

2015-CI-07858

073RD JUDICIAL DISTRICT COURT
FIRST PRESBYTERIAN CHURCH OF SAN ANTONIO

DATE FILED: 05/12/2015

FIRST PRESBYTERIAN CHURCH
SAN ANTONIO,
Plaintiff,

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IN THE DISTRICT COURT

v.

MISSION PRESBYTERY,
Defendants.

___ JUDICIAL DISTRICT

BEXAR COUNTY, TEXAS

TEMPORARY RESTRAINING ORDER

First Presbyterian Church of San Antonio's ("FPC") has filed a Verified Original Petition for Declaratory Judgment and Application for Temporary Restraining Order and Temporary and Permanent Injunction ("Petition"). After considering FPC's verified pleading and argument of counsel, the Court finds that FPC has established the probability of its right to the requested relief under the neutral principle factors set forth by the Texas Supreme Court in *Masterson v. Diocese of Nw. Texas*, 422 S.W.3d 594 (Tex. 2013); *Windwood Presbyterian Church, Inc. v. Presbyterian Church (USA.)*, 438 S.W.3d. 597 (Tex. App—Houston [1st Dist.] 2014). Based upon the property deeds of FPC, the terms of its corporate charter, the provisions of the denominational constitution, and the generally applicable provisions of Texas law, FPC has demonstrated the likelihood of its complete and exclusive ownership of any property held in its name.

The Court finds that it clearly appears that Mission Presbytery ("Presbytery") has the means at its disposal to cause immediate and irreparable injury, loss or damage to FPC in connection with FPC filing this action and that, if the Court does not issue the Temporary Restraining Order, FPC will be irreparably injured because Presbytery will proceed to form an Administrative Commission to seize control of FPC property or its operations or both. Such conduct by Presbytery would cause immediate damage to the funding of FPC's charities,

ministries, and scholarships and render FPC without an adequate remedy at law in that an award of damages would not adequately compensate FPC for the resulting harm to its ability to conduct its ministries.

The Court finds that the equities favor the issuance of this Temporary Restraining Order and that this Temporary Restraining Order is necessary to preserve the status quo between the parties pending a hearing on FPC's request for a temporary injunction.

The Court further finds that this Temporary Restraining Order is properly granted without notice to Presbytery because of Presbytery's incentive, ability and directions from the Presbyterian Church (U.S.A.) to immediately form such an Administrative Commission and endeavor to seize control of FPC's operations.

IT IS THEREFORE ORDERED that the requested Temporary Restraining Order be and is hereby issued against Mission Presbytery its officers, agents, employees, and counsel, and any persons or entities in active concert or participation with Presbytery, or acting by or through Presbytery or on its behalf or in its stead. This Temporary Restraining Order pertains to all Property held by or for First Presbyterian Church of San Antonio, both immovable (real) together with all buildings and improvements thereon, and movable (personal), whether corporeal or incorporeal, wherever located, whether held by, for the benefit of, or in the name of First Presbyterian Church of San Antonio (collectively "Property"), which real Property is more particularly described in Exhibit 1 to the Petition. Presbytery is restrained from filing any documents in the mortgage and conveyance records of Bexar County to assert ownership, use or control, or rights to determine ownership, use or control, to any real Property titled in the name of First Presbyterian Church of San Antonio or to assert a trust on behalf of Presbytery or other affiliated third party over real Property

titled in the name of First Presbyterian Church of San Antonio or otherwise held by or for First Presbyterian Church of San Antonio the effect of which would be to place a cloud on the title of said real Property, or otherwise interfere with or disturb Plaintiff's ownership, use, control, or disposition of Plaintiff's Property, or interfere with Plaintiff's right to determine the ownership, use, control, or disposition of Property held by or for First Presbyterian Church of San Antonio or held in the possession of, control of, or owned by, for the benefit of, or titled in the name of First Presbyterian Church of San Antonio.

IT IS FURTHER ORDERED that Mission Presbytery, and any persons or entities in active concert or participation with it, on its behalf or in its stead, whether acting directly or indirectly, are temporarily restrained from taking any action that could affect the property rights of First Presbyterian Church of San Antonio, including but not limited to:

- (1) Filing any documents in the mortgage and conveyance records in Bexar County, or any County where FPC's property is located, the effect of which would be to place a cloud on the title of any property titled in the name of plaintiff;
- (2) Otherwise taking any action to claim or assert ownership, use, or control of the Personal and Real Property, or a right to determine ownership, use or control of the Personal and Real Property, in the possession or control of, owned by, titled in the name of or held for the benefit of First Presbyterian Church of San Antonio;
- (3) Asserting any rights to the property of First Presbyterian Church of San Antonio, including but not limited to seeking to change the locks of the church, initiating any disciplinary action against the ministers or members of the church, appointing an administrative commission with authority to assume "original jurisdiction" over FPC's local governance and control of local property possessed by or titled in the name of First Presbyterian Church of San Antonio or First Presbyterian Church of San Antonio Foundation, or otherwise interfering, by dissolution or otherwise, in any way with the property-related rights and responsibilities of the employees of FPC, the governing body of FPC (the session), its congregation, or the governing body of its local church corporation FPC (the board of trustees);
- (4) Contacting any financial institution to assert a claim of interest in any account, fund, stock or other asset held in the name or for the benefit of First

Presbyterian Church of San Antonio or First Presbyterian Church of San Antonio Foundation; or

- (5) Otherwise interfering with the normal duties and responsibilities of the officers, ministers, and employees of First Presbyterian Church of San Antonio or the First Presbyterian Church of San Antonio Foundation or any designees thereof in any way that pertains to the ownership, control, use or disposition of the Real and Personal Property held by, for or in the name of First Presbyterian of San Antonio.

IT IS FURTHER ORDERED that nothing in this Temporary Restraining Order shall preclude Presbytery from taking ecclesiastical action for non-pretextual ecclesiastical cause that is unrelated to this litigation or any property issue raised in, prompted by, related to, or affecting the ownership, control, use, or disposition of the Personal or Real Property held by, for or in the name of First Presbyterian Church of San Antonio

IT IS FURTHER ORDERED that the clerk is to issue notice to Defendant that the hearing on Plaintiff's application for a temporary injunction is set before the Presiding District Court of Bexar County, Texas for the 26th day of May, 2015^{at 9:00 AM.} The purpose of the hearing shall be to determine whether this temporary restraining order should be made a temporary injunction pending a final adjudication of rights by this Court.

IT IS FURTHER ORDERED that this Temporary Restraining Order shall not be effective unless and until Plaintiff executes and files with the clerk a bond in the amount of Five hundred dollars (\$ 500).

IT IS FURTHER ORDERED that this Temporary Restraining Order shall expire fourteen days from the date it is entered, or until further order of this Court.

SIGNED this 12 day of May, 2015, at 11:16 A.M.



JUDGE PRESIDING