

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

ALBANESE ENTERPRISES, INC.,

Plaintiff,

vs.

Case No. 3:13-cv-1471-J-34MCR

CITY OF JACKSONVILLE,

Defendant.

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ORDER

THIS CAUSE is before the Court on Defendant City of Jacksonville's Emergency Motion for Stay of Order (Doc. 24) and Judgment (Doc. 26) Pending Appeal and Incorporated Memorandum of Law (Doc. 28; Motion), filed on February 19, 2014. In the Motion, Defendant City of Jacksonville (the City) requests, pursuant to Rule 62(c), Federal Rules of Civil Procedure (Rule(s)), that the Court enter a stay pending appeal of its February 14, 2014 Order (Doc. 24), and the final Judgment (Doc. 26) dated February 18, 2014. Specifically, the City seeks a stay of the injunction prohibiting the City from enforcing sections 3-6 of Ordinance 2007-1047-E. See Order at 22. The Court has considered all of the written submissions of the parties, and has heard further argument of counsel at a hearing held on April 3, 2014, the record of which is incorporated herein by reference.

The Court acknowledges that the overbreadth doctrine is "strong medicine" to be used "sparingly and only as a last resort." See Broadrick v. Oklahoma, 413 U.S. 601, 613 (1973). Indeed, the Court recognizes that it is significant whenever one branch of government overrules the will of another branch. Nonetheless, for the reasons stated on the record, the

Court is convinced that the City has failed to satisfy the legal standards necessary to warrant a stay pending appeal. See Nken v. Holder, 556 U.S. 418, 433-35 (2009).

Accordingly, it is

ORDERED:

1. Defendant City of Jacksonville's Emergency Motion for Stay of Order (Doc. 24) and Judgment (Doc. 26) Pending Appeal and Incorporated Memorandum of Law (Doc. 28) is **GRANTED, in part, and DENIED, in part.**
 - A. To the extent Defendant requests, under Rule 62(c), Federal Rules of Civil Procedure, that the Court stay the injunction imposed by this Court's February 14, 2014 Order (Doc. 24) pending completion of its appeal to the Eleventh Circuit Court of Appeals in Albanese Enterprises, Inc. v. City of Jacksonville, 11th Cir. No. 14-10671, the Motion is **DENIED.**
 - B. The Motion is **GRANTED** solely to the extent that the Court will stay its injunction for a limited period, as set forth below, until the Eleventh Circuit Court of Appeals may consider and dispose of a motion for stay pending appeal under Rule 8(a), Federal Rules of Appellate Procedure.
2. Pursuant to Rule 62(c), Federal Rules of Civil Procedure, in furtherance of Defendant's appeal and for the sole purpose of maintaining and preserving the status quo, the Court temporarily stays the injunction entered in the Court's February 14, 2014 Order (Doc. 24), until 5:00 PM EST on Monday, April 14, 2014, to permit Defendant City of Jacksonville to seek relief from the Eleventh

Circuit Court of Appeals pursuant to Rule 8(a), Federal Rules of Appellate Procedure.

3. If Defendant City of Jacksonville files a motion with the Court of Appeals seeking such relief by 5:00 PM EST on Monday, April 14, 2014, the stay shall remain in effect until such time as the Court of Appeals rules on that motion. Once the Court of Appeals rules on that motion, this Court's stay shall dissolve.
4. If Defendant City of Jacksonville fails to file such a motion with the Court of Appeals by 5:00 PM EST on Monday, April 14, 2014, the stay imposed herein shall dissolve without further order of the Court.

DONE AND ORDERED at Jacksonville, Florida on April 3, 2014.


MARCIA MORALES HOWARD
United States District Judge

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Copies to:

Counsel of Record
Pro Se Parties