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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Ronald Cooke, et al.,
Plaintiffs,
v.
Town of Colorado City, et al.,
Defendants.

No. CV-10-08105-PCT-JAT
ORDER

Pending before the Court is Movant United Effort Plan Trust (“UEP”)’s Renewed Motion for Order to Show Cause, (Doc. 749), in which UEP argues that the Court need not abstain from holding an evidentiary hearing to determine whether Colorado City has “continu[ed] religious discrimination in violation” of the injunction issued on November 26, 2014. (Doc. 723). UEP’s renewed filing follows the Court’s February 16, 2016, denial of UEP’s motion without prejudice in light of questions over whether abstention doctrines applied. (Id. at 8-9). Having considered the parties’ filings, the Court now rules on the motion.

I.

As the Court did in its February 16, 2016, Order, the recitation of facts is restricted to those pertinent to UEP’s pending motion. Interested parties will find a full recounting of the matter’s factual background in the Court’s February 13, 2013, and September 4, 2015, Orders. (See Doc. 318 at 2-10, Doc. 703).

1 Following a jury trial in which Plaintiffs Ron and Jinjer Cooke (collectively, the
2 “Cokes”) and Plaintiff-Intervenor the State of Arizona (the “State”) prevailed over
3 Defendants,¹ the Court entered the Amended Judgment and Permanent Injunction
4 (hereafter the “injunction”). (Doc. 724 at 1). The injunction, in part, enjoined the
5 following:

6 During the ten-year period beginning from the date of this
7 Judgment, Defendants and their agents shall not (1)
8 discriminate because of religion against any person in the
9 terms, conditions, or privileges of the provision of services or
10 facilities in connection with the sale or rental of a dwelling; or
11 (2) coerce, intimidate, threaten, interfere with, or retaliate
12 against any person in the enjoyment of his or her dwelling
13 because of religion or because that person has asserted rights,
14 or encouraged others to assert their rights, protected by the
15 federal Fair Housing Act or the Arizona Fair Housing Act.

16 (Doc. 724 at 2). The injunction shall “remain in place for ten years from the date of th[e]
17 Judgment,” and the Court “retain[ed] jurisdiction to enforce it.” (Id. at 2-3).

18 On December 14, 2015, UEP, “on behalf of itself and its beneficiaries who possess
19 occupancy agreements to reside on UEP property,” moved this Court to find Colorado
20 City in contempt of the aforementioned injunction “for continuing religious
21 discrimination.” (Doc. 738 at 1). UEP sought a “limited period of discovery,” and an
22 evidentiary hearing to establish that: (1) Colorado City passed a 2007 Land Division
23 Ordinance (hereafter the “Subdivision Ordinance”) with the “express intent” of
24 discriminating against individuals who do not belong to the Fundamentalist Church of
25 Jesus Christ of Latter Day Saints (FLDS); (2) the passage and application of the
26 Subdivision Ordinance resulted in religious discrimination against UEP and its
27 beneficiaries; and (3) Colorado City “has engaged in disparate treatment in applying the
28 Subdivision Ordinance to residents of the city” on the basis of their affiliation with the
FLDS. (Id. at 7-8).

¹ Colorado City is a named defendant in this matter. The pending motion addresses only Colorado City’s actions. The Court need not set forth the other named defendants.

1 Landis, 299 U.S. at 254).

2 In light of ongoing litigation before Judge Holland in *United States v. Town of*
3 *Colorado City et al*, No. 3:12-CV-08123-HRH, the Court finds that a temporary stay in
4 this action is appropriate. On April 29, 2016, in the case before Judge Holland, the United
5 States filed a post-trial brief seeking, among other injunctive relief, an order that would
6 require Colorado City to approve the United Effort Plan (“UEP”) Trust’s subdivision
7 proposal.” (Doc. 750-1 at 11). In support of its proposed injunctive relief, the United
8 States alleged that “Colorado City continues to oppose subdivision,” and that their
9 “continued rejection of the UEP’s subdivision proposal comes despite the significant
10 expenditures the UEP made to comply with what can only be described as an onerous and
11 ill-suited subdivision ordinance, the Land Division Ordinance, which Colorado City
12 adopted following the UEP’s submission of its subdivision application.” (Id. at 25
13 (emphasis in original)).

14 Although the United States seeks more robust injunctive relief in its case, on the
15 issue of Colorado City’s utilization of the Subdivision Ordinance and UEP’s efforts to
16 propose and enact a subdivision ordinance, there is complete overlap between the two
17 actions. A favorable ruling for the United States in No. 3:12-CV-08123-HRH on this
18 issue will moot UEP’s action. Colorado City would be ordered to abandon its Subdivision
19 Ordinance—the tool which it has allegedly used to discriminate against citizens—and
20 would be required to adopt UEP’s proposed subdivision ordinance. The Court, were it
21 justified, could not fashion a more favorable remedy for UEP in the instant action.

22 Furthermore, the litigation in No. 3:12-CV-08123-HRH is at a significantly
23 advanced stage. A jury verdict was delivered on March 7, 2016. On April 29, 2016, the
24 United States submitted its proposed injunctive relief. An evidentiary hearing, expected
25 to last between three and four days, is set for October 24, 2016. After that, Judge Holland
26 will deliver his findings of fact and conclusions of law. Staying the instant action will
27 impose a minimal burden on the parties, will be relatively short in length, and may
28 resolve the issue without any further expenditure of time and resources by the parties.

1 CMAX, Inc. v. Hall, 300 F.2d 265, 268 (9th Cir. 1962) (citation omitted) (noting that in
2 evaluating whether a stay is appropriate, courts should consider (1) the possible damage
3 which may result, (2) the hardship imposed on the parties, and (3) whether the stay will
4 complicate or simplify the matter before the court). And a stay will not cause “even a fair
5 possibility” of harm.” Id. (internal quotation marks omitted).

6 To conclude, the Court finds that a stay will promote efficiency, avoid duplicative
7 litigation, promote “the interest of wise judicial administration,” *Silvaco Data Sys., Inc. v.*
8 *Tech. Modeling Assocs., Inc.*, 896 F. Supp. 973, 975 (N.D. Cal. 1995), and is the “fairest
9 course for the parties” before the Court. *Leyva*, 593 F.2d at 863. Accordingly, the Court
10 will stay consideration of UEP’s Renewed Motion for Order to Show Cause, (Doc. 749),
11 pending the issuance of findings of fact and conclusions of law by Judge Holland in
12 *United States v. Town of Colorado City et al*, No. 3:12-CV-08123-HRH.


13
14 **III.**

15 Based on the forgoing,

16 **IT IS ORDERED** that UEP’s Renewed Motion for Order to Show Cause, (Doc.
17 749), is **STAYED** pending the issuance of Findings of Fact and Conclusions of Law by
18 Judge Holland in *United States v. Town of Colorado City et al*, No. 3:12-CV-08123-
19 HRH.

20 **IT IS FURTHER ORDERED** that the parties shall file a status report with the
21 Court within ten (10) days after the above-mentioned issuance.

22 Dated this 5th day of August, 2016.

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27 **James A. Teilborg**
28 **Senior United States District Judge**