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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF WYOMING

Ronald D. Williams,)
)
PLAINTIFF,)
)
v.)
)
City of Cheyenne, Wyoming;)
Richard Kaysen, Mayor of Cheyenne, in)
his official capacity;)
Matthew Ashby, City of Cheyenne)
Planning Service Director, in his official)
capacity,)
DEFENDANTS.)

Case No. 2:14-cv-00006-SWS

STIPULATED MOTION FOR THE ENTRY OF PRELIMINARY INJUNCTION

Defendants City of Cheyenne, Mayor Richard Kaysen and Planning Service Director Matthew Ashby, in their official capacities, respectfully submit herewith their Stipulated Motion for Entry of a Preliminary Injunction in the form attached hereto. As grounds therefore, Defendants state as follows:

BACKGROUND

On January 23, 2012, the Governing Body of the City of Cheyenne enacted an ordinance entitled the Cheyenne Unified Development Code (“UDC”). Article 6 of the UDC, specifically §6.5, imposes regulations as to the location, size, and number of signs that may be erected or posted within the City of Cheyenne. During the annual review of the UDC specified by § 1.1.7

of the ordinance and after receiving comment from the public and input from Plaintiff's counsel, the Governing Body of the City of Cheyenne on December 23, 2013 considered amending § 6.5 of the UDC to address concerns that it improperly and unconstitutionally restricted speech falling under the protections afforded by the First Amendment to the United States Constitution, but failed to approve the amendment. (Doc. No. 1, ¶18). On January 9, 2014, the Plaintiff filed his Verified Complaint for Declaratory and Injunctive Relief (Doc. No. 1) alleging that the existing regulations improperly and unconstitutionally prohibit the Plaintiff from exercising his rights under the First Amendment. The Plaintiff, whose home is located in an area of the City of Cheyenne zoned as LR-1, Low-Density Residential,¹ alleges that § 6.5 of the UDC abridges his political speech by limiting the number of signs related to philosophical, religious, political, charitable, or other similar noncommercial messages and candidates, issues, propositions, ordinances or other matters to be voted upon by the electors of the city (hereinafter "political signs") he may install and display at his home and the time period in which he may display them. (Doc. No. 1, ¶¶ 14- 29).

On January 13, and January 20, 2014, the Governing Body of the City of Cheyenne considered but failed to pass either of two competing amendments to §6.5 of the UDC and tabled the issue to January 27, 2014. On January 22, 2014, Plaintiff filed his Motion for Preliminary Injunction (Doc. No. 7). On January 27, 2014, the Cheyenne City Council again tabled consideration of amending § 6.5.

STANDARD OF REVIEW

Before a preliminary injunction may be entered pursuant to Fed.R.Civ.P. 65, the moving party must establish that:

¹ The LR-1 Low density Residential District is described in § 5.3.1 of the UDC.

(1) [the movant] will suffer irreparable injury unless the injunction issues; (2) the threatened injury ... outweighs whatever damage the proposed injunction may cause the opposing party; (3) the injunction, if issued, would not be adverse to the public interest; and (4) there is a substantial likelihood [of success] on the merits.

Heideman v. S. Salt Lake City, 348 F.3d 1182, 1188 (10th Cir. 2003). Additionally, in granting a preliminary injunction “must weigh carefully the interests on both sides.” *Doran v. Smith Inn, Inc.*, 422 U.S. 922, 931 (1975).

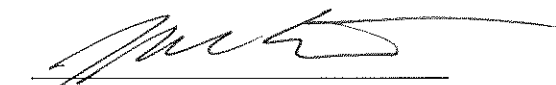
STIPULATED REQUEST

Counsel for the parties have conferred and agree that it is in the interests of all parties that Plaintiff's right to engage in speech be neither threatened nor abridged while the Governing Body of the City of Cheyenne completes its debate and consideration over whether, and in what form, to amend its sign ordinance to address the issues raised by the public in the Governing Body's consideration of this matter and by Plaintiff's action herein. Likewise, the parties are in agreement that the City of Cheyenne need not forego all regulation of signage in the city, but rather must do so with proper regard and protection of the rights afforded citizens under the First Amendment to the United States Constitution as those rights, and the limitations on regulation affecting those rights, have been interpreted by the United States Supreme Court. The parties agree that the entry of a preliminary injunction which enjoins the City of Cheyenne from enforcing the sign provisions of the Cheyenne UDC as it pertains to political signs will allow Plaintiff and those similarly situated to exercise their right to speech without improper encumbrance or restriction while maintaining the City's right to control signage that is properly subject to such regulation and is thus not adverse to the public interest. Finally, the Parties agree that granting this motion will preserve the resources of the Parties and of the Court as

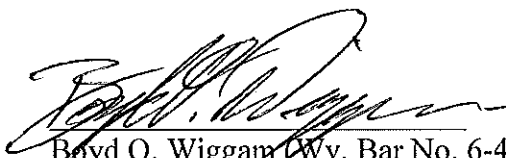
amendment of the ordinance at issue could render an injunction enjoining all regulation of temporary signage moot.

Therefore, the parties agree and stipulate to entry of a preliminary injunction in the form provided herewith.

DATED this 4th day of February, 2014.



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CERTIFICATE OF SERVICE

I, J. Mark Stewart, hereby certify that on this 4th day of February, 2014, an accurate copy of the foregoing was served to the following:

VIA CM/ECF SYSTEM

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