

IN THE UNITED STATES DISTRICT COURT  
 FOR THE NORTHERN DISTRICT OF ILLINOIS  
 EASTERN DIVISION

PLANNED PARENTHOOD CHICAGO  
 AREA, an Illinois non-profit Corporation,  
 and GEMINI OFFICE DEVELOPMENT LLC,  
 an Illinois limited liability company,

Plaintiffs,

v.

CITY OF AURORA, ILLINOIS

Defendant.

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 ) 07CV5181  
 ) JUDGE NORGLE  
 ) MAGISTRATE JUDGE BROWN  
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**VERIFIED COMPLAINT**  
**FOR PRELIMINARY INJUNCTION AND OTHER RELIEF**

Plaintiffs Planned Parenthood/Chicago Area (“PPCA”), and Gemini Office Development, LLC (“Gemini”) (collectively “Plaintiffs”), by and through their attorneys, bring this action for immediate injunctive and other relief. Plaintiffs complain as follows:

**CASE OVERVIEW**

1. This action arises out of the actual and threatened violation of Plaintiffs’ constitutional rights by Defendant City of Aurora (“Aurora”).
2. Plaintiffs PPCA and Gemini seek an order of this Court barring Aurora from preventing PPCA from opening its new medical facility in Aurora (the “Facility”) as scheduled on September 18, 2007.
3. Although Aurora issued a Certificate of Occupancy and Compliance on August 16, 2007 for this medical facility, it has since made clear to Plaintiffs that it will not allow the Facility to open for business and will instead review Plaintiffs’ application indefinitely.
4. Aurora’s actions, however, are not related to any legitimate municipal concern,

but instead are motivated solely by political opposition to the fact that PPCA provides abortion services as part of a broad range of health care services for its patients.

5. Accordingly, Plaintiffs seek injunctive relief pursuant to 42 U.S.C. § 1983 to prevent Aurora from continued deprivation of PPCA and Gemini's constitutionally protected right to equal protection under the law.

### **PARTIES**

6. Planned Parenthood/Chicago Area is an Illinois non-profit corporation, organized under the laws of Illinois, with its headquarters in Chicago, Illinois. PPCA provides competent, high quality and affordable health care to thousands of diverse women, men and teens every year.

7. Gemini Office Development, LLC is an Illinois limited liability company. Gemini is a wholly owned affiliate of PPCA.

8. Defendant City of Aurora is an Illinois city that extends into Kane, DuPage, Will and Kendall counties.

### **JURISDICTION AND VENUE**

9. This District Court has personal jurisdiction over Aurora because Aurora is located within this District.

10. The Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1331, 42 U.S.C. § 1983 and 28 U.S.C. § 1343(a)(3).

11. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b). Certain real estate that is the subject of this litigation is located in the Northern District of Illinois.

### **FACTUAL BACKGROUND**

#### **Planned Parenthood**

12. PPCA has provided quality family planning services, education programs and

counseling to the people of Chicago for more than 50 years. Specifically, PPCA offers abortion services, birth control services, HIV/AIDS testing and counseling, pregnancy testing and counseling, and sexually transmitted infection testing and treatment.

### The Facility

13. In 2002, PPCA began planning for a new medical facility to provide services in Chicago's western suburbs. The nearest PPCA facility is in downtown Chicago, more than 35 miles away. Ultimately, PPCA obtained a parcel of land at 3051 E. New York Street in Aurora and designed a \$7.5 million, 22,000 square foot outpatient medical office facility for that site (the "Facility").

14. On July 27, 2006 Gemini, a wholly owned affiliate of PPCA, applied to Aurora for a building permit in order to construct the Facility.

15. In the fall and winter of 2006, Gemini submitted materials to obtain the building permit from Aurora. Among the materials Gemini submitted were detailed architectural plans showing the design of the facility and its use as a medical office facility. Other materials submitted by Gemini described the project as "Gemini Outpatient Facility." Under "General Description of Proposed Work" Gemini entered "Medical Office Building."

16. Because Aurora had already zoned the property for medical use, no variance or other zoning appeal was required.

17. On January 12, 2007, Aurora issued a building permit to Gemini, which expired on July 11, 2007. Gemini then commenced construction on the 22,000 square foot facility.

### The Issuance of a Certificate of Occupancy and Compliance

18. On August 16, 2007, Aurora issued Gemini a Certificate of Occupancy and Compliance for the Facility, allowing PPCA to open for business.

19. According to the Certificate of Occupancy and Compliance, Gemini was only required to complete two tasks: (1) "install permanent exit directional signage and add exit sign at conference room 110 west exit door"; and (2) "install glass at service counters or provide architect revision to delete glass partitions."

20. As of the present date, Gemini has fulfilled both tasks identified by Aurora in the Certificate of Occupancy and Compliance.

21. Based on Gemini's receipt of the Temporary Certificate of Occupancy from the City, PPCA planned to open the Facility on September 18, 2007 and began scheduling appointments for its first clients at the Facility.

#### **Anti-Abortion Protests**

22. In late July 2007, anti-abortion advocates learned that the Facility would be used to provide abortion services, among other medical services. In the last week of August, anti-abortion activists began protesting the Facility. On Sunday, August 26, 2007, a group of more than 1,000 anti-abortion protestors held a demonstration outside of the new Facility. At the next Aurora City Council meeting, August 28, 2007, more than 100 protestors arrived to object to the new Facility.

#### **Aurora's Response**

23. Late on Friday, August 31, 2007 the Aurora Department of Community Development, Development Services Division sent Gemini a letter informing Gemini that Aurora had "began an [sic] full review of the process surrounding the development of your property at the above address."

24. In addition, Aurora informed Gemini that Gemini's Certificate of Occupancy and Compliance was being modified "to include an additional condition that you may not open for

business until such time as [Aurora] has given you further written approval to do so.” Aurora cited no statute or ordinance that authorized it to make such a modification.

25. Aurora noted, however, that “We understood your projected opening date is September 18, 2007, and it is our intention to conclude our review in order to provide you with further direction prior thereto.”

#### **Additional Anti-Abortion Protests**

26. On Tuesday, September 11, 2007, at its next regularly scheduled public meeting, the Aurora City Council again heard from dozens of anti-abortion protestors. In all, the meeting lasted more than three hours. Again, the protestors objected to abortion generally as well as to the new Planned Parenthood facility in Aurora. Some protestors objected to the lack of parental notification laws in Illinois. Other protestors objected to distribution of birth control at Planned Parenthood facilities. Many protestors again complained that they had not been given notice and an opportunity to object to the Planned Parenthood facility.

#### **Aurora Threatens to Inflict Serious and Irreparable Injury Upon Plaintiffs**

27. On September 12, 2007, Gemini received a second letter from Aurora. This letter stated:

This correspondence is a follow-up to our letter to you of August 31, 2007 in which we advised you that, pending a review of the development process, you could not open for business under the temporary certificate of occupancy.

At that time we indicated that it was our intention to have the review concluded by September 18, 2007. We wish to advise you that it is not likely that the review process will be completed prior to your projected opening date. **The City of Aurora has no intention of allowing you to open for business prior to the completion of the independent review.**

Therefore, we wish to reiterate that until or unless you receive specific approval from the City of Aurora, you are not permitted to open for business.

(emphasis added).

28. Thus, as a result of Aurora's attempted modification of Gemini's Certificate of Occupancy and Compliance, the Facility will not be allowed to open as planned on September 18, 2007. Further, as this undefined "review" process is indefinite in scope and time, the Facility will not be allowed to open for the indefinite future.

29. The \$7.5 million facility is completed and staffed with doctors, nurses, educators, administrative staff and health care professionals. PPCA has scheduled appointments with its first patients for September 18, 2007 and the balance of next week.

30. Aurora's actions have significantly interrupted and delayed PPCA's patients' ability to obtain family planning, contraceptive and abortion services by delaying PPCA's opening of the Facility.

31. Every day that PPCA is delayed in opening the Facility increases the likelihood that patients seeking low-cost medical services will have to seek alternative care at more expensive hospitals or by traveling long distances to other facilities.

#### COUNT 1

#### VIOLATION OF PLAINTIFFS' RIGHTS UNDER THE EQUAL PROTECTION CLAUSE OF THE FOURTEENTH AMENDMENT PURSUANT TO 42 U.S.C. §1983

32. Plaintiffs reallege and incorporate by reference each and every allegation set forth in Paragraphs 1 through 31 inclusive.

33. This Count arises under 42 U.S.C. §1983 for Aurora's violation of Plaintiffs' rights to equal protection under the law.

34. Aurora is an Illinois city whose conduct in attempting to modify the Certificate of Occupancy and Compliance originally issued on August 16, 2007 and prevent Plaintiffs from opening the Facility is committed under color of state law.

35. The undefined and indefinite "review" process and attempted modification of the




- (4) That Plaintiffs are awarded its damages arising from Aurora's improper conduct.
- (5) That the Court order Aurora to pay to Plaintiffs both the costs of this action and the reasonable attorneys' fees incurred by it in prosecuting this action; and
- (6) That the Court grant to Plaintiffs such other and additional relief as is just and proper under applicable law.

DATED: September 13, 2007

Respectfully submitted,

PLANNED PARENTHOOD CHICAGO AREA  
and GEMINI OFFICE DEVELOPMENT LLC

By:   
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