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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

FAITH CENTER CHURCH
EVANGELISTIC MINISTRIES, et al.,

Plaintiffs

v.

FEDERAL D. GLOVER, et al.,

Defendants.

Case No. C 04-3111 JSW

(PROPOSED) ORDER GRANTING
DEFENDANTS' CROSS-MOTION FOR
SUMMARY JUDGMENT AND
PERMANENT INJUNCTION

This matter is before the Court on Plaintiffs' motion for summary judgment and Defendants' cross-motion for summary judgment and permanent injunction. Having considered the motions, oppositions, replies, record, and applicable law, the Court DENIES Plaintiffs' motion for summary judgment and GRANTS Defendants' cross-motion for summary judgment and permanent injunction on the following grounds:

1. Free Speech Claim

The law of this case was established by the Ninth Circuit in *Faith Center Church Evangelistic Ministries, et al. v. Federal D. Glover, et al.*, 480 F.3d 891 (9th Cir. 2007), *cert. denied*, 128 S.Ct. 143 (2007), and requires entry of judgment in favor of Defendants on Plaintiffs' free speech claim. Undisputed evidence in the record supports the Ninth Circuit's findings that the Antioch library meeting room is a limited public forum and that the afternoon

(PROPOSED) ORDER GRANTING DEFENDANTS' CROSS-MOTION FOR SUMMARY JUDGMENT AND PERMANENT INJUNCTION - C 04-3111 JSW

1 session of Plaintiffs' May 29, 2004 event in the Antioch library meeting room was a religious
2 worship service. The exclusion of Plaintiffs' religious worship service from the Antioch library
3 meeting room did not violate Plaintiffs' free speech rights.

4 **2. Free Exercise Clause**

5 As a matter of law, Defendants' library meeting room use policy does not violate the
6 Free Exercise Clause. A regulation does not violate the Free Exercise Clause because it affects
7 a religious organization's operation. At most, Plaintiffs were inconvenienced by Defendants'
8 enforcement of the library meeting room use policy against Plaintiffs. Under the rational basis
9 test, Defendants' enforcement of the County library meeting room use policy was reasonable in
10 order to prevent the Antioch library meeting room from being transformed into an occasional
11 house of worship, and to preserve the library's purpose of making itself available to the whole
12 community. *Faith Center*, 480 F.3d at 911. The exclusion of Plaintiffs' religious worship
13 service from the Antioch library meeting room did not violate Plaintiffs' right to free exercise
14 of religion.

15 **3. Establishment Clause**

16 As a matter of law, Defendants' library meeting room use policy does not violate the
17 Establishment Clause. Making a limited public forum available to religious groups, where they
18 may speak about topics from a religious viewpoint, does not violate the Establishment Clause.
19 The County has allowed the Antioch library meeting room to be used by religious and other
20 groups, including Plaintiffs, for activities and events that express a religious viewpoint.

21 The meeting room use policy is not hostile toward religion and satisfies all three prongs
22 of the test established by the Supreme Court in *Lemon v. Kurtzman*, 403 U.S. 602 (1971). First,
23 Defendants have two compelling secular purposes for excluding religious services from its
24 library meeting rooms: to preserve them as limited public forums, see *Faith Center*, 480 F.3d at
25 918-19, and to avoid an Establishment Clause violation by providing financial support for
26 religious services. Property taxes support the maintenance of library meeting rooms. Second, a
27 reasonable observer would view the prohibition of religious services from library meeting
28 rooms as Defendants' effort to preserve library meeting rooms as limited public forums and to

1 preserve the library’s primary function as a venue for reading, writing and quiet contemplation.
2 *Faith Center*, 480 F.3d at 910. Third, Defendants’ enforcement of its meeting room use policy
3 does not foster excessive entanglement with religion. There is no comprehensive,
4 discriminating, and continuing surveillance of religion by Defendants. Defendants did not
5 excessively entangle itself with religion on May 29, 2004, because Plaintiffs themselves
6 distinguished between religious worship and other forms of religious speech. *Faith Center*, 480
7 F.3d at 910.

8 **4. Equal Protection Clause**

9 As a matter of law, Defendants’ library meeting room use policy does not violate the
10 Equal Protection Clause. Under the rational basis test, the policy is rationally related to a
11 legitimate government purpose. Defendants’ decision to prohibit Plaintiffs from conducting
12 religious worship services in the library meeting room was reasonable, both to avoid
13 transforming the meeting room into an occasional house of worship and to avoid alienating
14 patrons and undermining the library’s purpose of making itself available to the whole
15 community. *Faith Center*, 480 F.3d at 911. The exclusion of Plaintiffs’ religious worship
16 service from the Antioch library meeting room did not violate Plaintiffs’ right to equal
17 protection under the laws.

18 Therefore, for the foregoing reasons and for good cause shown, the Court DENIES
19 Plaintiffs’ motion for summary judgment, GRANTS Defendants’ cross-motion for summary
20 judgment, and PERMANENTLY ENJOINS Plaintiffs as follows:

21 Pursuant to the holding of the Ninth Circuit Court of Appeals in *Faith Center Church*
22 *Evangelistic Ministries, et al. v. Federal D. Glover, et al.*, 480 F.3d 891 (2007), Plaintiffs Faith
23 Center Church Evangelistic Ministries and Hattie Hopkins (“Plaintiffs”) are enjoined from
24 using the meeting room in the Antioch branch of the Contra Costa County Library system for
25 religious worship services in violation of the “Religious Use” provision of the library meeting
26 room use policy adopted pursuant to Contra Costa County Resolution No. 2004/655, entitled
27 “In the Matter of Adopting a Policy for the Use of Meeting Rooms in Libraries” (hereafter
28 “Library Meeting Room Use Policy”).

1 Upon application to and authorization by the Contra Costa County Library, Plaintiffs
2 may use the meeting room in the Antioch Branch of the Contra Costa County Library system for
3 any use not prohibited by the Library Meeting Room Use Policy, including but not limited to
4 activities that express a religious viewpoint. Defendants may require Plaintiffs to certify that
5 the activity or activities that will be conducted by Plaintiffs in the Antioch Branch library
6 meeting room will not constitute a religious worship service under the tenets, beliefs, and
7 practices of Plaintiffs' church, religious sect, religious organization, or faith group.

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9 SO ORDERED.

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11 Date:

JEFFREY S. WHITE
UNITED STATES DISTRICT JUDGE

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