

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

St. John's Church, St. Cloud, a/k/a St.
John's Episcopal Church of St. Cloud,

Case No.: 16-cv-2882

Plaintiff,

v.

VERIFIED COMPLAINT

City of St. Cloud,

Defendant.

Plaintiff St. John's Church, St. Cloud, a/k/a St. John's Episcopal Church of St. Cloud (the "Church"), by its attorneys, for its Complaint against Defendant City of St. Cloud ("St. Cloud" or the "City"), states and alleges as follows:

NATURE AND SUMMARY OF THE ACTION

1. This case is about the Church's ongoing efforts to respond to human need through loving Christian service manifested by housing a homeless individual in a 132 square foot "tiny house" located on the Church's property (the "Tiny House"). Through this lawsuit, the Church seeks to enforce its rights under the First Amendment to the United States Constitution, the Religious Land Use and Institutionalized Persons Act, 42 U.S.C. § 2000cc et seq., and the Minnesota Constitution to immediately prevent the City from continuing its ongoing efforts to inhibit the Church's exercise of its religion through the City's

refusal to allow the Church to house a homeless individual in the Tiny House on its property located in a residential zoning district. The Church also seeks to recover damages from the City for substantially burdening its rights, *inter alia*, by denying a Conditional Use Permit (“CUP”) and citing the Church for violations of the 2007 Code of Ordinances of the City of St. Cloud; thereby causing uncertainty with regard to permitted use of the property and lost opportunities for the Church to exercise its religion and to express the message that Jesus Christ taught us to love and care for the homeless and those in need.

THE PARTIES

2. The Church is a religious assembly—a Christian Church—that was officially organized on April 12, 1856 and that is organized as a Minnesota nonprofit corporation. The Church is a member of the Episcopal Church, a national Christian denomination. The Church is the oldest church in St. Cloud, and has been located at 1111 Cooper Ave. So., St. Cloud, Stearns County, Minnesota 56301 since May 28, 1998. The Church property consists of approximately 13.32 contiguous acres.

3. The City is a municipal corporation organized and existing under the statutes and constitution of the State of Minnesota that may sue and be sued. The City comprises the jurisdiction in which the Church is located.

4. St. Cloud is governed by a City Council made up of a Mayor and seven Council members.

5. St. Cloud's land use decisions are first formally considered by an eight-member Planning Commission that makes recommendations to the City Council.

6. Requests to amend existing Conditional Use Permits ("CUPs") in St. Cloud are first formally considered by either the Zoning Administrator or the Zoning Board of Appeals, depending on whether it is an administrative CUP or a major CUP. The Zoning Board of Appeals hears and decides all appeals from decisions of the Zoning Administrator, as well as requests for variances, requests for major CUPs, and requests for Special Exception permits. The Zoning Board of Appeals is currently made up of five members, with two seats currently vacant. Appeals to decisions of the Zoning Board of Appeals are heard by the City Council.

JURISDICTION AND VENUE

7. This Court has personal jurisdiction over St. Cloud as a city and municipal corporation within the state of Minnesota.

8. This Court has subject matter jurisdiction over this case under 28 U.S.C. § 1331, as this action arises under (1) the First and Fourteenth Amendments to the United States Constitution; (2) 28 U.S.C. § 1343(a)(3), as it is

brought to redress deprivations, under color of state law, of rights, privileges, and immunities secured by the United States Constitution; (3) 28 U.S.C. § 1343(a)(4), as it seeks to recover damages and secure equitable relief under Acts of Congress, specifically the Religious Land Use and Institutionalized Persons Act (“RLUIPA”), 42 U.S.C. § 2000cc, *et seq.*; and (4) 42 U.S.C. § 1983, which provides a cause of action for the protection of civil rights; under 42 U.S.C. § 1988(b), as it seeks an award of attorneys’ fees; under 28 U.S.C. § 2201(a) as it seeks to secure declaratory relief; and under 28 U.S.C. § 2202 as it seeks to secure preliminary and permanent injunctive relief and damages. This Court has supplemental subject matter jurisdiction over state law claims in this case under 28 U.S.C. § 1367.

9. Venue is proper in the United States District Court for the District of Minnesota under 28 U.S.C. § 1391(b) in that a substantial part of the events giving rise to the claims occurred within the District.

CONDUCT GIVING RISE TO VIOLATIONS OF LAW

St. Cloud’s Land Development Code

10. Pursuant to Minnesota Statutes sections 462.351-364, St. Cloud regulates the use of land within its geographical jurisdiction through its 2015 Comprehensive Plan and its Land Development Code codified at Code of City Ordinances, City of St. Cloud, Minn. § 355 (the “the Code”).

11. The Code is a land use regulation or system of land use regulations under which St. Cloud makes, or has in place, formal or informal procedures or practices that permit it to make individualized assessments of the proposed uses for properties in the City.

12. The Code provides for six (6) different zoning districts, with twenty-five (25) total sub-districts, and regulates the types of land uses allowed either as “permitted” or “conditional” uses in each district.

13. The Code defines “Place of Worship” as:

A building, together with its accessory buildings and uses, where persons regularly assemble for religious purposes and related social events and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain religious ceremonies and purposes.

Code at Art. 21.

14. The Code allows “Places of Worship” as a permitted use in nine residential zoning districts (RR, R-1A, R-2, R-3, R-3A, R-4, R-5, R-6, and R-7), all commercial districts, and medical service districts. Places of Worship are “conditional uses” in the R-1 residential zoning district as well as in the agricultural and industrial districts.

15. The Code allows for CUPs in an effort to allow “certain additional uses, which it may be desirable to allow because of their unusual characteristics or the service they provide the public. These conditional uses require particular

consideration as to their proper location in relation to adjacent established or intended uses, or to the planned development of the community.” Code at Art. 4.3(A).

16. Pursuant to the Code, the Zoning Administrator may render a final decision on an application for a CUP when there is a previously approved major CUP, and either a small adjustment or deviation from the approved site plan or building and parking lot additions consistent with the approved CUP. Such an application is termed an “administrative conditional use permit.”

17. Upon application for a major CUP, the Zoning Board of Appeals shall schedule a public hearing after giving no less than ten (10) days of published, mailed, and posted notice and all applications for CUPs shall be decided within 14 days of the public hearing.

18. In addition, pursuant to Article 4.3(D)(3)(c) of the Code:

The Zoning Board of Appeals may impose conditions and safeguards upon the premises benefited by a conditional use permit as may be necessary to prevent injurious effects on the other property in the neighborhood. Violation of such conditions and safeguards, when made a part of the conditional use permit, are deemed a violation of this Code and the conditional use permit will be revoked.

19. In order for the CUP to be approved by the Zoning Board of Appeals, the Board must make findings of fact to support the following conclusions:

(1) That the proposed use at that particular location requested is necessary or desirable to provide a service or a facility which is in the interest of public convenience and will contribute to the general welfare of the neighborhood or community.

(2) That such use will not, under the circumstances of the particular case, be detrimental to the health, safety or general welfare of persons residing or working in the vicinity, or injurious to property values or improvements in the vicinity.

(3) That the proposed use will comply with the regulations specified in this Code for the district in which the proposed use is to be located.

(4) That the use is listed as a conditional use in the district in which it is to be located.

Code at Art. 4.3(F).

20. The Church's property is situated in an R-1 Residential Family zoning district.

21. Zoning district R-1 allows single-family dwellings, residential facilities housing six or fewer persons, and temporary shelter facilities housing four or fewer persons. Bed and breakfast facilities are conditional uses in zoning district R-1.

22. Churches and other places of worship that are located within an R-1 district are required to have a CUP to be in compliance with the Code. The Code also requires a Place of Worship in zoning district R-1 to have: 1) a minimum lot area of 22,000 square feet; 2) a minimum lot width of 100 feet; 3) a front setback

of 35 feet; 4) an interior side setback of twenty feet; 5) a street setback of twenty-five feet; and 6) a rear setback of thirty-five feet.

23. In June of 1996, the Church was granted a CUP to construct a 12,477 square foot place of worship. The Church building itself complies with the requirements of the Code and CUP.

24. The Code does not contain any standards regarding or related to tiny homes.

25. "Accessory structures" are contemplated by the Code. Specifications for accessory structures and uses are contained in Article 15.5 of the Code. In zoning district R-1, an institutional land use such as a Place of Worship may have up to two detached accessory structures. Code at Art. 15.5 table 15-1; *see also* Code at Art. 8 table 8-2 (defining a Place of Worship as an Institutional and Public Use). The accessory structure must not exceed 5% of the lot area. Detached accessory structures in the front, interior side, or street side of the property must meet the same setbacks as the principal building and be situated at least ten feet from the principal building. Detached accessory structures in the rear yard may be located within the required rear set back but must comply with other setback requirements. Property owners seeking to build a detached accessory structure between one hundred (100) square feet and two hundred (200) square feet must submit plans consistent with the requirements of Appendix B of the Code.

26. “Recreational vehicles” are also contemplated by the Code and can be parked in any zoning district as long as they are in operable condition. The Code requires that recreational vehicles and equipment not be used “for living, sleeping or housekeeping while parked or stored.” Code at Art. 16.12(A)(1).

27. Upon information and belief, the City allows individuals to sleep in recreational vehicles and semi-trucks parked on property owned by businesses.

28. The Code further requires that all residential dwellings, excluding “dwelling units within multi-family structures and mixed-use buildings,” must “be at least twenty-one (21) feet wide and at least thirty (30) feet long and placed on a permanent foundation as prescribed in the Building Code.” Code at Art. 14.3(1)(1).

The Church’s Religious Mission and Efforts to House the Homeless

29. The Church is affiliated with the Episcopal Church; a missionary society for the welfare of the world. The Episcopal Church has a well-established tradition of giving back to God and to the church, which springs from the Biblical practice of tithing. The Mission of the Church is the Mission of Christ. The Episcopal Church recognizes Five Marks of Mission, developed by the Anglican Consultative Council between 1984 and 1990:

- (1) To proclaim the Good News of the Kingdom;
- (2) To teach, baptize and nurture new believers;

- (3) To respond to human need by loving service;
- (4) To seek to transform unjust structures of society, to challenge violence of every kind and to pursue peace and reconciliation;
- (5) To strive to safeguard the integrity of creation and sustain and renew the life of the earth.

30. The members of the Church, as Episcopalians, are followers of Jesus Christ, and both their worship and their mission are in Christ's name. St. John's is "Called by God to be a community that hears God's Word and does God's work."

31. The Church and its members hold sincerely held religious beliefs which compel them to conduct the following religious ministries:

- (1) weekly assembly of the congregation to worship
- (2) weekly preaching
- (3) service projects for members of the congregation, the poor, the general community, and seniors groups . .

32. Pursuant to this ministry and call to action, the Church worked with two additional non-profit organizations to bring a "tiny house" to the Church's property.

33. Tiny houses are structures that often measure between 100 and 400 square feet in size and that are becoming increasingly popular around the country. A number of municipalities around the country, including Washington County, Utah and Fresno, California, are revising their zoning regulations to

accommodate some types of tiny houses. Tiny houses are also being used to battle homelessness in Duluth, Minnesota (where the tiny house is considered an “accessory dwelling unit” under the zoning rules); Madison, Wisconsin; Austin, Texas; and Eugene, Oregon.

34. This particular Tiny House was constructed by the Willmar Central Minnesota Job’s and Training Services, who then donated the Tiny House to the St. Cloud Homeless Men’s Coalition. This coalition then sold the structure to the Church. The Tiny House is 132 square feet and sits on wheels, although it is not self-motorized. Electricity is provided to the Tiny House by plugging the house into an exterior outlet. In addition, a continuous water supply may be maintained by attaching a hose. The Tiny House contains a thirty two-gallon freshwater tank.

35. The Church wished to house a homeless member of the community, John Doe, in the Tiny Home as early as May 2015. John Doe was forced to sleep on various sofas, however, while the Church attempted to receive the City’s blessing for the placement of the Tiny Home on the Church’s property.

The Church’s Application and the City’s Response

36. Pursuant to the Code, the Church applied for an additional or amended CUP on July 6, 2015 (“Application”) to account for the placement of the Tiny House on the west side of the existing place-of-worship building. A true

and correct copy of the Application is attached hereto as **Exhibit A**. St. Cloud Coalition for Homeless Men paid the \$600 filing fee.

37. The Application was complete and met all the requirements of the Appendix B to the Code.

38. The proposed use of the Tiny House on the Church's property is consistent with the 2015 Comprehensive Plan for the City of St. Cloud.

39. The Church's Application was not treated as an administrative conditional use permit.

40. Deacon George Ham, on behalf of St. John's, introduced the Application on July 21, 2015 at a public hearing before the City's Zoning Board of Appeals. Deacon Ham explained that the Church was making the request for the change in its CUP based on the Church's call to be faithful to God's work in its community.

41. The Zoning Board of Appeals expressed eleven concerns and issues at this meeting. The Church did not know about the concerns until the night of the meeting. Senior Warden David Wall, on behalf of the Church, addressed the eleven concerns to the best of his knowledge. The Church then requested that the issue be tabled until the next public meeting to give the Church enough time to address the eleven issues. The Zoning Board of Appeals agreed and the Church's CUP was tabled.

42. The Church did in fact remedy all eleven concerns raised by the Zoning Board of Appeals. A true and correct copy of the responses to the concerns of the Zoning Board of Appeals is attached hereto as **Exhibit B**.

43. The Board did not impose or mention any conditions or safeguards to be met prior to the granting of the Application other than the eleven concerns raised at the July 21, 2015 meeting.

44. Despite the Church's compliance with the Zoning Board of Appeals' concerns and conditions, the Zoning Board of Appeals denied the Application ("Denial") on August 19, 2015. A true and correct copy of the Denial is attached hereto as **Exhibit C**. The Notice states two reasons for the denial: 1) either the Tiny Home does not meet the requirements for a single-family dwelling; or 2) the Tiny Home is a recreational park trailer that does not meet the requirements for a permanent residence.

45. After the City's denial of the Church's Application, the Church continued to communicate with the City regarding housing John Doe in the Tiny House, in an attempt to find a mutually agreeable resolution.

46. The Church faces uncertainty as to whether it will be allowed to continue to express its religious mission through housing the Tiny House on its property.

47. On October 26, 2015, Deacon Ham received an email from Matt Glaesman, an employee of the City acting in the course of his employment. Mr. Glaesman stated that the Tiny House may not be occupied as a residence.

48. The Tiny House was blessed by an Episcopal priest at a blessing ceremony on November 15, 2015. The congregation was present at this worship service.

49. The city inspector required the Church to open the trench where the electrical hookup to the Tiny House was buried for inspection and approval. The electric work for the Tiny House was approved.

50. John Doe moved into the Tiny House on June 12, 2016.

51. On August 15, 2016, the Church received a Notice of Violation from the City (the "Notice"), a true and correct copy of which is attached hereto as **Exhibit D**. The Notice cites alleged violations of Articles 16.12 A 1 & 14.3(H)(1) of the Code and threatens an administrative citation for each violation if the alleged violation is not remedied by August 25, 2016. The Notice classifies the Tiny House as both a recreational vehicle and a residential dwelling. The Notice makes no mention of an "accessory structure."

52. The City, through its Mayor and Zoning Appeal Board, is responsible for the interference with the Church's exercise of its religion through service to those in need.

THE BURDEN ON THE CHURCH

53. The Church continues to believe that placing the Tiny House directly on the Church's property is the best manner through which to: 1) directly fulfill its mission to respond to human need, serve the community, and help the poor and the homeless; and 2) express the mission of the Church to the public through a physical manifestation of the fulfillment of that mission on Church property.

54. The Notice of Violation cites August 25, 2016 as the date of required compliance with the Code before administrative action is taken by the City.

55. Uncertain of whether the City will allow the Church to continue to use the Tiny House to further its mission, John Doe faces a harsh Minnesota winter with uncertainty as to whether he will be able to reside in the Tiny House.

56. The Church's claims set forth below challenge St. Cloud's land use regulations, including the Code, on their face as applied to the Church and its attempts to provide shelter to John Doe in a Tiny House on the Church's property, as well as St. Cloud's actions directly and indirectly in response to the Church's Application.

57. All acts alleged herein of St. Cloud, its officers, agents, servants, employees, or persons acting at its behest or direction, were done and are continuing to be done under the color and pretense of state law. Said acts include

the enactment, implementation, and enforcement of the Code, as well as any additional codes, ordinances, regulations, customs, policies, and usages of St. Cloud.

COUNT I
**VIOLATION OF THE RIGHTS TO FREEDOM OF SPEECH AND ASSEMBLY
AS GUARANTEED BY THE FIRST AMENDMENT TO THE UNITED
STATES CONSTITUTION**

58. The Church realleges and incorporates herein by reference paragraphs 1 through 57 of this Complaint.

59. The Code treats religious and nonreligious assemblies, institutions, and uses differently.

60. The Code differentiates religious uses from other uses by means of analysis of the content of the speech or the expressive purpose of the assembly or institution, and assigns discriminatory burdens to users whose speech is religious.

61. St. Cloud's discriminatory treatment of religious land uses constitutes content-based and viewpoint-based restriction of speech and of assembly.

62. St. Cloud favors non-religious speech and assembly over religious speech and assembly.

63. St. Cloud's content and viewpoint-based restrictions are not supported by a compelling government interest and are not narrowly tailored to

accomplish a compelling governmental interest.

64. St. Cloud's actions and regulations of religious exercise and assembly in general and related to the Church's Application in particular are unconstitutionally under-inclusive.

65. The Code's regulation of religious uses 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.

66. The Code, to the extent it requires the Church to obtain special dispensation from St. Cloud to use land for assembling for religious purposes, affords St. Cloud unfettered discretion to decide whether to allow religious speech, and does not contain in that process the procedural safeguards necessary for a speech-related permit scheme, constituting a prior restraint on the Church's speech in violation of the First Amendment to the United States Constitution.

67. The Code, to the extent it imposes discriminatory burdens on those who seek to assemble for religious exercise and speech, violates the Church's right to assemble and associate for the purposes of engaging in activities protected by the First Amendment.

68. As a direct result of St. Cloud's violation of the Church's First Amendment rights to the freedom of speech and assembly, as alleged above, the

Church is suffering irreparable harm for which there is no adequate remedy at law. The Church is therefore entitled to injunctive relief.

69. As a direct result of St. Cloud's violation of the Church's First Amendment rights to the freedom of speech and assembly, as alleged above, the Church has suffered and is entitled to recover compensatory and nominal damages, as well as attorneys' fees.

COUNT II
**VIOLATION OF THE RIGHT TO FREE EXERCISE OF RELIGION AS
GUARANTEED BY THE FIRST AMENDMENT TO THE UNITED STATES
CONSTITUTION**

70. The Church realleges and incorporates herein by reference paragraphs 1 through 69 of this Complaint.

71. The terms and operation of the Code burden the exercise of religion and are not neutral or of general application.

72. As the text and application of the Code impose discriminatory burdens on the Church and religious assemblies or institutions in general, while permitting nonreligious assemblies or institutions to be free of such burdens, St. Cloud thereby has unjustifiably violated the Church's right to the free exercise of religion.

73. St. Cloud's Code is not a neutral, generally applicable law.

74. St. Cloud's regulations of religious exercise and assembly suppress religious worship and assembly.

75. St. Cloud's regulations of religious exercise and assembly are not narrowly tailored to serve a compelling government interest.

76. St. Cloud's actions and regulations of religious exercise and assembly in general and related to the Church's Application in particular are unconstitutionally under-inclusive.

77. As a direct result of St. Cloud's violation of the Church's First Amendment right to the free exercise of religion, as alleged above and including the Notice of Violation and refusal to allow an amendment to the CUP, the Church is suffering irreparable harm for which there is no adequate remedy at law. The City's actions seek to force the Church to completely forego conducting the religious exercise of housing the homeless, as well as other religious exercises and practices at the Church. The Church is therefore entitled to injunctive relief.

78. As a direct result of St. Cloud's violation of the Church's First Amendment right to the free exercise of religion, as alleged above, the Church has suffered and is entitled to recover compensatory and nominal damages, as well as attorneys' fees.

COUNT III
**VIOLATION OF THE RIGHT OF CONSCIENCE SECURED UNDER
ARTICLE 1, SECTION 16 OF THE MINNESOTA CONSTITUTION**

79. The Church realleges and incorporates herein by reference paragraphs 1 through 78 of this Complaint.

80. The terms and operation of the Code burden the Church's rights of conscience and religious worship and are not neutral or of general application.

81. As the text and application of the Code impose discriminatory burdens on the Church and religious assemblies and institutions in general, while permitting operationally similar nonreligious assemblies and institutions to be free of such burdens, St. Cloud thereby has unjustifiably violated the Church's rights of conscience and religious worship.

82. As a direct result of St. Cloud's violation of the Church's rights of conscience and religious worship, as alleged above, the Church is suffering irreparable harm for which there is no adequate remedy at law. The Church is therefore entitled to injunctive relief.

83. As a direct result of St. Cloud's violation of the Church's rights of conscience and religious worship, as alleged above, the Church has suffered and is entitled to recover compensatory and nominal damages, as well as attorneys' fees.

COUNT IV
VIOLATION OF RLUIPA: UNLAWFUL SUBSTANTIAL BURDEN
42 U.S.C. § 2000cc(a)(1)

84. The Church realleges and incorporates herein by reference paragraphs 1 through 83 of this Complaint.

85. St. Cloud's implementation of the land use regulations contained in the Code, as alleged above, imposes a substantial burden on the religious exercise of the Church.

86. St. Cloud's reasons for denying the Application are unreasonable, unfounded, or otherwise improper.

87. The substantial burden imposed on religious exercise is not in furtherance of a compelling governmental interest and is not the least restrictive means of furthering any compelling governmental interest.

88. Accordingly, St. Cloud violated the Church's rights recognized under federal law as contained in 42 U.S.C. § 2000cc(a) of RLUIPA.

89. As a direct result of St. Cloud's violation of the Church's rights under 42 U.S.C. § 2000cc(a) of RLUIPA, as alleged above, the Church is suffering irreparable harm for which there is no adequate remedy at law. The Church is therefore entitled to injunctive relief.

90. Furthermore, as a direct result of St. Cloud's violation of the Church's rights under 42 U.S.C. § 2000cc(a) of RLUIPA, as alleged above, the Church has suffered and is entitled to recover compensatory and nominal damages, as well as attorneys' fees.

COUNT V
VIOLATION OF RLUIPA: UNLAWFUL UNEQUAL TREATMENT
42 U.S.C. § 2000cc(b)(1)

91. The Church realleges and incorporates herein by reference paragraphs 1 through 90 of this Complaint.

92. In the R-1 zoning district, where the Church is located, St. Cloud allows single-family homes, residential facilities with six or less inhabitants, temporary shelter facilities housing four or fewer persons, and day care centers caring for twelve people or fewer. Bed & breakfast facilities are also allowed in the R-1 zoning district, as a conditional use. And yet, St. Cloud does not allow religious uses that serve the same purpose or have lesser effects than these allowable uses.

93. St. Cloud allows accessory structures in the R-1 zoning district, where the Church is located. And yet, St. Cloud does not allow religious use of structures that meet the same requirements as these allowable accessory structures.

94. St. Cloud allows recreational vehicles and trucks to be parked and slept in in other areas of the city. And yet, St. Cloud does not allow religious use identical to these accepted uses.

95. Accordingly, St. Cloud has violated the Church's rights under federal law as contained in 42 U.S.C. § 2000cc(b)(1) of RLUIPA.

96. As a direct result of St. Cloud's violation of the Church's rights under 42 U.S.C. § 2000cc(b)(1) of RLUIPA, as alleged above, the Church is suffering irreparable harm for which there is no adequate remedy at law. The Church is therefore entitled to injunctive relief.

97. Furthermore, as a direct result of St. Cloud's violation of the Church's rights under 42 U.S.C. § 2000cc(b)(1) of RLUIPA, as alleged above, the Church has suffered and is entitled to recover compensatory and nominal damages, as well as attorneys' fees.

COUNT VI
DECLARATORY JUDGMENT

98. The Church realleges and incorporates herein by reference paragraphs 1 through 97 of this Complaint.

99. Based on the actions of St. Cloud, as alleged above, the Church is entitled to a declaration that the City's actions limiting the Church's activities are void, invalid, and violate RLUIPA and the Constitutions of the United States of America and the State of Minnesota.

COUNT VII
PRELIMINARY AND PERMANENT INJUNCTION

100. The Church realleges and incorporates herein by reference paragraphs 1 through 99 of this Complaint.

101. St. Cloud's actions have caused and will continue to cause irreparable harm to the Church's performance of key religious activities.

102. As a result of St. Cloud's actions, John Doe will not be able to live in the house located on St. Cloud's property. John Doe will be forced to live outside in the face of the impending Minnesota winter until this lawsuit is resolved.

103. The Church is entitled to a preliminary injunction directing the City to issue the required land use permit and to allow the Church to provide shelter to John Doe in the Tiny House until such time as this lawsuit is resolved.

104. The Church is entitled to a permanent injunction directing the City to issue the required land use permits, enjoining the City and its employees from denying future land use permits without a compelling governmental interest, and enjoining the City from discriminating against the Church in reviewing future land use applications.

WHEREFORE, Plaintiff St. John's Church, St. Cloud, a/k/a St. John's Episcopal Church of St. Cloud prays for judgment against St. Cloud and that this 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 declarations shall have the force and effect of final judgment and that the Court retain jurisdiction of this matter for the purpose of enforcing the Court's Orders;

B. Pursuant to 28 U.S.C. § 2201, declare the aforementioned provisions of the Code, and to the extent such provisions are not severable, the entire Code, to be in violation of the First and Fourteenth Amendments to the United States Constitution and RLUIPA;

C. Pursuant to 28 U.S.C. § 2202, Fed. R. Civ. P. 65, 42 U.S.C. § 1983 and 42 U.S.C. § 2000cc-4, (i) permanently enjoin St. Cloud from enforcing the Code to the extent that it disallows tiny houses as a permitted use at a Place of Worship in any zoning district; (ii) preliminarily and permanently enjoin St. Cloud from enforcing the Code to prevent the Church from using a Tiny House on its property; and (iii) issue a permanent injunction ordering St. Cloud to process and issue all building, occupancy and business permits and grant all other rights and privileges to the Church to use the Tiny House as if tiny houses were a permitted use under the Ordinance;

D. Pursuant to 28 U.S.C. § 2202, Fed. R. Civ. P. 65, 42 U.S.C. § 1983 and 42 U.S.C. § 2000cc-4, award the Church nominal and compensatory damages;

E. Pursuant to 42 U.S.C. § 1988, 42 U.S.C. § 2000cc-4(d), Fed. R. Civ. P. 54(d) and other applicable law, award the Church its reasonable attorneys' fees and costs; and

F. Grant such other and further relief as the Court deems equitable, just, and proper.

**GRAY, PLANT, MOOTY,
MOOTY & BENNETT, P.A.**

Dated: August 25, 2016.

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ATTORNEYS FOR PLAINTIFF

VERIFICATION OF COMPLAINT

I, Alexis Roy, am the Senior Warden of St. John's Church, St. Cloud, a/k/a St. John's Episcopal Church of St. Cloud. I hereby verify that the statements contained in the Complaint are true and correct to the best of my knowledge and/or information and belief.

s/ Alexis Roy
Alexis Roy

Subscribed and Sworn to me
this 25th day of August, 2016.

s/ Amy E. Lupinek
NOTARY PUBLIC

My Commission Expires Jan. 31, 2019.

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