

UNITED STATES COURT OF APPEALS

FOR THE SIXTH CIRCUIT

LEXINGTON H-L SERVICES, INC.,

Plaintiff-Appellant,

v.

LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT,

Defendant-Appellee.

No. 18-5851

Appeal from the United States District Court
for the Eastern District of Kentucky at Lexington.
No. 5:17-cv-00154—Karen K. Caldwell, Chief District Judge.

Decided and Filed: April 17, 2019

Before: CLAY, GIBBONS, and COOK, Circuit Judges.

COUNSEL

ON BRIEF: Jeff Nobles, SMITH NOBLES, Houston, Texas, for Appellant. Keith Moorman, FROST BROWN TODD LLC, Lexington, Kentucky, for Appellee.

ORDER

This matter was previously before the Court. *See Lexington H-L Servs., Inc. v. Lexington-Fayette Urban Cty. Gov't*, 879 F.3d 224 (6th Cir. 2018), *reh'g denied* (Jan. 30, 2018). In our previous opinion and order, dated January 9, 2018, we reversed the district court's order granting a preliminary injunction that had enjoined Defendant Lexington-Fayette Urban County Government (the "City") from enforcing Ordinance 25-2017, which restricts the delivery of "unsolicited written materials" to six enumerated locations and provides for civil penalties for

violations. We vacated the injunction and remanded the case to the district court for further proceedings consistent with our opinion. *Id.* at 236.

Upon remand, further proceedings were taken in the district court, in connection with which both parties expressed their view that a trial proceeding was not necessary or warranted. The district court thereafter entertained cross motions for summary judgment. On July 19, 2018, the district court filed a well-reasoned opinion and order finding that Ordinance 25-2017 constitutes a valid time, place, and manner regulation of speech. (*See* ECF No. 62.) Accordingly, the district court granted the City's motion for summary judgment, denied the motion for summary judgment filed by Plaintiff, and entered judgment for the City. (*See id.*) The district court's July 19, 2018 opinion and order closely follows the legal analysis and reasoning set out in this Court's opinion of January 9, 2018. Plaintiff has timely appealed.

Plaintiff's appeal has been referred to a panel of the Court that, upon examination, unanimously agrees that oral argument is not needed. *See* Fed. R. App. P. 34(a). We have reviewed the record below, including the district court's July 19, 2018 opinion and order, and conclude that the district court properly addressed, analyzed, and disposed of the issues. We therefore **AFFIRM** the July 19, 2018 order of the district court.

IT IS SO ORDERED.

ENTERED BY ORDER OF THE COURT



Deborah S. Hunt, Clerk