UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

THE BRONX HOUSEHOLD OF FAITH, ROBERT HALL, and JACK ROBERTS,

Plaintiffs,

-against-

BOARD OF EDUCATION OF THE CITY OF NEW YORK and COMMUNITY SCHOOL DISTRICT NO. 10,

Defendants.

01 Civ. 8598 (LAP)

ORDER

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LORETTA A. PRESKA, Chief United States District Judge:

The Bronx Household of Faith, Robert Hall, and Jack Roberts ("Plaintiffs") have moved this Court for a preliminary injunction against the Board of Education of the City of New York (the "Board") and Community School District No. 10 (collectively, "Defendants") so that Plaintiffs may continue to meet in New York City public school P.S. 15 for Sunday morning worship as they have without interruption since this Court issued an initial preliminary injunction in 2002 barring Defendants from enforcing a regulation that would prohibit Plaintiffs from conducting their religious worship services in the Board's schools. In November 2007, this Court made the preliminary injunction permanent and granted Plaintiffs' motion for summary judgment.

On June 2, 2011, the Court of Appeals reversed summary judgment and vacated the permanent injunction. After the Supreme Court denied Plaintiffs' petition for certiorari, the Court of Appeals issued its mandate on December 7, 2011. The Board intends to begin enforcing immediately section I.Q of Chancellor's Regulation D-180, which would prevent Plaintiffs and other similarly situated religious organizations and their members from using the Board's schools for worship services as soon as this weekend.

Because I find that Plaintiffs have demonstrated irreparable harm and a likelihood of success on the merits of their Free Exercise Clause and Establishment Clause claims, the Court issues this temporary restraining order enjoining Defendants from enforcing that part of Chancellor's Regulation D-180 that provides: "No permit shall be granted for the purpose of holding religious worship services, or otherwise using a school as a house of worship."[1] See Jackson v. Johnson, 962 F. Supp. 391, 392 (S.D.N.Y. 1997) ("In the Second Circuit, the standard for a temporary restraining order is the same as for a preliminary injunction."). This restraining order shall take

[1] Chancellor's Regulation D-180 § I.Q, Extended Use of School Buildings, http://schools.nyc.gov/NR/rdonlyres/023114D9-EA44-4FE0-BCEE-45778134EA14/0/D180.pdf (last visited February 16, 2012).

effect immediately and remain in effect for ten days. A written opinion will follow.

SO ORDERED.

Dated: New York, New York
February 16, 2012

Loretta A. Preska
UNITED STATES DISTRICT JUDGE