

IN THE COURT OF COMMON PLEAS OF WILLIAMS COUNTY, OHIO

Fire Chief Douglas Pool,
City of Bryan Fire Department,

Case No. 24CI100

Plaintiff(s),

vs.

Dad's Place

JUDGMENT ENTRY

and

Riehle Rentals, LLC

Defendant(s).

This matter came on to be heard upon a removal from the Sixth District Court of Appeals. The Sixth District held that the Court must consider Dad's Place's claim under Article I, Section 7 of the Ohio Constitution, the Conscience Clause, and must reconsider Dad's Place's federal Free Exercise claim while applying strict scrutiny. This Court on January 22, 2026, required the parties to submit "Findings of Fact and Conclusions of Law" which have been filed by both sides.

The Court from the initial time it was appointed to the case, felt that it would have to find for the Fire Chief. Having applied strict scrutiny as set forth in the Sixth District's instructions, the Court concedes that the Fire Chief's enforcement of the fire code fails because it lacks a compelling interest and isn't the least restrictive means of enforcing fire safety. The City has given waivers to other businesses like hotels, but has refused to give the church a similar accommodation. This is fatal under strict scrutiny. Therefore, a judgment in favor of Dad's Place must be entered.

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I. FINDINGS OF FACT

Since its founding, Dad's Place has ministered to individuals in need, including by allowing some individuals to remain at the Church overnight.

In March 2023, Dad's Place began a 24/7 ministry. The Church refers to the overnight portion of the ministry (approximately 11:00 p.m. to 8:00 a.m.) as "Rest and Refresh in the Lord."

The Church's overnight ministry is part of its religious mission, which seeks to welcome the "stranger" to "live among" the Church as the person rests and recovers.

Individuals who participate may listen to audio recordings of Scripture throughout the night. Participants are encouraged to pray and engage in fellowship. Some occasionally sleep—but the Church does not provide beds or cots.

Pastor Avell sincerely believes that Dad's Place's religious mission includes allowing individuals to rest during the overnight ministry. He believes that forcing those individuals to leave without a "biblically valid reason" would violate his and the Church's sincerely held religious beliefs.

Plaintiff Fire Chief Douglas Pool is the Chief of the City of Bryan Fire Department and is charged with enforcing the Ohio Fire Code as incorporated by the City of Bryan. Ohio Rev. Code § 3737.45.

Between November 2023 and April 2024, Chief Pool inspected Dad's Place several times and generated reports following each inspection. Initial inspections identified several fire code violations. By the time Chief Pool sought a preliminary injunction, those initial violations had been resolved and were not the basis for the requested injunction.

On January 16, 2024, Chief Pool issued an inspection report concluding that Dad's Place had impermissibly changed the use or occupancy of the premises by creating a "sleeping area" of cots in the front section of the building. The inspection report stated that "sleeping areas are considered residential use" and that the approved assembly use group "does not include sleeping areas." It directed Dad's Place to stop providing sleeping areas without approval.

The Ohio Fire Code imposes safety requirements that vary depending on the use occupancy of each building. Use occupancies are categorized into different groups, such as residential (Group R) and assembly (Group A), as well as different subdivisions within groups. *E.g.*, Ohio Fire Code §§ 201 (defining "Residential Group R" buildings as those used "for sleeping purposes"), 202 (defining "Residential Group R-1," "Residential Group R-2," and "Residential Group R-3").

The Ohio Fire Code generally prohibits changes in use or occupancy that would place a structure in a different occupancy group unless the structure is made to comply with the requirements applicable to the new use. Ohio Fire Code §102.3.3. Subject to the approval of a "fire code official," however, an existing structure may change use and be occupied for a different use without conforming to all requirements. *Id.* The Ohio Fire Code also provides the State Fire Marshal discretion to grant variances from fire code requirements. Ohio Fire Code §104.8.

Chief Pool testified that he has discretion to determine when a change of use has occurred and discretion to approve a change of use when the new use presents a lesser hazard than the previous use. He has also testified that sleeping individuals are generally less likely to be aware of a fire and that this increases risk.

The Ohio Fire Code does not define “sleeping” or “sleeping area.” Chief Pool testified that he relied on his own interpretation and personal understanding when deciding whether Dad’s Place had created a “sleeping area.”

Chief Pool’s criteria for what constitutes a “sleeping area” shifted over time, which he admitted is permitted under the fire code. In January 2024, Chief Pool’s inspection report tied the finding of a “sleeping area” to the presence of cots. After the Church removed the cots, Chief Pool continued to find a “sleeping area” existed, including when individuals were observed sleeping in a prone position on the floor or on chairs with blankets or pillows. Chief Pool’s views regarding whether any exception that would excuse Dad’s Place from having to install a sprinkler system might apply even changed between his deposition and the preliminary-injunction hearing based on additional research in the weeks before the hearing.

The City doesn’t require a sprinkler system in the sleeping area of many nearby properties—motels, shelters, and other congregate living facilities—despite their residential use occupancy. Chief Pool explained that the fire code permits grandfathering because modifying structures to comply with new fire-safety laws can impose significant costs on businesses and because allowing existing uses to continue without new measures creates no greater hazard than existed before the new laws were enacted.

In spring 2024, Dad’s Place applied to the Ohio Board of Building Standards for a certificate of use and occupancy in an attempt to resolve the alleged fire code violation, but the Board denied the application. The reason for the denial is not in evidence. But Chief Pool testified that obtaining a change in use could take up to a year or longer, during which time the Church

would be unable to continue its ministry because the City would not grant a variance or conditional use permit.

In April 2024, Chief Pool conducted inspections in which he observed individuals sleeping in the Church's sanctuary, including on the floor and on chairs. On April 24, 2024, Chief Pool issued two citations and a notice of proposed penalty regarding two unresolved issues: (1) an impermissible change in use or occupancy from Group A (assembly) to Group R (residential) based on "[t]ransient occupants [being] permitted to arrange furniture nightly to accommodate sleeping in a prone position," and (2) the lack of an automatic sprinkler system that Chief Pool asserted was required for a residential congregate living facility. *See* Ohio Fire Code §903.2.8.

Dad's Place requested that the City consider alternatives to an immediate sprinkler installation—including seeking an exemption or variance under Ohio Fire Code §104.8, treating the overnight ministry like comparable secular facilities where sleeping without sprinkler systems is allowed, and implementing a temporary overnight fire watch as authorized by the Ohio Building Code. Chief Pool and the City declined to adopt those alternatives. Nor did the City offer or implement any interim accommodation that would allow Dad's Place to continue its overnight ministry while addressing the City's fire-safety concerns short of a cost-prohibitive sprinkler system.

In July 2024, Chief Pool initiated this action to enjoin Dad's Place from operating its overnight ministry without a cost-prohibitive automatic sprinkler system. At the preliminary-injunction hearing, Chief Pool testified that Dad's Place had four options to operate its overnight ministry: (1) retain a professional to assist with an application for a variance from the State Fire

Marshal; (2) install a sprinkler system and then file a change of use occupancy; (3) move its overnight ministry elsewhere; or (4) prevent individuals from sleeping during the overnight ministry.

Pastor Avell's unrebutted testimony shows that installing a sprinkler system is well outside the Church's financial means and would require the Church to shut down for a significant period of time. Pastor Avell testified that Dad's Place could not afford to open a second location for its ministry and that it could not simply relocate its ministry to another building with a mixed assembly-residential use occupancy. Pastor Avell also maintains that he is called by God to operate the ministry on the Church's property because the location is within walking distance for many homeless individuals that seek out the ministry. And Chief Pool admits that there are no available properties in Bryan or the surrounding 72-mile area equipped with sprinklers to which the Church could afford to move its ministry.

This Court granted Chief Pool's motion for a preliminary injunction, and Dad's Place appealed. The Ohio Attorney General filed an amicus brief in support of Dad's Place, urging the Sixth District to defend and uphold the Ohio Constitution's expansive religious-liberty protections. The Sixth District reversed and remanded, instructing this Court to analyze the federal Free Exercise claim under strict scrutiny and to consider the Ohio Conscience Clause claim, also under strict scrutiny.

II. CONCLUSIONS OF LAW

A permanent injunction is an "extraordinary remedy." *City of Toledo v. State*, 2018-Ohio-2358, ¶ 15. "The test for granting a permanent injunction is similar to the test used for granting a

preliminary injunction; however, the permanent injunction test requires a higher standard.” *B&N Coal, Inc. v. Blue Racer Midstream, LLC*, 2023-Ohio-2641, ¶ 37 (7th Dist.). To obtain a permanent injunction, the moving party must establish (1) a right to relief under the applicable substantive law, (2) irreparable injury absent the injunction, (3) that no third party will be unjustifiably harmed by the injunction, and (4) that the injunction would serve the public interest. *Id.* ¶ 36. The party seeking a permanent injunction must prove the required elements “by clear and convincing evidence.” *Id.*

I. Chief Pool cannot prevail on the merits.

This Court is bound by the Sixth District’s mandate and the law-of-the-case doctrine. Consistent with the Sixth District’s decision in this case, the Court must reconsider Chief Pool’s federal Free Exercise claim under strict scrutiny and adjudicate Dad’s Place’s claim under Article I, Section 7 of the Ohio Constitution—also under strict scrutiny. *Pool v. Dad’s Place*, 2025-Ohio-5262 (6th Dist.).

A. Strict scrutiny applies under both the U.S. Constitution and the Ohio Constitution.

The Sixth District determined that the City’s enforcement of the fire code burdens Dad’s Place’s religious exercise and is not generally applicable due to Chief Pool’s breadth of discretion and the lack of objective criteria in determining when a “sleeping area” exists and when a change of use has occurred. *Pool*, 2025-Ohio-5262, ¶¶ 42–55. Accordingly, the court held that strict scrutiny applies to Dad’s Place’s Free Exercise claim under the U.S. Constitution. *Id.* ¶ 55.

Because the record before the Sixth District is the same as the record now before this Court, the Court must apply strict scrutiny here.

The Court must also apply strict scrutiny under the Ohio Constitution. Article I, Section 7 of the Ohio Constitution—the Conscience Clause—prohibits “*any* interference with the rights of conscience.” Ohio Const. art. I, § 7 (emphasis added). This constitutional guarantee is even “broader than that [of the federal Constitution]”—so laws with even a “tangential” coercive effect on religious exercise are unconstitutional unless they pass strict scrutiny. *Humphrey v. Lane*, 89 Ohio St. 3d 62, 67 (2000).

Under Ohio law, “a court must apply strict scrutiny to all free exercise claims, even those involving ‘religiously neutral, evenly applied government actions’ as well as ‘indirect encroachments upon religious freedom.’” *Pool*, 2025-Ohio-5262, ¶ 58 (quoting *Humphrey*, 89 Ohio St.3d at 67). To satisfy strict scrutiny, the state action “must serve a compelling state interest and must be the least restrictive means of furthering that interest.” *Humphrey*, 89 Ohio St.3d at 68.

The Sixth District determined that the City’s fire-code enforcement burdens Dad’s Place’s religious exercise by forcing it to cease its ministry. *Pool*, 2025-Ohio-5262, ¶¶ 42–45. For the same reasons, the enforcement at least “tangentially” affects the Church’s religious practice and triggers strict scrutiny under the Ohio Constitution. *Humphrey*, 89 Ohio St. 3d at 67.

B. The City’s enforcement of the fire code fails strict scrutiny.

The City’s interference with Dad’s Place’s religious exercise must satisfy strict scrutiny—the “most rigorous” standard in American law. *Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520, 546 (1993). Under that standard, whether Chief Pool has prevailed on the

merits turns on whether the City's enforcement of the fire code against Dad's Place serves a compelling governmental interest and is the least restrictive means of furthering that interest. *See Kennedy v. Bremerton Sch. Dist.*, 597 U.S. 507, 525 (2022); *Fulton v. City of Phila.*, 593 U.S. 522, 541 (2021).

Life and fire safety are compelling governmental interests in the abstract. *See Humphrey*, 89 Ohio St.3d at 69. But strict scrutiny doesn't allow the government to rely on "broadly formulated interests." *Fulton*, 593 U.S. at 541 (quoting *Gonzales v. O Centro Espirita Beneficente União do Vegetal*, 546 U.S. 418, 431 (2006)). Chief Pool's generalized invocation of "fire safety" is insufficient. Rather, Chief Pool must show that the asserted interest in fire safety *as applied to Dad's Place* is compelling. *See Fulton*, 593 U.S. at 451 ("The question, then, is not whether the City has a compelling interest in enforcing its non-discrimination policies generally, but whether it has such an interest in denying an exception to [the religious claimant.]").

Chief Pool has failed to meet that burden. He has not identified a specific interest here that would justify shutting down Dad's Place because it lacks a sprinkler system. Indeed, his decision to wait years before enforcing the fire code confirms that no such interest exists.

Cost-based exemptions in the fire code for buildings similarly situated to Dad's Place—also categorized as "Residential Group R" under the fire code—confirm that the City lacks a compelling government interest in enforcing the fire code's sprinkler requirement as to Dad's Place. These other buildings—motels, apartments, and secular charities—are not required to comply with the same sprinkler requirement because they are grandfathered. According to Chief Pool, these other facilities are "an acceptable hazard" that don't have sprinklers for *cost* reasons—

not *safety* reasons. Under strict scrutiny, “a law cannot be regarded as protecting an interest ‘of the highest order’ . . . when it leaves appreciable damage to that supposedly vital interest unprohibited.” *Lukumi*, 508 U.S. at 547 (alteration in original). Applied here, strict scrutiny doesn’t tolerate the existence of acceptable hazards for comparable secular activity while denying the same for a religious activity. Chief Pool has thus failed to demonstrate a compelling interest in enforcing the fire code’s sprinkler requirement against Dad’s Place.

Chief Pool has also failed to prove that the City’s fire-code enforcement against Dad’s Place is the least restrictive means of achieving the City’s interests. To satisfy strict scrutiny, Chief Pool must show that “measures less restrictive of the [Church’s] First Amendment activity could not address” the City’s safety interests. *Tandon v. Newsome*, 593 U.S. 61, 63 (2021). That requires Chief Pool to demonstrate that there aren’t any alternatives other than forcing the Church to install a sprinkler system to advance its interest. As the Supreme Court has held, if “the government can achieve its interests in a manner that does not burden religion, it must do so.” *Fulton*, 593 U.S. at 541.

Here, there are multiple alternatives to forcing the Church to shut down its ministry for lack of a sprinkler system, any one of which is fatal to Chief Pool’s case under strict scrutiny.

Chief Pool could:

- a. Treat the overnight ministry as exempt from the sprinkler requirement and allow Dad’s Place a reasonable amount of time to obtain a certificate of occupancy;
- b. Grant or help Dad’s Place request a formal variance under Ohio Fire Code §104.8 from the sprinkler requirement;

- c. Exercise his discretion to determine that there hasn't been a change in use, which would eliminate the sprinkler requirement altogether;
- d. Treat Dad's Place like its secular comparators that are grandfathered from the sprinkler requirement because of cost; or
- e. Permit Dad's Place and Pastor Avell to engage in a fire watch on a temporary basis under Ohio Fire Code §901.7.

Chief Pool has not explained—as he must—why the only two safety options are installing a sprinkler system or shutting down the Church's ministry. So installing a sprinkler system isn't the least restrictive means of vindicating the City's stated interest in fire safety at the Church, even if it had established a compelling interest.

In sum, the City's enforcement of the fire code against Dad's Place does not satisfy strict scrutiny under either the Ohio Constitution or the U.S. Constitution. Accordingly, Chief Pool has not prevailed on the merits. That alone requires denying his request for a permanent injunction. *See B&N Coal*, 2023-Ohio-2641, ¶ 37.

II. None of the remaining injunction factors supports an injunction either.

Even if the City's fire-code enforcement against Dad's Place didn't violate the U.S. and Ohio Constitutions, a permanent injunction would still be inappropriate because Chief Pool has failed to establish the other prerequisites for such an "extraordinary remedy." *City of Toledo*, 2018-Ohio-2358, ¶ 15. The other injunction factors—(1) irreparable harm absent an injunction, (2) the balance of harms, and (3) and the public interest—weigh in the Church's favor.

Chief Pool failed to present clear and convincing evidence that the City would suffer “irreparable harm if an injunction is not issued.” *Connor Grp. v. Raney*, 2016-Ohio-2959, ¶ 19 (2d Dist.). There are numerous other similarly situated buildings in Bryan that lack sprinkler systems. *Supra* ¶ 13. The Church had been informally operating its overnight ministry since 2018 and had been formally operating it for nearly two years. *Columbus v. State*, 2023-Ohio-2858, ¶ 49 (10th Dist.) (no irreparable harm when statute at issue “had, at that point, been in effect for almost four years”).

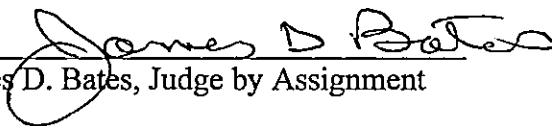
The requested injunction would inflict irreparable harm on the Church by shutting down its ministry. “A finding that a constitutional right has been threatened or impaired mandates a finding of irreparable injury.” *Magda v. Ohio Elections: Comm.*, 2016-Ohio-5043, ¶ 38 (10th Dist.); *see also Mahmoud v. Taylor*, 606 U.S. 522, 569 (2025) (“[T]he loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury.”) (quoting *Roman Catholic Diocese of Brooklyn v. Cuomo*, 592 U.S. 14, 19 (2020)). The injunction would also pose harm to third parties, including the Church’s congregants who take advantage of the rest and refresh ministry. *See Sw. Ohio Basketball, Inc. v. Himes*, 2021-Ohio-415, ¶ 58 (12th Dist.) (reversing injunction “given the real impact” it “could have on the public at large”). The balance of harms therefore tips decidedly against the injunction.

Finally, it is “always in the public interest to prevent violation of a party’s constitutional rights.” *Vitolo v. Guzman*, 999 F.3d 353, 360 (6th Cir. 2021). And “the public as a whole has a significant interest in ensuring . . . protection of First Amendment liberties.” *Dayton Area Visually Impaired Persons, Inc. v. Fisher*, 70 F.3d 1474, 1490 (6th Cir. 1995). On this record, Chief Pool

has failed to prove that the public interest would be advanced by the issuance of a permanent injunction enjoining Dad's Place from continuing to live out its faith by serving the vulnerable population of Bryan.

JUDGMENT ENTRY

For these reasons, Plaintiff Fire Chief Douglas Pool's request for injunctive relief is DENIED. This case is DISMISSED WITH PREJUDICE. Pursuant to Ohio Civ. R. 58(B), the Clerk shall serve notice of this judgment and its date of entry upon the journal in the manner prescribed by Civ. R. 58(B).


James D. Bates, Judge by Assignment