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1. What is the likelihood of SC's success in obtaining aTRO?

TRO

A TRO is a 10 day stop gap which keeps the status quo before a Preliminary Injunction hearing. It requires one to show 1. irreparable injury, 2. feasibility 3. Balancing of the Parties interests.

IRREPARABLE INJURY

The party must show that injury is ongoing and immanent.

Here, the City visited 6 churches in a week. It issued warnings to two of churches. The City announced that it will stop issuing warnings, and now start shutting down churches. However, the City also noted that they do not have the personel to continue random visits and were shutting down for "8 Weeks." Also, the City has NOT visited SC at any point in time. Therefore, SC has incurred NO injury, nor is it ongoing/immanent because the City has shut down it's searches. If the city started its searches or actually visited SC there would be an irreparable injury.

Thus, there is no ongoing and immanent irreparable injury.

FEASABILITY

The party must show that the enforcement of a TRO is feasible. An unfeasible TRO would be one that is in direct violation of the constitution or is unjust under the circumstances

Here' a TRO would be feasible because the City could effectively stop doing random searches and maintain the Status Quo. In fact, that is what is happening in our case.

Thus, the TRO would be feasible.

BALANCING OF INTERESTS

The interests of the party requesting the TRO must be balanced against the party the TRO is acting on. It must be fair and prevent injustice.

Here, the ordinance issued by the City is in response to Churches burned down. There is high costs with fires with respect to both life, insurance claims and resources. However, Clty is home to 50 churches and only one burned down. On it's face this appears to be disproportionate. If 5 or 10 churches burned down, the interests would likely be in favor of City.

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However, a single church burning down may not justify the ordinance. The interest of SC in obtaining a TRO is likely because of this 1/50 ratio. As well, religious practices is a constitutionally held belief and even if it was 10 churches burning down, the protection of a fundamental right would out-way personal or economic harm.

Thus, the balance of interest is in favor of SC.

#### CONCLUSION.

The TRO will not be granted regardless of balancing or feasibility because there is no ongoing injury which demands the TRO.

#### 2. What is the likelihood of SC's success in obtaining a preliminary injunction?

##### PRELIMINARY INJUNCTION.

A preliminary injunction will keep the status quo until a trial or hearing can occur. The same factors are required from a TRO, however, it last longer than a TRO and the irreparable injury must be continuous ongoing over a longer period of time and there needs to be a likelihood of success.

##### IRREPARABLE INJURY

SEE ABOVE

However, here the injury will continue AFTER 8 weeks (whereas a TRO is only 10 day). When the ordinance starts being enforced again there is a high likelihood that SC will be shut down.

Thus, SC has an irreparable injury.

##### FEASIBILITY

SEE ABOVE

##### BALANCING OF INTERESTS

SEE ABOVE

##### LIKELIHOOD OF SUCCESS

A preliminary injunction needs to have a showing, on balance, that there is a likelihood of success on the merits. Good faith claims of questionable constitutional violations will have a

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high likelihood of success.

Here, SC is arguing that a fundamental right to practice their religion has been violated. SC is a church, and one commonly associated with faith. SC burns candles as part of its services. Many other religions burn candles and it is commonly known throughout the world that faith, spirituality and religion concerns itself with light and the burning of candles. Therefore it is clear that SC COULD mount a winning constitutional claim.

Thus, SC has a likelihood of SUCCESS.

### CONCLUSION

Therefore, SC will likely be granted a PI because it has an irreparable injury, it is feasible, interests are in its balance, and SC's claim has a high likelihood of succeeding.

### 3. What is the likelihood of SC's success in obtaining a declaratory relief?

#### FREEDOM OF RELIGIOUS PRACTICE

Under the 1st amendment, freedom of religious practice is expressly upheld. A government or its agents may not establish a religion, favor one over the other, promote one over the other, nor may it prevent the honest and sincere practice of religion. The practice of religion is one that generally "looks" like a religion within the common understanding of orthodox religious beliefs. It cannot be of philosophical or political ideologies. A government, may restrict the practice of a religion if an exception applies. Strict Scrutiny applies. There must be a necessary and compelling interest, and it must be the least restrictive means

Here, SC is a physical church and meets at least once a week on Sundays to worship. SC claims that its burning of candles during Sunday service "signifies the spiritual light in the world." This appears on its face to be a very sincere belief because they meet once a week continuously and perform this practice continuously and in good faith. It is factually difficult to argue that burning of candles is not part of a religion because it is classically orthodox and similar to many other religions. The City's ordinance does not allow the burning of candles, and demands that any church be closed if and when caught burning candles. Therefore, because the ordinance is highly restrictive and will result in the closure of the physical place of worship, it is preventing the honest and sincere belief. Because the ordinance ONLY targets 50 traditional churches and not other religious places physically it is favoring some religions over others.

The City, does have a necessary and compelling interest. Keeping fires away and personal safety is important. However, there are likely less restrictive means such as getting fire safe

candles, or requiring the candles to be located in fire -proof containers/glasses.

Thus, the ordinance is in violation of the freedom to practice religion.

#### LAW OF GENERAL APPLICABILITY

As an exception, the government or it's agents may restrict the sincere practice of religion if it is a neutral law of general applicability. It must be neutral on it's face. It must apply to everyone equally and not single out a specific religion or religious practice.

Here, the law ONLY targets 50 Churches. It does not target other religious locations. Nor does ban the burning of candles in all buildings, public or private. It is therefore not generally applicable or equal to the city as a whole and it factually and definitely singles out SC and the other 49 "churches" in the city.

Thus, it is not a law of general applicability.

#### REMEDY

When a law or ordinance is in violation of fundamental right the Court may issue declaratory relief.

Here, as discussed above the City's ordinance is in violation of a fundamental right to practice religion. As well, also discussed above it has been found that it is NOT a law of general applicability. Therefore the court should issue declaratory relief.

Thus, SC is likely to get declaratory relief.

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**END OF EXAM**