

pect of enacting regulatory measures and anticipated litigation.

The various appendices to the Report contain miscellaneous materials in support of those portions of the Report where references were deemed necessary. References are made to the appendices by numerical correlation of the material in the Report to the appropriate appendix. Thus, a footnote number such as I-3 refers to Appendix I, item 3.

II. ISSUES PRESENTED AND CONCLUSIONS

A. Issue 1:

Does the City of Clearwater have the legal authority to regulate the solicitation of funds or property by a purported religious organization where there is evidence of systematic, unfair, deceptive and fraudulent practices in the solicitation of said funds?

Conclusion:

1. The City has the authority, under state and federal law, to enact an ordinance regulating the solicitation of funds by a purported religious organization through the enactment of a narrowly drawn ordinance with specific regulatory measures. The ordinance must meet the requirements of the recent United States Supreme Court case of Schaumburg v. Citizens, Etc. The Florida Court of Appeals has upheld a more broadly drawn ordinance enacted by the City of Jacksonville than that recommended by this Report.

2. The City has the authority, under state and federal law, to enact an ordinance regulating consumer fraud, which ordinance is applicable to all organizations, including purported religious corporations. The Florida Supreme Court has upheld the power of Pinellas County to enact a Consumer Protection Ordinance.

B. Issue 2:

Does the City have the power to tax an organization which holds itself out to be a religion, but which systematically engages in activities, practices and policies indicative of a commercial, profit-motivated enterprise, and which activities fail to meet the requirements of the "operational test" for organizations claiming tax-exempt status under Section 501(c)(3) of the Internal Revenue Code?

Conclusion

Although the City has limited taxing powers under Florida law, it should seek to have the County and State initiate appropriate action. Primary authority to tax a religious "front" organization lies within Pinellas County and the State. The County has the authority to impose real estate, personal property and occupational taxes. The State has the authority to impose sales, and miscellaneous taxes. The Church of Scientology has lost every major court test in both state and federal courts with respect to its qualifying for exemption under the "operational" test as applied by the Internal Revenue Bureau. The operational practices of Scientology in Clearwater disqualify it for exemption under both state and federal standards. The City should conduct public hearings in connection with the proposed ordinances, as to the operational practices

of Scientology within the City, and turn over its findings to the appropriate state and county taxing authorities, for the purpose of obtaining redress from those authorities.

C. Issue 3:

Does the City have the authority to enact a zoning regulation limiting expansion of purported "Church facilities" in the "Downtown Development Area"?

Conclusion

The City has the authority to enact a zoning regulation limiting expansion of "Church facilities" in the "Downtown Development Area" provided that the regulation is reasonably related to legitimate public interests. The City should prepare a list of defined goals for the "Downtown Development Area" which reasonably warrants the enactment of the suggested regulation.

D. Issue 4:

Does the City have the power to enact an ordinance regulating the practice of psychology or psychotherapy?

Conclusion

There is uncertainty under Florida law as to whether a municipality may enact such an ordinance. Florida repealed its statutes regulating the practice of psychology. There are no existing precedents treating potential First Amendment problems in this area. Thus, municipal regulation is

questionable at this time. Exigent circumstances, however, such as the unlicensed practice of medicine, suicide, or clear and flagrant psychological abuses, may warrant an effort to regulate. The founder of Scientology, L. Ronald Hubbard, has specifically stated that Scientology is a method of "psychotherapy", and "the world's largest mental health organization". Foreign nations such as Australia have enacted regulatory measures specifically in response to investigations concerning harmful psychological practices of Scientology.

E. Issue 5:

Does the City have the power to enact any regulatory measures governing education?

Conclusion

The time and cost restraints for this Report did not allow sufficient time to adequately research this issue. However, the presence of numerous small children within Scientology in Clearwater suggests that this issue should be fully explored, particularly where there is strong evidence that minors living within the City are not receiving minimal educational requirements.

F. Issue 6:

Does the City have the power to enact regulatory measures governing public lodging, public health and safety, fire and building codes.

Conclusion

Time and cost constraints for this Report did not allow

sufficient time to adequately research this issue. However, there is evidence of overcrowding, beds in corridors and other violations of public safety type ordinances, within Scientology-operated buildings to warrant further investigation and review.

G. Issue 7:

Has the Church of Scientology operated within Clearwater with activities, policies, practices and business methods which are in violation of local, state and federal law, and which activities and practices have caused, directly or indirectly death, physical, mental and emotional abuse and financial loss to individuals within and without the City?

Conclusion

The Church of Scientology has engaged in a pattern of independent criminal activity, fraud, and deceptive sales practices, and vicious personal attack and abuse, all violative of fundamental human rights. The City should seriously deliberate and consider taking appropriate action to protect individuals within its jurisdiction from policies and practices causing loss of labor, money and property and deleteriously affecting the physical and mental health of those within the City. The City should conduct a public hearing as to fraudulent and criminal activities within the City and thereafter, enact ordinances similar to those proposed, in order to prevent such activity. The City should not undertake to regulate any of the doctrines, beliefs or religious activities, if any, of Scientology. Scientology, on its face, embraces a non-theistic, compilation of doctrinal beliefs, written by Lafayette R. Hubbard, which are arguably religious

in the broadest legal definition adopted by the U.S. Courts. However, there is substantial evidence to warrant the conclusion that Scientology (1) does not encompass belief in a deity, which is one of the traditional tests for religion; (2) does have a structure of authoritative precepts fundamentally opposed to the laws and ethics of our society which precepts condone and encourage the commission of crimes and fraud; and (3) employs a "religious front" for the sole purpose of obtaining money and power. Despite these latter conclusions, the City should not interfere with those beliefs and practices which arguably fall within the ambit of "religious activity" in the broadest legal interpretation. The specific regulatory measures proposed would safeguard legitimate First Amendment free exercise of religion, while protecting the community, and individuals from many of the fraudulent, deceptive and criminal practices of Scientology which appear to be widely employed within and without the City.

III. APPLICABLE PRINCIPLES OF LAW

A. A FLORIDA MUNICIPALITY HAS THE POWER TO REGULATE TAX-EXEMPT ORGANIZATIONS SOLICITING MONEY OR PROPERTY

In most states and in many cities and towns in the United States, ordinances have been enacted which, in varying ways, regulate organizations which are or hold themselves out to be benevolent, civic, educational, fraternal, voluntary health, philanthropic, humane, patriotic, or religious organizations. In most instances, regulation is accomplished by requiring registration, application for and issuance of permits before the organization is allowed to solicit money