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## Question 2.

1. Issue is the issuance of Temporary restraining order (TRO)  
2. Issue is the issuance of Temporary restraining order. (TRO)  
A TRO is usually applied and issued ex

### Standing

- A party may only bring a cause of action if he has suffered ① injury or is likely to suffer harm  
② that is caused by harm and the party can get ③ redress from the court.

Here, the Clear City Spiritual church (SC) has brought a case seeking to enforce certain injunctions against the government, and since there is a likelihood that the injunctions would prevent them from their religious practice, they have a valid claim that the court can address

Therefore, SC has standing to sue.

### Government Action.

A party may only sue in the federal court if the injury suffered was caused by the federal government.

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Here, city enacted the ordinance.

Therefore, it is a government action.

### 11<sup>th</sup> Amendment

The 11<sup>th</sup> Amendment prevents individuals from suing the government for money damages in federal court, however it does not apply to injunction or extend to city officials.

~~else~~ Here, city is not a state or federal authority and the cause of claim is for ~~&~~ injunction  
Therefore, the 11<sup>th</sup> Amendment does not apply.

SC's likelihood of success in obtaining TRO.

A TRO is an order issued by the court except, where a trial is pending to protect and preserve the status quo of an interest in the case - it requires (1) irreparable damage (2) balance of the interest (3) public interest (a) likelihood of success in the merit before it may be granted.

A irreparable damages

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A party seeking TRO may prove that irreparable damage or harm will be caused to him if the court does not grant it.

Here, SC must show that they will suffer irreparable harm if it is not granted pending the trial. SC must prove this by showing facts in support of their motion. However, it is more likely that this is not the case here as SC has failed to show that they will suffer immediate harm if it is not granted.

Therefore, SC would most likely not be asked to prove irreparable harm.

### Balancing the interest

A party seeking TRO must prove that its interest in maintaining the status quo outweighs the other party's interest, and that the other party will not suffer the same amount of hardship.

Here, SC will prove that being unable to offend their god and conduct their religious affairs is an undue hardship, and as such they should be granted a TRO.

The court may ~~not~~ necessarily grant it since the conduct of one's religion is very important.

## Public interest.

A party claiming TRO must also prove that the grant would not affect 3<sup>rd</sup> party interests or the community at large adversely.

Here, SC will prove and claim that their 1<sup>st</sup> Amendment right to religious practice is at stake and if granted it will not affect the public. However the ordinance was enacted due to the banning of churches which is a public interest.

Therefore, the court may possibly decide that public interests outweigh SC's right to practice religion.

## likelihood of success on the merit

A court will only grant a TRO if the party seeking it shows that it has a likelihood of success on the merits of their claim and as such it should be granted.

Here, SC the court will have to consider if SC has a likelihood of success on the merits of the case before deciding if it should issue the TRO. Since SC's complaint is that they need to ~~stop~~ begin conducting Sunday services

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"to signify spiritual right in the world," the inability to do so immediately will probably not cause them irreparable harm.

Therefore, the court would probably decide that SC does not have a very likelihood of success on the merits. the court will probably not grant the TRO

2. SC likelihood of success in obtaining a preliminary injunction. (PPT)

### Preliminary Injunctions:

Preliminary injunctions are usually granted, while a trial is pending, to prevent the other party from carrying out certain actions. It requires that the party has been engaging in it argues a showing of ① irreparable harm ② balance of the interest ③ public interest ④ likelihood of success on the merits ⑤ temporality:

### Irreparable harm

A party can rule above

Here, SC must prove based on an affidavit stating relevant ~~information~~ <sup>fact</sup> information that it will suffer irreparable harm if the injunction is not granted. However, since the ordinance is unconstitutional, the right to purchase

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their religion is a fundamental constitutional right; the court may consider it an immediate hazard.

Therefore the court may ~~also~~ consider that SC has a right to the grant of preliminary injunction.

### Balancing the ~~two~~ interest.

See Rule above.

Here, the court must consider and balance SC's right to conduct religious practices and the city's right to protect the city from being threatened.

Therefore, the court will ~~soon~~ have to decide if SC's interest in religious practice outweighs the city's ordinances.

### Push interest

See Rule above.

Here, city has an interest to its push to keep everyone safe and at the same time SC has a right to religious freedom, but since the rules are applied equally to all members, the test is the reasonable bases test and nearly all states laws pass this test.

Therefore, the court would probably decide

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that the public interest safety outweighs SC right  
to religious conduct since it applies same to all  
members in clear city

### likelihood of success

See Rule above.

Here, the court will have to decide if the SC has  
a likelihood of success on the next before granting or  
denying their request for the injunction. Since SC  
has a chance, the court may grant it.

Therefore, the court may possibly decide that  
SC has a likelihood of success on the next since it  
involves their fundamental right to free exercise of  
religious conduct.

### 3. free exercise clause of the 1<sup>st</sup> Amendment.

This clause provides that a person has ~~ought~~  
an absolute right to their religious belief  
and a right to religious conduct.

Here, SC right to have their own religion  
is religious and right to conduct their religious  
practices is been threatened.

Therefore SC has a claim under the  
1<sup>st</sup> Amendment right of the U.S. Constitution

### Religious belief

Everyone has an absolute right to their belief which cannot be questioned by the government. Violation of this right is subject to the strict scrutiny test.

Here, sc religious belief has not been questioned.

Therefore they have a right to their belief.

### Religious conduct

A person has a right to conduct their religious practices, however, such conduct is subject to federal government regulation under ~~the~~ as rational so long as the such law to do so has general applicability to all persons / religions.

Here, sc as it is to burn their candles in religious practice is subject to government regulation, which in this case is to prevent further fires and protect the safety of all why and since it the enactment states that "prohibits burning candles in any church" it is valid and subject to

Therefore, the court will probably decide that the ordinance does not violate it.

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first Amendment shall not regulate religious content

first amendment establishment clause

Establishment clause holds that a law is valid if it does not (1) entangle religion over non-religion (2) has secular effect (3) does not engage in excessive entanglement with religion.

Here, the ordinance must not violate any of the mentioned factors, & if not it will be subject to the strict scrutiny test and would most probably be struck down since the ordinance has general application and only regulates religious content. It does not subject to the Lemon test.

Therefore, the ordinance is not in violation of the 1st Amendment and so does not have a likelihood of obtaining declaratory relief in its favor.

procedural

Due process of law:

"A party's right to life, liberty and ~~property~~ property may not be deprived without notice and fair hearing.

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right to practice religion is a fundamental right subject to the process of law.

Here, Justice Marshal answered that future violations of the law won't get further "further warangs" but would be punishment. This amounts to a deprivation of an important interest without the process of law.

Therefore SC has a more likelihood of holding that the ~~the~~<sup>procedural</sup> process has been violated.