



1 constitutional rights were violated, as follows:

2 **INTRODUCTION AND NATURE OF THE CONTROVERSY**

3  
4 1. This action seeks relief due to the improper and wrongful substantial burden on  
5 religious exercise and the unlawful and wrongful treatment of a religious assembly on less  
6 than equal terms with non-religious assemblies against the Cross-Complainant by the  
7 Defendant as part of a clear and purposeful plan to deprive Cross-Complainant of its rights to  
8 the free exercise of religion and to be treated equally as the Defendant treats non-religious  
9 assemblies, all in violation of the Cross-Complainant's clearly established rights under the  
10 United States Constitution and federal statutory and common law.  
11

12  
13 2. CHURCH seeks damages in this action, both nominal and compensatory, to  
14 vindicate and safeguard its civil rights including, but not limited to those rights secured under  
15 the First and Fourteenth Amendments of the Constitution of the United States.  
16

17 3. CHURCH also alleges that the Defendant substantially burdened its free  
18 exercise of religion by unlawfully and wrongfully implementing land use regulations which  
19 resulted in substantial burdens placed upon CHURCH which abridged CHURCH'  
20 fundamental rights and liberties.  
21

22 4. Cross-Complainant seeks equitable and injunctive relief in this action to  
23 vindicate and safeguard its constitutional and statutory and common law rights including, but  
24 not limited to its rights secured pursuant to the First and Fourteenth Amendments of the  
25 Constitution of the United States and the Religious Land Use and Institutionalized Persons  
26 Act of 2000, 42 U.S.C. § 2000cc and federal common law.  
27  
28

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**JURISDICTION AND VENUE**

5. This action arises under the Religious Land Use and Institutionalized Persons Act of 2000 (“RLUIPA”), 42 U.S.C. § 2000cc, the Civil Rights Act of 1871, 42 U.S.C. § 1983, and the First and Fourteenth Amendments of the United States Constitution.

6. This Court has jurisdiction over the Federal Claims in this action based on 28 U.S.C. §§ 1331 and 1343 and 42 U.S.C. § 1983 which confer original jurisdiction on federal district courts in suits to address the deprivation of rights, privileges and immunities secured by the United States Constitution and federal law, particularly the First Amendment to the United States Constitution.

7. The unlawful conduct, illegal practices, and acts complained of alleged in this Cross-Complaint were all committed in the Central District of California. Therefore, venue properly lies in this District, pursuant to 28 U.S.C. § 1391(b).

**PARTIES**

**Plaintiff**

8. Cross-Complainant CHURCH is a non-profit corporation organized and existing under the laws of the State of California with its principal place of business located in the County of Los Angeles, State of California.

9. At all times herein mentioned, CHURCH was, and is, “a religious assembly or institution” for the purposes of RLUIPA (42 U.S.C. §§ 2000cc, et seq.). CHURCH’s interest in the property which is the subject of this litigation is as follows:

- (1) It pays the mortgage;

- (2) Submits applications to local governments for development and use of the property;
- (3) Plans, executes, and pays for the development of the property; and
- (4) Occupies and uses the property for one or more of its religious activities including, but not limited to, the operation of a private high school.

**Cross-Defendant**

10. County of Los Angeles (“LAC”), is a charter county organized and existing under the Constitution and laws of the State of California.

**FACTS COMMON TO ALL CLAIMS FOR RELIEF**

11. LAC – including, but not limited to, the Board of Supervisors, the Department of Regional Planning, the Director of Planning, and Hearing Officers for the Department of Regional Planning - has the authority to regulate and restrict the use of land and structures within its borders, including the issuance of Conditional Use Permits and the issuance of temporary use and occupancy permits, commonly referred to as “Clean Hands Waiver”, pending the review and approval of a Conditional Use Permit.

12. The CHURCH members have sincerely held beliefs that Jesus Christ commands them to proclaim the Gospel, make disciples, and aid the poor. They practice their beliefs by providing opportunities for worship, religious instruction, private school instruction, and activities for people of all ages. They also perform charitable services for the underprivileged.

13. Since 1990, the CHURCH has operated a private educational institution. The

1 main campus is on Maiden Lane in Altadena, California. The CHURCH had outgrown this  
2 private educational facility in 2004. For the last four years, the CHURCH has been operating  
3 its private high school institution on at the Sierra Madre Nazarene Church located in  
4 Pasadena, California. At the time the CHURCH commenced operating the private high  
5 school facility at the Sierra Madre Nazarene Church in Pasadena, it did not have an approved  
6 CUP. However, the CUP was applied for immediately upon commencement of the high  
7 school and the CUP was received allowing the operation of the private high school at that  
8 location two years after the CHURCH commenced operation of the high school. In other  
9 words, the CHURCH was allowed to operate the high school while the CUP application was  
10 being processed and before it was approved.  
11  
12  
13

14 14. In 2007 the CHURCH was notified that its lease at the Sierra Madre Nazarene  
15 Church would not be renewed and it would not be allowed, therefore, to continue operating  
16 its private high school at that location.  
17

18 15. The CHURCH began a diligent search for suitable property to replace the  
19 facilities needed for the operation of its private high school. In April, 2008, the CHURCH  
20 found ideal property located at 183-205 E. Palm St., Altadena, CA 91101 (the “Palm  
21 Property.”). The Palm Property is located in an area zoned R-1 and the operation of a private  
22 school is a permitted use  
23  
24

25 16. Prior to April, 2008, the CHURCH engaged in an extensive, time consuming  
26 search of properties relatively close to the location of the then private high school on which  
27 the high school activities could be conducted. After looking at approximately 40 separate  
28

1 properties, each with its own imperfections, the CHURCH finally found the Palm Property in  
2 January, 2008. No other properties were available which had sufficient acreage and/or  
3 structures that would appropriately accommodate the high school activities sought by the  
4 CHURCH.  
5

6 17. The Palm Property was being bid on by other potential purchasers and, as a  
7 result of this competitive situation, the CHURCH was only able to purchase the Palm  
8 Property by paying \$1.2 million dollars over the asking price for a total of \$7 million dollars.  
9

10 18. In April, 2008, the CHURCH signed a Purchase and Sales Agreement to  
11 purchase the Palm Property. Because of the bidding contest, the Purchase and Sales  
12 Agreement did not afford the CHURCH the opportunity to purchase the Palm Property  
13 contingent upon receipt of a Conditional Use Permit. Nor did the CHURCH believe the need  
14 for such contingency was necessary because the CHURCH believed, in good faith, that the  
15 Palm Property, being located in Altadena, California, would be subject to immediate use and  
16 occupancy as a private high school pending the processing and issuance of any required  
17 Conditional Use Permit. The CHURCH believed this process would be applicable as to the  
18 Palm Property because that is the same process that the CHURCH went through when it  
19 applied for the Conditional Use Permit with respect to the school facilities located in  
20 Pasadena.  
21  
22  
23  
24

25 19. In May, 2008, following the direction of County officials, the CHURCH filed a  
26 Conditional Use Permit Application for the Palm Property. In September, 2008, the  
27 CHURCH began operating a private school at the Palm Property believing that it was  
28

1 complying with all applicable codes, ordinances and regulations of LAC because that is how  
2 the CHURCH was allowed to operate its private high school in Pasadena.

3  
4 20. On or about September 16, 2008, LAC unilaterally ceased processing the CUP  
5 that had been applied for by the CHURCH 4 months earlier based on nothing more than  
6 complaints from residential neighbors. Thereafter, on September 16, 2008, the CHURCH  
7 received a letter from the Supervising Regional Planner of the Department of Regional  
8 Planning, Oscar A. Gomez. That letter stated that the CHURCH was in violation of  
9 provisions of the Los Angeles County Zoning Ordinance on the grounds that an educational  
10 facility (private school) is not a permitted use in Zone R-1 unless a Conditional Use Permit  
11 (CUP) has first been obtained. The letter went on to order that the CHURCH “comply with  
12 the provisions of the zoning ordinance within fifteen (15) days upon receipt of this letter.”  
13 However, because the Department of Regional Planning had ceased processing the  
14 CHURCH’ Application for a CUP prior to the issuance of the letter dated September 16,  
15 2008, the order to comply by obtaining a CUP, as a practical matter, was a patent  
16 impossibility.  
17

18  
19  
20  
21 21. On September 30, 2008, the CHURCH received another letter from the  
22 Supervising Regional Planner of the Department of Regional Planning responding to the  
23 CHURCH request for an extension of time. The letter confirmed an extension of time  
24 through October 15, 2008 within which the CHURCH was given to comply with the  
25 provisions of the Los Angeles County Zoning Ordinance by obtaining the appropriate CUP.  
26

27 22. On September 29, 2008 the CHURCH wrote to the Director of Planning for the  
28

1 Department of Regional Planning, Bruce W. McClendon, requesting that the County waive  
2 the “Clean Hands” provisions of the Los Angeles County Zoning Code to allow the  
3 CHURCH to operate at the Palm Property without a CUP until such time as the CUP  
4 Application is reviewed and approved. The Director of Planning denied the request of the  
5 CHURCH on the grounds that, notwithstanding the acknowledged hardship on the CHURCH  
6 if the LAC required the CHURCH to discontinue the operation of the private school, the  
7 Director of Planning stated that his concerns “were the compatibility of this [school] use with  
8 the residential character of the community and the fact that the County has not conducted the  
9 required analysis or consideration of all possible impacts, including, but not limited to traffic  
10 and noise” outweighed the reasons for the CHURCH request and the hardship that would be  
11 suffered by the CHURCH if it was not permitted to continue operation of the school pending  
12 the review and approval of the CHURCH CUP Application. The Director of Planning stated  
13 that he did “not believe it to be in the public’s best interest to allow the school to operate  
14 while the CUP is being processed.”

19 23. Two days after denying the CHURCH request for a “Clean Hands Waiver” that  
20 would allow it to continue operating the school on the Palm Property pending review and  
21 approval of the CHURCH Conditional Use Permit Application, on October 16, 2008, the  
22 CHURCH received a letter from the Supervising Regional Planner entitled “Final Zoning  
23 Enforcement Order.” This letter ordered the CHURCH to obtain an approved Conditional  
24 Use Permit prior to operating a private school on the Palm Property on or before October 31,  
25 2008, fifteen days from the date of the letter. The letter also advised the CHURCH that it  
26  
27  
28



1 could appeal the Final Zoning Enforcement Order if an appeal is filed within fifteen (15) days  
2 after the compliance date of October 31, 2008.

3  
4 24. On November 14, 2008, the CHURCH sent its letter to the Department of  
5 Regional Planning notifying it of the CHURCH appeal of the Final Zoning Enforcement  
6 Order Letter dated October 16, 2008.

7  
8 25. On December 2, 2008, a hearing on the CHURCH appeal from the Final Zoning  
9 Enforcement Order of the Department of Regional Planning was held. The Hearing Officer  
10 was Mr. Gutwein, an employee of the Department of Regional Planning.

11  
12 26. The CHURCH appeal letter specifically noted that, in addition to appealing the  
13 Final Zoning Enforcement Order Letter dated October 16, 2008, the CHURCH was also  
14 appealing the denial by the Department of Regional Planning of the CHURCH written request  
15 for a “Clean Hands Waiver”.

16  
17 27. At the hearing on December 2, 2008 of the CHURCH appeal of the Final  
18 Zoning Enforcement Order Letter and the denial of the request for a “Clean Hands Waiver”,  
19 Richard J. Kahdeman, an attorney representing the CHURCH, addressed the Hearing Officer,  
20 and submitted the position that the Hearing Officer was obligated to consider the  
21 requirements of the Religious Land Use and Institutionalized Persons Act of 2000  
22 (“RLUIPA”) in connection with the activities and decision of the Department of Regional  
23 Planning in connection with the CHURCH CUP Application and request for a “Clean Hands  
24 Waiver.” Specifically, Mr. Kahdeman explained that RLUIPA requires that the LAC, and its  
25 agency, the Department of Regional Planning, demonstrate that two tests have been met: (A)  
26  
27  
28

1 that the imposition of the burden on the CHURCH that it not be permitted to operate at the  
2 Palm Property pursuant to a “Clean Hands Waiver” pending review and approval of the CUP  
3 Application is in furtherance of a compelling governmental interest; and (B) is the least  
4 restrictive means of furthering that compelling governmental interest. In this regard, Mr.  
5 Kahdeman asserted that the LAC has in place informal procedures to make individualized  
6 assessments of the proposed religious use of the Palm Property and that the denial of the  
7 “Clean Hands Waiver” is one type of “individualized assessment” contemplated by RLUIPA.  
8

9  
10 28. The Hearing Officer denied the appeal of the CHURCH. In so doing, the  
11 Hearing Officer announced from the bench that he would not consider any of the arguments  
12 of the CHURCH that any of the actions or decisions of the Department of Regional Planning  
13 were in violation of any of the rights of the CHURCH including, but not limited to, RLUIPA.  
14 In a letter dated December 8, 2008, the Hearing Officer stated that he only had one  
15 reviewable standard to apply to the CHURCH’s appeal and that standard was that the  
16 CHURCH had “not provided the Hearing Officer with evidence that the zoning violation was  
17 resolved.” On that ground alone, the CHURCH appeal was denied.  
18  
19

20  
21 29. On December 12, 2008, the CHURCH sent a letter to the Director of Planning  
22 for the Department of Regional Planning appealing the ruling by the Hearing Officer on  
23 December 2, 2008 denying the CHURCH appeal and sustaining the Final Zoning  
24 Enforcement Order. A copy of the letter was also sent to the Los Angeles County Board of  
25 Supervisors requesting that the Board of Supervisors hear the requested appeal by the  
26 CHURCH in the event the Department of Regional Planning denied the CHURCH request for  
27  
28

1 an appeal of the Hearing Officer's decision.

2           30. In its December 12, 2008 Notice of Appeal letter, the CHURCH also appealed  
3 the Director of Planning's denial, in his letter dated October 14, 2008, of the CHURCH  
4 request for a "Clean Hands Waiver" to allow the CHURCH to operate a high school during  
5 the period that the CHURCH CUP was being reviewed for approval. No response of any  
6 kind has ever been received from the Department of Regional Planning or the Los Angeles  
7 County Board of Supervisors to the CHURCH letter dated December 12, 2008 other than the  
8 filing of a lawsuit against the CHURCH in Los Angeles County Superior Court on December  
9 22, 2008.  
10  
11

12           31. The Cross-Defendant's denial of the use of the Palm Property to the CHURCH  
13 has caused, and continues to cause, economic damages to the CHURCH. In addition, the  
14 CHURCH has had to rely upon an attorney to assist it with the Department of Regional  
15 Planning appeal process.  
16  
17

18           32. Despite the CHURCH's good faith effort to comply with the Cross-Defendant's  
19 CUP Application process, the CHURCH has spent over \$12,500.00 and still the Cross-  
20 Defendant refuses to process and review the CHURCH CUP Application. Moreover, the  
21 Cross-Defendant intentionally terminated the review and processing of the CHURCH CUP  
22 Application knowing that that delay was (1) substantially burdening the CHURCH' religious  
23 exercise and (2) violating the CHURCH rights under the First and Fourteenth Amendments to  
24 the United States Constitution. Attorney Richard J. Kahdeman argued on behalf of CHURCH  
25 at the appeal hearing that the Cross-Defendant's actions were in violation of RLUIPA. At the  
26  
27  
28

1 appeal hearing on December 2, 2008, the Hearing Officer refused to respond to, or address in  
2 any way, the CHURCH's argument that its actions were in violation of federal law. Cross-  
3 Defendant acted in deliberate contempt of federal law and the CHURCH' rights under the  
4 First and Fourteenth Amendments to the United States Constitution.  
5

6 **Substantial Burden**  
7

8 33. The Cross-Defendant's individualized assessment of the CHURCH CUP  
9 Application and its request for a "Clean Hands Waiver" that would allow it to use and occupy  
10 the Palm Property pending the review and approval of the CUP Application substantially  
11 burdened the exercise of religious beliefs in that the Cross-Defendant had on prior occasions  
12 granted "Clean Hands Waivers" to other non-religious CUP applicants pending the review  
13 and approval of CUP Applications for commercial and residential uses. Therefore, the Cross-  
14 Defendant's actions as applied to the CHURCH CUP Application and its request for a "Clean  
15 Hands Waiver" substantially burdens the exercise of religious beliefs in several ways: First,  
16 the Cross-Defendant unilaterally stopped processing the CHURCH CUP Application  
17 knowing that it had in place a process, the "Clean Hands Waiver", which would allow a CUP  
18 applicant to use and occupy a particular property during the CUP Application process itself.  
19 This allowed the Cross-Defendant to claim, improperly, a zoning code violation against the  
20 CHURCH even before the CHURCH had been given an opportunity to exhaust all of the  
21 avenues available to it to avoid a violation, namely, to file for, and have considered, an  
22 application for a "Clean Hands Waiver." Handling the process in this way means that the  
23 Cross-Defendant substantially burdened the religious exercise of the Cross-Complainant by  
24  
25  
26  
27  
28

1 conclusively presuming that the religious exercise by the use of the Palm Property as a private  
2 school was incompatible with residential uses and/or incompatible with the granting of a  
3 “Clean Hands Waiver” while the issues appropriate for consideration in connection with the  
4 CHURCH CUP Application were not properly considered. The inability of the CHURCH to  
5 use the Palm Property is a significant restriction on its pursuit of its core religious beliefs  
6 because it limits the ability of the CHURCH to evangelize and disciple in connection with its  
7 core beliefs through the vehicle of a private school at the location of the Palm Property.  
8

9  
10 **Compelling Interest**

11 34. The Cross-Defendant’s denial of the CHURCH request for a “Clean Hands  
12 Waiver” pending the review and approval of the CUP Application previously submitted by  
13 the CHURCH is not in furtherance of a narrowly tailored compelling governmental interest.  
14 The Cross-Defendant’s stated interest in connection with the denial of the “Clean Hands  
15 Waiver” are, as follows: (1) The compatibility of this [private school] use with the residential  
16 character of the community, and (2) the fact that the County has not conducted the required  
17 analysis or consideration of all possible impacts, including, but not limited to traffic and  
18 noise. By denying the CHURCH request for a “Clean Hands Waiver”, when the LAC has  
19 granted requests by other commercial and residential persons and entities for such “Clean  
20 Hands Waivers” does not reflect justification by a narrowly tailored compelling governmental  
21 interest because the existence of the “Clean Hands Waiver” as part of the individualized land  
22 use assessments tools used by the LAC demonstrates that first obtaining a CUP prior to  
23 allowing a permitted use is not an absolute condition applied universally as to all CUP  
24  
25  
26  
27  
28

1 applicants by the LAC.

2 **Narrow Tailoring**

3  
4 35. Besides lacking the requisite compelling justification, Cross-Defendant’s stated  
5 interests are not narrowly tailored. The R-1 zoning currently applicable to the Palm Property  
6 permits the operation of schools in the R-1 Zone. A church that operates a private school fits  
7 exactly into that definition of a permitted activity. Despite this, the Cross-Defendant  
8 apparently asserts that, even though it has previously granted “Clean Hands Waivers” to other  
9 persons and entities while considering the possible impacts of traffic and noise, demonstrates  
10 the Cross-Defendant’s bad faith through lack of narrow tailoring. Despite granting other  
11 applicants a “Clean Hands Waiver” while studying the possible impacts of traffic and noise,  
12 the Cross-Defendant failed to allow the CHURCH the same opportunity. Therefore, the  
13 Cross-Defendant failed to articulate a rational basis why a religious user of a private school  
14 should be subject to a different standard than other commercial and residential applicants for  
15 a “Clean Hands Waiver”.  
16  
17  
18

19 **FIRST CLAIM FOR RELIEF**

20 **(Violation of Religious Land Use And Institutionalized Persons Act**

21 **Of 2000 – “Substantial Burden On Religious Exercise” –**

22 **42 U.S.C. §§ 2000cc(a), et seq.)**

23  
24  
25 36. CHURCH hereby incorporates paragraphs 1 through 35 of this Cross-  
26 Complaint as though fully set forth herein.

27 37. CHURCH alleges that Cross-Defendant has in place formal or informal  
28

1 procedures or practices that permit Cross-Defendant to make individualized assessments of  
2 the proposed religious use for the Property. The Cross-Defendant further makes, and has in  
3 place, one or more land use regulations and formal or informal procedures or practices, which  
4 direct that a property within the jurisdiction of the County may be used for the purposes set  
5 forth in any conditional use permit applied for without the prior issuance of a conditional use  
6 permit. The denial of said permission and refusal to further process CHURCH' Application  
7 for a Conditional Use Permit for the Property constitute a substantial burden on religious  
8 exercise of the CHURCH and constitute unlawful restrictions on the use by CHURCH of the  
9 Property.  
10  
11  
12

13 38. The Cross-Defendant's denial of CHURCH' use of the Property pursuant to a  
14 temporary permit, and the Cross-Defendant's cessation of processing CHURCH' Application  
15 for a Conditional Use Permit in connection with the Property, imposes a substantial burden on  
16 the religious exercise of the CHURCH in violation of RLUIPA, 42 U.S.C. §§ 2000cc(a), et  
17 seq., because the CHURCH has been, and is, significantly limited and prohibited in its ability  
18 to fully exercise its beliefs in the commands of Jesus Christ to proclaim and propagate the  
19 Gospel, make disciples, and assist the poor. Because the CHURCH has outgrown its current  
20 school facility, parents and students are hindered in their attendance at a Christian based  
21 school. The Cross-Defendant will not allow the CHURCH to use the Property for religious  
22 purposes pending the processing and issuance of the Conditional Use Permit applied for by  
23 the CHURCH pursuant to the temporary permit, despite the CHURCH' good faith effort to  
24 comply with a lengthy Conditional Use Permit application process and its reasonable reliance  
25  
26  
27  
28

1 on statements by County officials that other entities have been granted temporary permits to  
2 operate at a location pending the processing and issuance of a Conditional Use Permit. As a  
3 result, CHURCH must pay nearly \$22,000.00 a month for a property that it cannot use. And  
4 beginning on or about January, 2010, the CHURCH will be required to commence paying an  
5 additional \$20,000.00 per month.  
6

7  
8 39. The Cross-Defendant’s denial of the CHURCH’ application for a temporary  
9 permit to use the Property during the processing and pending the issuance of the applied for  
10 Conditional Use Permit is not in furtherance of a narrowly tailored compelling governmental  
11 interest. RLUIPA does not allow a government to use broad or discretionary land use  
12 rationales to place and impose a substantial burden on a Conditional Use Permit applicant’s  
13 free exercise of its religious practices.  
14

15  
16 40. Unless Cross-Defendant is enjoined and restrained by the Court from denying  
17 the CHURCH’ use of the Property, the CHURCH will continue to be substantially burdened  
18 in its religious exercise through the imposition of a land use regulation. The CHURCH has  
19 also suffered, and continues to suffer, monetary damages as a result of Cross-Defendant’s  
20 unlawful actions.  
21

22  
23 41. Wherefore, CHURCH seeks any and all “appropriate relief” as per 42 U.S.C. §§  
24 2000cc – 2(a) and as otherwise provided by law against the Cross-Defendant as hereinafter  
25 set forth in the Prayer.

26 **SECOND CLAIM FOR RELIEF**

27 **(Violation Of Religious Land Use And Institutionalized Persons Act**  
28



1                                    **Of 2000 – “Treatment Of Religious Assembly On Less Than Equal**  
2                                    **Terms With A Non-Religious Assembly” –**  
3                                    **42 U.S.C. §§ 2000cc(b)(1), et seq.)**  
4

5            42.    CHURCH hereby incorporates paragraphs 1 through 41 of this Cross-  
6 Complaint as though fully set forth herein.

7            43.    The Cross-Defendant’s denial of the CHURCH’ application for a temporary  
8 permit pending the processing and subsequent issuance of a Conditional Use Permit applied  
9 for by the CHURCH treats the CHURCH on a less than equal basis with a non-religious  
10 assembly in violation of RLUIPA, 42 U.S.C. 2000cc(b)(1), et seq., because the County has  
11 already approved temporary use permits for commercial recreation and entertainment  
12 businesses, as well as residential uses, without subjecting them to all the same criteria that has  
13 been required of CHURCH.  
14

15            44.    Unless Cross-Defendant is enjoined and restrained by the Court from denying  
16 the CHURCH’ use of the Property, the CHURCH’ right to be treated on equal terms with a  
17 non-religious assembly will continue to be infringed in violation of RLUIPA, 42 U.S.C. §  
18 2000cc(b)(1). The Cross-Defendant has imposed a different standard upon the CHURCH  
19 because the Cross-Defendant is allowing other similarly situated commercial and residential  
20 assembly usages while not allowing the CHURCH’ religious assembly. The Cross-  
21 Defendant’s decision not to issue a temporary use permit to allow the CHURCH’ use of the  
22 Property pending the processing and subsequent issuance of the Conditional Use Permit  
23 applied for by the CHURCH, treats the CHURCH unequally when compared to standards and  
24  
25  
26  
27  
28

1 criteria applied to other non-religious similarly situated entities. CHURCH has also suffered,  
2 and continues to suffer, monetary damages as a result of the Cross-Defendant’s unlawful  
3 actions.  
4

5 45. Wherefore, CHURCH seeks any and all “appropriate relief” as per 42 U.S.C. §§  
6 2000cc – 2(a) and as otherwise provided by law against the Cross-Defendant as hereinafter  
7 set forth in the Prayer.  
8

9 **THIRD CLAIM FOR RELIEF**

10 **(Violation Of Religious Land Use And Institutionalized Person Act of 2000 – “Total**  
11 **Exclusion From Jurisdiction Or Unreasonable Limits On Religious Assemblies Within**  
12 **Jurisdiction” – 42 U.S.C. § 2000cc(b)(3))**  
13

14 46. CHURCH hereby incorporates paragraphs 1 through 45 of this Cross-  
15 Complaint as though fully set forth herein.  
16

17 47. The Cross-Defendant’s criteria used to deny CHURCH’s use of the Palm  
18 Property is a violation of the RLUIPA (42 U.S.C. § 2000cc(b)(3)) prohibition against land use  
19 regulations that totally exclude religious assemblies from a jurisdiction, or unreasonably limit  
20 them within a jurisdiction, because there are virtually no properties in the residentially zoned  
21 area other than the Palm Property which are available and which have sufficient acreage  
22 and/or buildings that will accommodate the private high school that the CHURCH desires to  
23 operate. Thus, by preventing the CHURCH from using the Palm Property for religious  
24 purposes, the Cross-Defendant has acted to unreasonably limit religious assembly within a  
25 jurisdiction .  
26  
27  
28



1 Constitution and made applicable to the states by the Fourteenth Amendment. Cross-  
2 Defendant has discriminated against CHURCH by substantially burdening its ability to freely  
3 exercise its religious faith through the Cross-Defendant's application of its land use  
4 regulations. Both on its face and as applied, the burden is not neutral or of general  
5 application and is not narrowly tailored. Cross-Defendant, through its employees and agents,  
6 acted in a manner ultra-vires to the law and under color of state law. Furthermore, Cross-  
7 Defendant acted intentionally and knew, or should have known, that its actions violated rights  
8 secured under the First and Fourteenth Amendments and federal law.  
9

10  
11 53. Wherefore, CHURCH seeks relief against the Cross-Defendant as hereinafter  
12 set forth in the Prayer.  
13

14 **FIFTH CLAIM FOR RELIEF**

15 **(Deprivation Of Rights Under United States Constitution: Freedom Of Speech: First**  
16  
17 **And Fourteenth Amendments – 42 U.S.C. § 1983)**

18 54. CHURCH hereby incorporates paragraphs 1 through 53 of this Cross-  
19 Complaint as though fully set forth herein.  
20

21 55. Cross-Defendant, acting through its agents and employees, has deprived, and  
22 continues to deprive, the CHURCH of its right to free speech, as secured by the First  
23 Amendment to the United States Constitution and made applicable to states by the Fourteenth  
24 Amendment. Cross-Defendant has discriminated against CHURCH by restricting its speech  
25 rights and the students of the private high school corresponding right to hear. If the Cross-  
26 Defendant had permitted the CHURCH to use the Palm Property, the CHURCH could be and  
27  
28

1 could have been exercising its free speech rights. Cross-Defendant's actions were ultra-vires,  
2 under color of state law and intentional, and it knew, or should have known, that its actions  
3 violated rights secured under the First and Fourteenth Amendments and federal law.  
4

5 56. Wherefore, CHURCH seeks relief against the Cross-Defendant as herein after  
6 set forth in the Prayer.  
7

8 **SIXTH CLAIM FOR RELIEF**

9 **(Deprivation Of Rights Under United States Constitution: Freedom Of Assembly: First**

10 **And Fourteenth Amendments – 42 U.S.C. § 1983)**

11 57. CHURCH hereby incorporates paragraphs 1 through 56 of this Cross-  
12 Complaint as though fully set forth herein.  
13

14 58. Cross-Defendant, acting through its employees and agents has deprived, and  
15 continues to deprive, CHURCH of its right to freely assemble for the purpose of engaging in  
16 religious activities, as secured by the First Amendment to the United States Constitution and  
17 made applicable to the states by the Fourteenth Amendment. Cross-Defendant's actions were  
18 ultra-vires, under color of state law and intentional, and it knew, or should have known, that  
19 its actions violated rights secured by the First and Fourteenth Amendments and federal law.  
20  
21

22 59. Wherefore, CHURCH seeks relief against the Cross-Defendant as hereinafter  
23 set forth in the Prayer.  
24

25 **SEVENTH CLAIM FOR RELIEF**

26 **(Deprivation Of Rights Under United States Constitution: Freedom Of Association:**

27 **First And Fourteenth Amendments – 42 U.S.C. § 1983)**  
28



1 actions, were ultra-vires, under color of state law and intentionally calculated to deny equal  
2 protection under the law, and it knew, or should have known, that its actions violated rights  
3 secured under the First and Fourteenth Amendments and federal law.  
4

5 65. Wherefore, CHURCH seeks relief against the Cross-Defendant as hereinafter  
6 set forth in the Prayer.

7  
8 **NINTH CLAIM FOR RELIEF**

9 **(Deprivation Of Rights Under United States Constitution: Due Process: Fourteenth**  
10 **Amendment – 42 U.S.C. § 1983)**

11 66. CHURCH hereby incorporates paragraphs 1 through 65 of this Cross-  
12 Complaint as though fully set forth herein.

13  
14 67. Cross-Defendant, acting through its employees and agents, has deliberately  
15 deprived and continues to deprive, the CHURCH of due process of law, as secured by the  
16 Fourteenth Amendment to the United States Constitution, by (1) denying the CHURCH the  
17 use of the Palm Property for religious activities based on the LAC General Plan, Zoning  
18 Code, and land use regulation criteria that are in part vague and indefinite and constitute a  
19 standard of review different in substance and form than that applied to other applicants,  
20 including distinct public health and safety criteria, and (2) intentionally prolonging the  
21 Conditional Use Permit Application process in order to obstruct, delay, and prevent the  
22 CHURCH's use of the Palm Property. Cross-Defendant's actions were ultra-vires, under  
23 color of state law and intentional, and it knew, or should have known, that its actions violated  
24 rights secured under the First and Fourteenth Amendments and federal law. Cross-  
25  
26  
27  
28

1 Defendant's actions were intentionally calculated to deny the due process rights of CHURCH.

2 68. Wherefore, CHURCH seeks relief against the Cross-Defendant as hereinafter  
3 set forth in the Prayer.  
4

5 **PRAYER FOR RELIEF**

6 WHEREFORE, CHURCH respectfully prays that the Court Grant:

7 1. A preliminary injunction allowing CHURCH to exercise its religious freedom  
8 in and on the Properties during the pendency of this case;  
9

10 2. An order permanently enjoining Cross-Defendant from denying the CHURCH  
11 use of the Properties during the pendency of this case;  
12

13 3. An order declaring the respective rights and duties of the parties relative to the  
14 Properties;  
15

16 4. An order declaring that the actions taken by the Cross-Defendant to attempt to  
17 deny the CHURCH' use of the Properties, to wit, (1) the CUP application process unilaterally  
18 terminated by the LAC and the denial of the CHURCH's application for a "Clean Hands  
19 Waiver", is, as applied, void, invalid, and unconstitutional, in that it violates the Free  
20 Exercise, Free Speech, Free Assembly, Free Association, Equal Protection, and Due Process  
21 rights under the United States Constitution and the Religious Exercise protections of the  
22 Religious Land Use and Institutionalized Persons Act of 2000;  
23

24 5. Any and all "appropriate relief" as per 42 U.S.C. § 2000cc – 2(a);

25 6. Nominal damages;

26 7. Economic damages;  
27  
28



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

8. Reasonable attorneys' fees pursuant to 42 U.S.C. § 1988(b) and other applicable statutes;


9. Costs incurred as a result of Cross-Defendant's actions and this lawsuit;

10. In light of unreasonable delays in processing the CHURCH' Conditional Use Permit Application, Cross-Defendant shall establish a restricted fund and begin reserving for potential damages in an amount equal to CHURCH' monthly mortgage interest on the Properties (not including principal), accruing monthly from January 1, 2009 (the reasonable conservative date by which final approval of the Conditional Use Permit Application of CHURCH should have been granted) until a judicial determination of this case becomes final; and

11. Other and further relief as the Court deems just and proper.

Dated: January 27, 2009

KAHDEMAN FROST

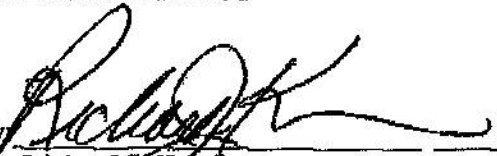
By:   
Richard J. Kahdeman  
Attorneys for Defendant/Cross-Complainant  
Sahag-Mesrob Armenian Christian School

**REQUEST FOR JURY TRIAL**

Cross-Complainant hereby requests a jury trial.

Dated: January 27, 2009

KAHDEMAN FROST

By:   
Richard J. Kahdeman  
Attorneys for Defendant/Cross-Complainant  
25 Sahag-Mesrob Armenian Christian School