

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN**

CELEBRATION COMMUNITY CHURCH,
a not for profit ecclesiastical corporation,

Plaintiff,

v.

Hon.
Case No.

CITY OF MUSKEGON, MICHIGAN, a
municipal corporation, and the CITY OF
MUSKEGON PLANNING COMMISSION, a
Michigan municipal body,

Defendant.

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Verified Complaint for Declaratory and Injunctive Relief

NOW COMES the Plaintiff, CELEBRATION COMMUNITY CHURCH, and for its
Complaint against Defendant, CITY OF MUSKEGON, MICHIGAN, (“City”), states as follows:

Complaint Preamble

Plaintiff, Celebration Community Church, is a Christian Church that purchased a building, originally used as an automobile dealership, in 2007. The property, located in the City of Muskegon, Michigan is zoned B-4, which only permits a Church use through a special approval land use permit. The City planning staff recommended the approval of the proposed use as it met all of the requirements of the City Zoning Ordinance. In December 2007, the City Planning Commission denied the special land use permit, citing loss of property tax revenue and an adverse impact on any bar located within 500 feet of the church. The decision was affirmed by the Planning Commission the following month.

The U.S. constitution provides that Congress shall make no law that prohibits the free exercise of religion. This prohibition has been extended to all state and local governments through the enactment of the Religious Land Use and Institutionalized Persons Act, 42 USC 2000cc, *et seq.* The Michigan Constitution expressly encourages religion as central to government and the pleasure of mankind and states, in part, that every person shall be at liberty to worship God according to the dictates of his or her own conscience. Plaintiff Celebration Community Church challenges the City of Muskegon, Michigan for its violation of the United States Constitution, the Michigan Constitution, and the Religious Land Use and Institutionalized Persons Act.

Introduction

1. This is an action for declaratory judgment, temporary restraining order, preliminary and permanent injunction, damages and attorney's fees arising from the City's discriminatory and unequal treatment of churches in the City of Muskegon. Celebration Community Church alleges that the City's zoning ordinance, both on its face and as applied to Celebration Community Church, violates its First Amendment rights to the free exercise of religion and freedom of speech and assembly; its Fourteenth Amendment rights to due process and equal protection under the law; its parallel rights under the Michigan Constitution and the Religious Land Use and the Institutionalized Persons Act of 2000, 42 USC § 2000cc, *et seq.* ("RLUIPA").

Parties

2. Celebration Community Church is a congregation of Christians that assemble weekly to worship God and engage in other worship supporting activities customarily associated with churches. Celebration Community Church is registered as a not-for-profit ecclesiastical corporation under Michigan law.

3. Defendants, City of Muskegon and the City of Muskegon Planning Commission, (collectively referred to as the "City" herein,) is a municipal corporation organized under the Constitution and Laws of the State of Michigan, and is a political sub-division thereof. The City

is empowered by the State of Michigan to regulate and restrict the use of land and structures within the City's geographical jurisdiction, and effectuates this authority by means of enforcement of the City's zoning ordinances.

Jurisdiction and Venue

4. This Court has subject matter jurisdiction over this case pursuant to 28 USC § 1331, as this action arises under the First and Fourteenth Amendments to the United States Constitution; under 28 USC § 1343(a)3, in that it is brought to redress deprivations under color of state law, of rights, privileges and immunities secured by the United States Constitution; under 28 USC § 1343(a)4, in that it seeks to recover equitable relief under acts of Congress, specifically 42 USC § 1983 and 42 USC § 2000cc, which provides causes of actions for the protection of civil and constitutional rights, injunctive remedies and damages, and under 28 § 2201(a), to secure declaratory injunctive relief under 28 USC § 2202; and under 42 USC § 1988, to secure reasonable attorney fees as part of the case.

5. The venue in this action is proper within this judicial district pursuant to 28 USC § 1391(b), in that (i) Defendant is situated within this judicial district, (ii) Plaintiff, Celebration Community Church resides within this judicial district, and (iii) all of the claims asserted by Plaintiff Celebration Community Church arose within this judicial district.

Factual Allegations

The Church

6. Celebration Community Church is a congregation of Christians that is part of the Christian Reformed Church of North America which appeals exclusively to the Holy Bible for its authority and means of governance. It is a religious body formed for the promotion of the message of the Christian gospel, instruction and righteous conduct, and fellowship of its members.

7. Celebration Community Church sincerely believes that the foregoing ministries are duties owed to God by Christians, and by Celebration Community Church corporately.

8. In accordance with its beliefs, Celebration Community Church regularly assembles on Sunday mornings to worship publicly Almighty God. Celebration Community Church conducts its religious services and activities in pursuit of its mission and responsibilities as a church. 80 to 100 persons regularly Celebration Community Church's Sunday morning worship services.

9. Since 2005, Celebration Community Church has assembled for worship and other religious activities at a high school in the City of Norton Shores, Michigan. Celebration Community Church leases the property on a month-to-month basis with access limited to Sunday mornings for worship.

10. However, the High School is going to start some major renovations and add a new gym in April 2008, which will further limit the space available for Celebration Community Church uses thereby substantially burdening current religious exercise as well as practically eliminating the possibility of adding or expanding ministries to further Celebration Community Church's religious beliefs.

11. For these reasons and more, Celebration Community Church found itself in great need of a property of its own so on or about December 28, 2007 Celebration Community Church purchased property located at 1260 West Sherman, Muskegon, Michigan 49441 (the "Property").

12. Celebration Community Church seeks to occupy and use the Property for the primary purpose of religious exercise: to gather corporately for the public worship of God, to publicly preach doctrines of the Christian faith, to formally instruct persons in the Holy Bible, to

provide for fellowship gatherings, to reach out to the community through various ministries and to provide other religious activities and ministries.

The City's Denial of Celebration Community Church's Application for a Special Land Use Permit

13. On November 20, 2007, Celebration Community Church, through Michael Houskamp, the agent/realtor for Celebration Community Church, applied to the City of Muskegon for a special land use permit seeking permission from the City to use the Property as a house of worship.

14. The City of Muskegon Planning Department offered a recommendation of approval of the use of the property as a church as all of the conditions required for approval of a church in a B-4 zone are met by the property. *(A copy of the City of Muskegon Planning Department's recommendation is attached as Exhibit 1.)*

15. Nonetheless, on December 13, 2007 the City Planning Commission voted to deny the application for the reason that the Property was located within 500 feet of an existing bar, and Celebration Community Church use would have a negative impact on the bar. The Commission further justified its denial on the fact that the property would become exempt from property taxes if it were owned and operated by a church. Its final reason for denying the permit was that a church would supposedly not fit the surrounding area. *(A true copy of the minutes is attached as Exhibit 2.)*

16. After the permit denial, Celebration Community Church contacted Rick Perkins, the Director of the Enforcement Division of the Michigan Liquor Control Commission for the State of Michigan and received an email response. *(Exhibit 3)* Celebration Community Church provided the email to the planning commission for its review before its next meeting. Mr. Perkins noted that under Michigan law and the rules of the Michigan Liquor Control

Commission, Celebration Community Church would not have any impact on the current liquor license held by a neighboring bar located within 500 feet. Further, the neighboring bar would be able to transfer its liquor license to a new operator in the same location without any ramifications due to Celebration Community Church opening within 500 feet of the bar. Mr. Perkins also confirmed that Celebration Community Church would not have any impact on the bar's ability to reconstruct and operate if the bar were to burn down or needed to be refigured or constructed. Likewise, Celebration Community Church would have no impact on the bar's ability to expand its business by adding space to its existing licensed premises. Finally, the bar receives a preference from the Michigan Liquor Control Commission since it was there before Celebration Community Church because it was already licensed at this location. And, MCL 436.1503, the statute that provides for the 500 foot distance from a church or school, is limited to a "new application" or a "transferred location" which protects existing licenses. Accordingly, there was no reason under Michigan law, as set forth in MCL 436.1503, as applied by the Michigan Liquor Control Commission, to suggest that the approval of Celebration Community Church at its new facility would have any impact on the adjacent bars. (See, *Exhibit 4, Perkins Affidavit*).

17. The City of Muskegon also contacted the State of Michigan Liquor Control department and was told the same information. (See *Exhibit 5, Muskegon Planning Department email*).

18. On January 22, 2008, Celebration Community Church appeared before the Planning Commission a second time on a request for reconsideration. The Planning Commission again denied the special land use permit. (A true copy of the City's January 22, 2008 minutes is attached as *Exhibit 6*).

19. Celebration Community Church desires to occupy and use the Property as a church, and to do so immediately.

The Zoning Ordinance

20. Thereafter, Celebration Community Church contacted the Director of the Enforcement Division of the Michigan Liquor Control Commission for the State of Michigan.

21. The City regulates the use of land in its geographical jurisdiction pursuant to the City of Muskegon's Zoning Ordinance (referred to herein as the "Zoning Ordinance" or "Ordinance").

22. The City does not permit churches as of right in any of its zoning districts. Instead, for a church to locate in the City, it must obtain special dispensation from the City. (A copy section B-4, of the Zoning Ordinance, "General Business," is attached as **Exhibit 7** and made a part hereof. A copy section B-2 of the Zoning Ordinance, "Convenience and Comparison Business," is attached as **Exhibit 8**).

23. For a church to locate in a B-4 zone, in which the Property is located, it must obtain a special land use permit from the City. (**Exhibit 7**, Section 1301, ¶ 7, p. 4)

24. The purely discretionary standards governing the issuance of a special land use permit are found in Section 2332 of the Zoning Ordinance. (A copy section 2332; *Special Land Uses and Planned Unit Developments*" is attached as **Exhibit 9**).

The City's Discriminatory and Unequal Treatment of Religious Assemblies

25. Although the City does not permit churches as of right in any of its zoning districts, it allows other non-religious assembly uses as of right. For example, in the B-2 district, private clubs, lodge halls, social and similar organizations, including assembly or rental halls are

permitted, while churches require a Special Approval Land Use Permit. (*Exhibit 8, compare Section 1100, section 8 with Section 1101, section 4.*)

26. In the B-4 business district where Celebration Community Church’s property is located and where it desires to assemble for worship and other religious activities, the City grants, as of right, permissions to numerous similar assembly land uses but not churches. These permitted uses include: theaters, motels and hotels, business schools or private schools operated for profit (including music and voice schools), amusement, entertainment and recreational uses including bowling alleys and skating rinks, restaurants and cocktail lounges, funeral homes and uses “similar to the above Principal Uses.” (*Exhibit 7, compare Section 1300 ¶¶ 4, 8, 10, 12, 13, 16, 18 and 19 with Section 1301 ¶ 7*). The City also allows all of the Principal Uses permitted in B-2 Districts, such as “private clubs, lodge halls, social, and similar organizations, including assembly or rental halls” and “similar” uses, to locate in B-4 Districts, to locate in B-4 Districts, but does not permit churches as of right. (*Exhibit 8, Section 1100 ¶ 8, incorporated by reference by Section 1300 ¶ 17, but compare Section 1301 ¶ 6*).

27. The Zoning Ordinance allows one particular type of religious assemblies as of right in B-4 Districts—Funeral Homes—but does not allow churches as of right. (*Exhibit 7 Section 1300 ¶ 4*).

28. On March 9, 2008, Mr. Steven T. Wisneski, the City Commissioner for Muskegon’s Fourth Ward (where the property sits), has publicly accused Celebration Community Church of “want[ing] to cause harm,” “harassing the city in a letter to the editor,” reducing the “tax rolls,” “forc[ing]” liquor license restrictions on “good taxpaying residents,” and of being a poor citizen and neighbor by its allegedly inconsiderate plans for public worship on its

property. (Attached as *Exhibit 10* is a true copy of Mr. Wisneski's Letter to the Editor which appeared in the Muskegon Chronicle on 3/9/08).

29. On March 26, 2008, Ms. Lonna Anguilm, the Muskegon Zoning Administrator, wrote to Celebration Community Church saying that some neighbors "raised questions" regarding the use going on inside the Property. (See *Exhibit 11, 3/26/08 Letter from Zoning Administration to Celebration Community Church*).

30. The Zoning Administrator then stated that "offices [sic] uses only would be allowed" on the Property as opposed to "church services or other activities." *Id.* (emphasis in original).

31. She then warned that "many neighborhood residents and business owners are watching the property with interest, and you can be sure that I will be contacted if any other activities are taking place on the property. I will then be compelled to enforce the zoning ordinance and require any such uses to cease immediately." *Id.*

32. The City knowingly, willfully, and maliciously discriminated against Celebration Community Church in denying Celebration Community Church a permit to use their Property as a house of worship and in preventing any religious exercise on the Property, or alternatively, the City acted in reckless disregard of Celebration Community Church's rights.

COUNT I

Violation of the Rights to Freedom of Speech and Assembly as Guaranteed by the First Amendment to the United States Constitution (42 USC § 1983)

33. Plaintiff, Celebration Community Church, incorporates by reference the allegations in paragraphs 1 through 32.

34. All acts alleged above of the City, its officers, agents, servants, employees, or persons acting at its behest or direction, worked on and are continuing to be done under the color

of state law. These acts include the enactment, implementation and enforcement of the Zoning Ordinance, as well as any additional ordinances, regulations, customs, policies and usages of the City.

35. The City's' Zoning Ordinance, on its face and as applied as described above, treats religious assemblies worse than non-religious assemblies

36. The Zoning Ordinance distinguishes religious uses from other uses by means of analysis of the content of the speech of those who would use the property for assembling and assigns discriminatory burdens to those users whose speech is religious.

37. The Zoning Ordinance, on its face and as applied as described above, discriminates by religion by privileging one type of religious assembly (funerals) above Celebration Community Church's religious assembly.

38. The Zoning Ordinance distinguishes religious uses related to funerals from other religious uses by means of analysis of the content of the speech of those who would use the property for assembling and assigns discriminatory burdens to those users whose religious speech does not concern funerals.

39. The City's discriminatory treatment of religious land uses as described above constitutes a content-based and viewpoint-based restriction on speech.

40. The content and viewpoint-based restrictions of the Zoning Ordinance are not supported by a compelling governmental interested and are not narrowly tailored to accomplish the compelling governmental interest.

41. The Zoning Ordinance's regulation of religious uses as described above is not a legitimate time, place, or manner regulation, as it does not serve a significant government interest, and does not leave open ample alternative channels for communication.

42. Because the Zoning Ordinance requires Celebration Community Church to obtain special dispensation from the City to use land for assembly and religious purposes under a process that affords the City unbridled discretion that does not contain procedural safeguards necessary for a speech-related permit scheme, the ordinance and the City's actions as described above constitute a prior restraint on Celebration Community Church's speech in violation of the First Amendment to the United States Constitution.

43. The Zoning Ordinance imposes discriminatory burdens on those who seek to assemble for religious exercise and speech that violates Celebration Community Church's right to assemble and associate for the purpose of engaging in activities protected by the First Amendment.

44. By discriminating against churches and religious land uses, the City's actions as described above have violated and continue to violate Celebration Community Church's right to the freedom of speech under the First Amendment.

45. As a direct result of the City's violation of Celebration Community Church's First Amendment rights to the freedom of speech and assembly as described above, Celebration Community Church is suffering irreparable harm for which there is no adequate remedy at law.

46. As a direct result of the City's violation of Celebration Community Church's First Amendment rights to the freedom of speech and assembly, as described above, Celebration Community Church has suffered and is entitled to recover punitive, compensatory and nominal damages, costs and attorney fees.

COUNT II

Violation of the Right to Free Exercise of Religion Guaranteed by the First Amendment to the United States Constitution (42 USC § 1983)

47. Plaintiff, Celebration Community Church, incorporates by reference the allegations in paragraphs 1 through 46.

48. The terms of the Zoning Ordinance, both on their face and as applied by the City, substantially burden Celebration Community Church's free exercise of religion. The Zoning Ordinance, both on its face and as applied by the City, is not neutral, not generally applicable, and is also a system of individualized assessments.

49. As the text and application by the City as of the Zoning Ordinance as described above imposes discriminatory burdens on Celebration Community Church and religious assemblies in general, while permitting non-religious assemblies to be free of such burdens, the City has unjustifiably violated Celebration Community Church's right to the free exercise of religion.

50. The Zoning Ordinance, on its face and as applied as described above, also discriminates on the basis of religion by privileging one type of religious assembly (funerals) above all others, including Celebration Community Church's assembly.

51. As a direct result of the City's violations of Celebration Community Church's right to the free exercise of religion, as described above, Celebration Community Church is suffering irreparable harm for which there is no adequate remedy at law.

52. As a direct result of the City's violation of Celebration Community Church's First Amendment right to the free exercise of religion, as described above, Celebration Community Church has suffered and is entitled to recover punitive, compensatory and nominal damages, costs and attorney fees.

COUNT III

Violation of the Right to Equal Protection under the law and Due Process Guaranteed by the Fourteenth Amendment to the United States Constitution (42 USC § 1983)

53. Plaintiff, Celebration Community Church, incorporates by reference the allegations in paragraphs 1 through 52.

54. Because the Zoning Ordinance, on its face and as applied as described above, discriminates against certain types of land uses based solely on the religious content of the speech, violates the Free Exercise rights of Celebration Community Church and discriminates based on the suspect class of religion, it violates Celebration Community Church's right to the Equal Protection of the law as guaranteed by the Fourteenth Amendment to the United States Constitution.

55. The Zoning Ordinance as described above contains provisions which are constitutionally vague, in that those provisions are not defined sufficiently, such as to allow persons of ordinary intelligence to understand the proper meaning of its term, nor to preclude arbitrary and discriminatory enforcement of its provisions, thereby violating Celebration Community Church's due process rights under the Fourteenth Amendment to the United States Constitution.

56. As a direct result of the City's violation of Celebration Community Church's Fourteenth Amendment rights as described above, Celebration Community Church has been denied the equal protection of the law and due process. Celebration Community Church is suffering irreparable harm for which there is no adequate remedy of law.

57. As a direct result of the City's violation of Celebration Community Church's Fourteenth Amendment rights to equal protection of the law, due process, as alleged

hereinabove, Celebration Community Church has suffered and is entitled to recover punitive, compensatory and nominal damages, costs and attorney fees.

COUNT IV

Violation of the Religious Land Use and Institutionalized Persons Act, 42 USC § 2000cc(a)

58. Plaintiff, Celebration Community Church, incorporates by reference the allegations in paragraphs 1 through 57.

59. The Zoning Ordinance is a land use regulation or system of land use regulations under which the City makes, or has in place, formal or informal procedures or practices that permit it to make individualized assessments of the proposed uses for property in its jurisdiction.

60. The text of the Zoning Ordinance can feasibly operate to keep Celebration Community Church from establishing a house of worship in any district in the City.

61. The City's implementation of the land use regulations contained in the Zoning Ordinance as alleged above imposes a substantial burden on the religious exercise of Celebration Community Church.

62. The substantial burden imposed on Celebration Community Church's religious exercise is not in furtherance of a compelling governmental interest and is not the least restrictive means of furthering any compelling governmental interest.

63. Accordingly, the City has violated Celebration Community Church's rights recognized under federal laws contained in 42 USC § 2000cc(a).

64. As a direct result of the City's violation of Celebration Community Church's rights 42 USC § 2000cc(a) of RLUIPA, as alleged above, Celebration Community Church is suffering irreparable harm for which there is no adequate remedy at law.

65. Furthermore, as a direct result of the City's violation of Celebration Community Church's rights under 42 USC § 2000cc(a) of RLUIPA as alleged above, Celebration

Community Church has suffered and is entitled to recover punitive, compensatory and nominal damages, costs and attorney fees.

COUNT V

Violation of the Religious Land Use and Institutionalized Persons Act, 42 USC § 2000cc(b)

66. Plaintiff, Celebration Community Church, incorporates by reference the allegations in paragraphs 1 through 65.

67. Celebration Community Church desires and intends to engage in religious assembly on its Property and has purchased the Property for that purpose.

68. The Zoning Ordinance, on its face and as applied by the City, treats religious assemblies or institutions, including Celebration Community Church, on less than equal terms with non-religious assemblies or institutions.

69. The Zoning Ordinance, on its face and as applied by the City, discriminates against assemblies or institutions, including Celebration Community Church, on the basis of religion.

70. The Zoning Ordinance, on its face and as applied by the City, has unreasonably limited religious assemblies within its jurisdiction including Celebration Community Church.

71. Accordingly, the City has violated Celebration Community Church's rights recognized under federal law as contained in 42 USC § 2000cc(b)(1) (equal terms), (b)(2) (nondiscrimination) and (b)(3) (exclusions and limits) of RLUIPA.

72. As a direct result of the City's violation of Celebration Community Church's rights under 42 USC § 2000cc(b) of RLUIPA, as alleged above, Celebration Community Church is suffering irreparable harm for which there is no adequate remedy at law.

73. Furthermore, as a direct result of the City's violation of Celebration Community Church's rights under 42 USC § 2000cc(b) of RLUIPA, as alleged above, Celebration

Community Church has suffered and is entitled to recover punitive, compensatory and nominal damages, costs and attorney fees.

COUNT VI
Mandamus and Superintending Control

74. Plaintiff, Celebration Community Church, incorporates by reference the allegations in paragraphs 1 through 73.

75. That under its own ordinances, state and federal law, and the United States and Michigan Constitutions, the City has a clear legal duty to approve Celebration Community Church's special approval land use for a church.

76. The City lacks the ability to act within the confines of the law, is out of control and is willfully disobeying the law. By failing to approve the proposed use, the City has caused Celebration Community Church damages and continues to cause Celebration Community Church damages.

77. That City's breach of duty has caused Celebration Community Church irreparable injury, and threatens Celebration Community Church with future irreparable injury for which there is no adequate remedy at law.

78. That in this case an actual controversy exists based on the foregoing allegations and this Court is otherwise empowered to render declaratory judgments as requested herein pursuant to Fed. R. Civ. Pro. 65.

79. This Court is also empowered to render mandamus and secure superintending control over the City as requested herein, pursuant to MCL 600.4401.

80. That City and its agents, employees and/or those acting in concert with, or under the City's authority, supervision and control, acting under the color of an ordinance, custom, policy or other law, deprived Celebration Community Church of its constitutional rights.

81. The City's arbitrary, discriminatory and confiscatory actions taken against Celebration Community Church has caused and will cause Celebration Community Church substantial damages and harm, as it unreasonably interferes with Celebration Community Church's intended development and use of the Property.

COUNT VII
Defendants' Violations of Celebration Community Church's Rights
under the Michigan Constitution

82. Plaintiff, Celebration Community Church, incorporates by reference the allegations in paragraphs 1 through 81.

83. There has been an abuse of process and deprivation of rights secured by the Michigan Constitution that the City, under the color of state law, has exercised as it has deprived Celebration Community Church of its rights under Const. 1963, Art I, section 4, *Free Exercise Clause*; Const 1963, Art I, section 5; *Free Speech Clause*, Const 1963 Art I, section 3, *Freedom of Assembly*, Const 1963, Art I, section 2, the *Equal Protection Clause*, Const 1963, Art I, section 17, the *Due Process Clause*, as described above and in one or more of the following particulars:

- a. That the City has wrongfully prohibited a lawful, protected and legitimate use of Celebration Community Church's property, without any record showing that such prohibition has any real, material and substantial relationship to the public health, safety, morals or the general welfare of the community;
- b. That City's actions, under color of law, wrongfully and immediately harms Celebration Community Church as a direct result of the constitutional violations; and/or
- c. That the City has wrongfully developed, administered, and operated its ordinances by wrongfully implying an unconstitutional process of inquiry into the religious character and activities of Celebration Community Church's use, all by actions under color of state law; and/or
- d. That City has acted contrary to the law, including, but not limited to, the concepts set forth in the Michigan Constitution, by wrongfully and

substantially burdening Celebration Community Church's exercise of religion, without any record of material fact by the City of a compelling governmental interest in any record showing that the City's actions are the least restrictive means of furthering a defined and otherwise compelling statement of interest;

- e. That all of the acts of the City, its officers, agents, servants, employees or persons acting at their behest or direction, were done and continue to be done under the color and pretense of state law, including ordinances, regulations, customs, policies and usages of the City;
- f. That Celebration Community Church has no adequate or speedy remedy at law to correct or redress the deprivations of its federal and state rights by the City;
- g. That unless and until the enforcement of the City's decisions are enjoined, Celebration Community Church will suffer, and continues to suffer, irreparable and immediate injury to its federal and state rights as otherwise guaranteed under the constitutions, including the fear of enforcement and prosecution;
- h. That the actions of the City has been ill-motivated and administered with callous disregard for Celebration Community Church's protected rights as set forth herein;
- i. That City has no compelling or overriding interest in regulating the content and viewpoint of otherwise lawful, private speech and exercise of religion;

Relief Requested

WHEREFORE, Celebration Community Church prays for a judgment against the City and that this Honorable Court:

- a. Adjudge, decree and declare the rights and other legal relations of the parties to the subject matter in controversy in order that such declaration shall have the force and effect of final judgment and that the Court retains jurisdiction of this matter for the purpose of enforcing the Court's Order;
- b. Pursuant to 28 USC § 2201, declare the aforementioned provisions of the Zoning Ordinance, and to the extent such provisions are not severable, the entire Zoning Ordinance, to be in violation of the First and Fourteenth Amendments to the United States Constitution, RLUIPA, and the above mentioned provisions of the Michigan Constitution and further declare that Celebration Community Church is permitted as of right to use its Property as a church immediately;

- c. Pursuant to 28 USC § 2202, Fed. R. Civ. Pro. 64, 42 USC § 1983 and 42 USC § 2000cc-4 (i) permanently enjoin the City from enforcing the Zoning Ordinance to the extent that it disallows churches as a permitted use in any zoning district and (ii) preliminarily and permanently enjoin the City from enforcing Zoning Ordinance Sections 1300 and 1301 to prevent Celebration Community Church from using its Property as a church and to process and issue all building, occupancy and business permits and grant all other rights and privileges to Celebration Community Church to use the Property as a “church” or permitted use under the Zoning Code.
- d. Pursuant to 28 USC § 2202, Fed. R. Civ. Pro. 65, 42 USC § 1983 and 42 USC § 1988 and 42 USC § 2000cc-2(a), award Celebration Community Church punitive, compensatory and nominal damages.
- e. Pursuant to 42 USC § 1988, 42 USC § 2000cc-2(d), Fed. R. Civ. Pro. 54(d) and other applicable law, award Celebration Community Church its reasonable attorney fees, costs; and
- f. Grant such other and further relief as the Court deems equitable, just and proper.

Respectfully submitted,

TOMKIW DALTON, plc

By: _____
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Dated: April __, 2008

Verification

Pursuant to 28 USC § 1746, I Richard DeBoer, declare under penalty of perjury that I have personal knowledge of matters contained in this Complaint and that the allegations contained therein are true and accurate.

Executed this _____ day of April, 2008.

Celebration Community Church

By: Richard DeBoer
Its: Elder

Demand for Trial by Jury

The Plaintiffs herein demand a trial by jury in this cause of action.

Respectfully Submitted,

TOMKIW DALTON, plc

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Attorney for Plaintiff
321 Williams Street
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(248) 591 7000

Dated: April __, 2008