



U.S. Department of Justice
Civil Rights Division
Housing and Civil Enforcement

SSM:RGL:NDS:pd
DJ No. 210-17M-14

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October 22, 2019

By Certified Mail and E-mail

Mayor Catherine Robinson
201 W. Moody Blvd.
Bunnell, Florida 32110
crobinson@bunnellcity.us



Dear Mayor Robinson:

This is to inform you that the Department of Justice Civil Rights Division and the United States Attorney's Office for the Middle District of Florida have initiated an investigation of the City of Bunnell's ("City") and the Bunnell Department of Community Development's ("Department of Community Development") zoning and land use practices pursuant to the Religious Land Use and Institutionalized Persons Act of 2000 ("RLUIPA"), 42 U.S.C. §§ 2000cc, et seq.

RLUIPA prohibits application of a land use regulation that: (1) imposes a substantial burden on religious exercise absent a compelling justification pursued in the least restrictive means; (2) treats a religious assembly or institution on less than equal terms with nonreligious assemblies or institutions; (3) discriminates against religious entities on the basis of religion or religious denomination; and/or (4) totally excludes or unreasonably limits religious assemblies, institutions, or structures within a jurisdiction.¹

Our investigation will focus on how the City's zoning laws treat religious land use and, as part of our investigation, we will also review the City's response to the efforts of the First United Methodist Church of Bunnell (the "Church") to operate a cold weather homeless shelter and an emergency shelter for relief workers on its property located at 205 N. Pine Street, including the City's denial of a special exception permit sought by the Church. Our investigation is preliminary in nature, and we have not made any determination as to whether there has been a violation of RLUIPA by the City.

We believe that the public interest and the interests of the City will be best served by our having complete and accurate information about the City's zoning and land use practices. To that end, we are requesting that you send the information and documents identified in the attachment

¹ The Department of Justice has issued a statement on the land use provisions of RLUIPA, which can be found at <https://www.justice.gov/crt/page/file/1070736/download>.

to this letter to the attorney handling this investigation, Noah Sacks, at the U.S. Department of Justice, Civil Rights Division, Housing & Civil Enforcement Section, 150 M. Street, NE, Suite 8000, Washington, DC 20530, electronically or by overnight delivery within 21 days of receipt of this letter.

We have attempted to limit the areas of inquiry to expedite the initial phase of this investigation, and we are willing to work with you to minimize any burdens that would be imposed on you or your staff in providing this information.

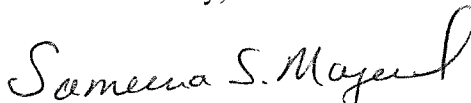
In addition to providing us with the requested information, we invite you to provide us with any other information that you believe is relevant to our inquiry. We may want to interview certain City employees, agents, or officials in the near future as well. We will inform you of any need to interview such persons.

We request that the City maintain in their current form any and all records, documents, files, or tapes that could be relevant to this investigation. To the extent that such records are contained in a computer system, computer files should not be altered or destroyed pending completion of our investigation. If there is a need to discard any information or documentation, we request that you notify us before taking such action.

Finally, we understand that the City's denial of the special exception permit has caused the Church to shut down operation of the cold weather shelter, which had been in operation for approximately eleven years. We also understand that that the Church's cold weather shelter was the only cold weather shelter in Bunnell and all of Flagler County and that the temperature in Flagler County can reach 40 degrees or lower as early as November. Because of the impending arrival of colder temperatures, we respectfully request that City permit the Church to operate the cold weather shelter during the 2019-2020 winter season, while the United States conducts its investigation. Please let us know in writing, by October 29, 2019, if the City will agree to allow the Church to operate the cold weather shelter this winter.

If you have any questions or concerns, please contact Mr. Sacks at (202) 503-1901. Thank you for your cooperation.

Sincerely,



Shina Majeed
Chief

Housing and Civil Enforcement Section

cc: Wade Vose, Bunnell City Attorney
Yohance Pettis, Assistant United States Attorney (M.D. Fla.)

ATTACHMENT

INFORMATION AND DOCUMENTS REQUESTED BY THE UNITED STATES

Please provide the following information and documents.² In responding to the United States' requests, please indicate the numbered request to which your explanations or documents are responsive. To the extent that the information requested is available online, you may provide the web address for relevant information.

1. A current copy of the City's Land Development Code, including the current zoning map, district use chart, and copies of any other laws, codes, ordinances, comprehensive plans, future land use plans or regulations governing or relating to procedures and requirements for requests or applications to use, locate in, construct, or to restore, repair, expand, or otherwise alter, any structure within the City, or for rezoning or a zoning text or map amendment, and any previous or superseded versions of these documents since January 1, 2012.
2. Copies of the complete application file (including staff reports, memos, and all other documents) generated by the Department of Community Development, the Planning and Zoning Appeals Board, or the City Commission (or their staff) for all conditional use permits, special exception permits, variances, rezoning, zoning certificates of compliance, or other applications to use, locate in, construct, or to restore, repair, expand, or otherwise alter, any structure within the City, or for a zoning text or zoning map amendment, concerning any non-religious assembly uses, including, but not limited to, places of public and private assembly, clubs or lodges, commercial amusement/recreational facilities, boarding houses, rooming houses, lodging houses, dormitories, bed and breakfast inns, hotels, motels, housing for the elderly, emergency shelters, public or private schools (including but not limited to trade schools, music schools, and dance schools), and daycare center/preschool, since January 1, 2012. For each such application, provide a statement describing whether each such application was approved or denied, the zoning district concerned, and the date of such approval or denial.
3. An explanation and examples of the uses allowed under Bunnell Land Development Code § 34-111(a)(2): "other government recreation or public and institutional uses provided they do not conflict with state law";

² For all requests in this Attachment, "Documents" means documents, records, books, papers, contracts, memoranda, design plans, invoices, correspondence, notes, photographs, drawings, charts, graphs, e-mails, other writings, nonidentical copies, recording tapes, recording discs, mechanical or electronic information storage or recording elements (including any information stored on a computer), and any other "documents" as defined in Rule 34 of the Federal Rules of Civil Procedure.

4. All documents regarding or concerning the First United Methodist Church of Bunnell's (the "Church") ministries, activities, or operations, including the "Care Cupboard Food Pantry," the "Soul Café," the "Sheltering Tree," the cold weather shelter, and the emergency shelter for relief workers or the Church's efforts to establish or operate a cold weather homeless shelter or emergency shelter for relief workers at 205 N. Pine Street, including, but not limited to—
 - all application materials, staff reports, work session documents, memos, letters, emails, text messages, correspondence, citizen complaints, notes, plans, photographs, videos, recordings, transcripts, or other documents reflecting any communication to, from, or between the City and any representative of the Church or Sheltering Tree;
 - all documents concerning the Church's or its operations' or the Sheltering Tree's compliance with the Fire Code, including a copy of the City's Fire Code or the Fire Code that the City believes applies to the Church or its operations, inspection reports, citations, enforcement actions, correspondence, notes, photographs, memos, emails, texts, or messages;
 - all documents relating to the Business Tax Receipt ("BTR") of the Church or the Sheltering Tree, including all communications between the City and the Church or Sheltering Tree regarding the need for or application for a BTR, from January 1, 2012 to present;
 - all documents and records related to calls for police or emergency service associated with the Church's or Sheltering Tree's operations or property from January 1, 2012 to present; and
 - all documents related to Case # 2009-PZ-47, "Appeal of Community Development Director's decision regarding allowable uses in R-1, Residential Zoning District."
5. A statement explaining the reason(s) why the City denied the Church's May 2019 special exception permit application to operate a cold weather homeless shelter and emergency shelter for relief workers.
6. Any City materials, trainings, policy statements, press releases, or other documents produced or relied on by the City concerning RLUIPA.