

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

ROBERT L. VAZZO, LMFT, individually
And on behalf of his patients, DAVID H.
PICKUP, LMFT, individually and on
Behalf of his patients,

CASE NO. 8:17-cv-02896-CEH-AAS

Plaintiffs,

v.

CITY OF TAMPA, FLORIDA,

Defendant.

DEFENDANT, CITY OF TAMPA'S, MOTION FOR EXTENSION OF TIME IN
WHICH TO RESPOND TO THE COMPLAINT AND MOTION FOR PRELIMINARY
INJUNCTION, AND INCORPORATED MEMORANDUM OF LAW

Defendant, City of Tampa ("City"), by and through its undersigned counsel, without waiver of any defenses, and pursuant to Fed. R. Civ. P. 6(b), respectfully moves for an extension of time, up and through January 12, 2018, in which to respond to (a) the Complaint and (b) Motion for Preliminary Injunction. In support thereof, the City alleges as follows:

1. On December 5, 2017 the City was served with Plaintiffs' Complaint and Motion for Preliminary Injunction.
2. Given the time constraints on counsel for the City, the time it will take to properly respond to the lengthy multi-count Complaint and Motion for Preliminary Injunction, the limitations of time imposed by the Holiday Season, and the upcoming closing of City offices on holidays, the City respectfully requests an extension up and

through January 12, 2018 in which to respond to the Complaint and Motion for Preliminary Injunction.

3. This Motion is not made for the purpose of delay, and Plaintiffs will not be prejudiced by the extension of time. In that regard, The City would note that Ordinance 2017-47 (“the Ordinance”), which is the subject of this litigation, was approved by City Council on April 6, 2017, and approved by the Mayor on April 10, 2017. The within lawsuit was filed on December 4, 2017, approximately eight months after the Ordinance was enacted. **Given that almost eight months elapsed between the enactment of the ordinance, and the filing of the Complaint, granting the City’s requested extension through January 11, 2018 should not be prejudicial to Plaintiffs.**

MEMORANDUM OF LAW

Fed. R. Civ. P. 6(b)(1) provides in relevant part that: “When an act may or must be done within a specified time, the court may, for good cause, extend the time: (A) with or without motion or notice if the court acts, or if a request is made, before the original time or its extension expires “

Given the facts set forth above, the City believes that there is good cause for this Court to exercise its discretion to grant the requested relief herein. Indeed, if the relief requested is not granted, the City will be prejudiced by an inadequate amount of time to properly respond to the Complaint and Motion for Preliminary Injunction.

Finally, the City would note that the mere extension to file a response to the Complaint without an accompanying extension to respond to the Motion for Preliminary Injunction (as suggested by Plaintiffs’ counsel below) will prejudice the City.

Wherefore, it is respectfully requested that this Court grant the within Motion and authorize the City an extension up and through January 12, 2018 in which to respond to (a) the Complaint and (b) Motion for Preliminary Injunction.

CERTIFICATE OF GOOD FAITH COMPLIANCE WITH LOCAL RULE 3.01(g)

The City's undersigned counsel, in accordance with Local Rule 3.01(g), has conferred with counsel for Plaintiffs concerning the relief requested herein and counsel for Plaintiffs, Mr. Gannam, has advised that: "Regarding your requests for extension of time, we consent to the extension through January 12 for the City's response to the complaint. We do not, however, consent to the extension for the City's response to the PI motion."

By: /s/ Jerry M. Gewirtz
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on December 18, 2017 the foregoing was electronically filed with the Clerk of Court and a copy is being furnished by email to the following: Roger K. Gannam, Esquire at rgannam@lc.org (Lindell & Farson, P.A., Suite 126, 12276

San Jose Blvd., Jacksonville, FL 32223-8630); Horatio G. Mihet, Esquire at hmihet@lc.org (Liberty Counsel, P.O. Box 540774, Orlando, FL 32854-0774); Mathew D. Staver, Esquire at mat@lc.org (Liberty Counsel, 2nd Floor, 1053 Maitland Ctr. Commons, Maitland, FL 32751-7214) and Daniel J. Schmid, Esquire at dschmid@lc.org (Liberty Counsel, P.O. Box 540774, Orlando, FL 32854).

By: /s/ Jerry M. Gewirtz
Jerry M. Gewirtz, Esquire