through partnership with the Department of Health and Human Services. Secretary Sebelius and I are in discussions to link HUD's housing work with HHS programs to address a broad range of issues from homelessness and aging in place to unnecessary institutionalization and designing more livable, healthy communities. We want to connect homelessness, public and assisted housing programs with Medicaid and Medicare services, and HHS's major block grant programs.

As important as that work is, it simply sets the stage for the role housing, homeless policy and HUD can and must play in the health care reform debate.

This crisis has been illustrative. We already know that simply having 46 million uninsured people in this country clearly contributes to persistent and widespread homelessness. There's no question that health care reform will have a significant impact on families who are at-risk of homelessness, by preventing that financial catastrophe from happening in the first place.

This audience has long understood the connection between permanent supportive housing and major savings in our health care system. But with the publication of not one but two articles and an editorial in the Journal of the American Medical Association within the last year, the rest of the country may finally be catching on.

One of those articles centered on Seattle's 1811 Eastlake supportive housing project, run by the Downtown Emergency Service Center. The researchers studied 75 chronically homeless residents – half of whom had serious mental illness and all of whom struggled with alcohol addiction.

In the year before participants in the program entered supportive housing, the 75 residents collectively spent more than 1,200 days in jail, and visited the local medical center more than 1,100 times at a cost to Medicaid of more than $3.5 million.

In the year after participants entered 1811 Eastlake, days spent in jail were cut almost in half. Medicaid costs had dropped by more than 40 percent because hospital visits had dropped by almost a third.

Simply put, if we want to tackle health care reform-if we want to lower costs-we must tackle homelessness.

It comes down to our commitment. Just as some say we can't afford to reform our health care system, so too do they claim we can't afford to end homelessness. I believe that if we can spend trillions of dollars addressing these problems the wrong way, surely with government working in partnership with the private sector, we can summon the strength and the courage to do it the right way.

If I know anything from working with so many of you over the years, it's that the experience of homeless housing and service providers is not only ready for prime-time in the greatest public policy debate of our generation, it is absolutely essential to making sure that debate reaches its right and just conclusion.

In the coming days, our collective goal is to make sure it is.

For the full text of Secretary Donovan's speech please visit www.lihi.org/HousingWashington.html