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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

**CHRIST CHURCH NEW JERSEY and
DAVID IRELAND, Senior Pastor,**

Civil Action No. _____

Plaintiffs,

v.

**ROCKAWAY TOWNSHIP; the
ROCKAWAY TOWNSHIP COUNCIL; the
ROCKAWAY TOWNSHIP PLANNING
BOARD; the ROCKAWAY TOWNSHIP
ENVIRONMENTAL COMMISSION;
LOUIS S. SCEUSI, in his official capacities as
mayor of Rockaway Township and a member
of the Rockaway Township Planning Board;
MORTON B. DICKER, VINCENT
BRENNAN, JOHN DiMARIA, Jr.,
CAROLYN KEEGAN, JAN FISCHER,
JOSEPH O' TOOLE, ARTHUR CRANE, and
DAVID WASHINGTON, in their official
capacities as members of the Rockaway
Township Planning Board; MAX ROGERS,
JOSEPH O'CONNOR, WILLIAM
SCHIAVELLA, JOHN DiMARIA, Jr.,
MICHAEL DACHISEN, JOHN J. QUINN,
PAUL MINENNA, ALEXANDER
GELLMAN, and EUGENE SCHENINGER,
in their official capacities as members of the
Rockaway Township Council; PAT
MATARAZZO, in his official capacity as the
Chairman of the Rockaway Township
Environmental Commission,**

**COMPLAINT and
DEMAND FOR JURY TRIAL**

Defendants.

Come now Plaintiffs, Christ Church New Jersey and Rev. David Ireland, by and through their attorneys, and state as follows:

INTRODUCTION

1. Two years ago, after a seven-year extensive search, Plaintiff Christ Church signed a contract to buy property on which to build a new church. That property, in Rockaway Township, Morris County, Block 22203, Lots 2 and 3 (the "Property" or "Site"), is the only available site for miles that could accommodate Christ Church's congregation.

2. Currently, the Property has two vacant buildings, together with a small maintenance garage. Christ Church wants to redevelop the Property with a vibrant church whose members will worship together and send their children to a small grades K-5 Christian school. These plans would utilize only a fraction of the 101-acre site.

3. Christ Church's plans for their religious community thus far have been improperly thwarted by Defendants, who have manufactured discriminatory and improper barriers to the redevelopment of the property in Rockaway Township, and thus to the fulfillment of Christ Church's religious mission.

4. Defendants have done this, for example, by stirring up local opposition to Christ Church, by questioning whether Christ Church is really a "church," by running down the clock on Christ Church's site plan application, and by seeking pretexts to bar Christ Church from entry to Rockaway Township.

5. Throughout, Plaintiffs have cooperated and accommodated at every turn. They have sat through six months of administrative hearings patiently explaining that

Christ Church is, in fact, a church. They have made numerous concessions and adjustments to their building plans, and have answered all remotely legitimate concerns about their plans raised by Township officials and residents. They have agreed to make various enhancements on the property, including environmental remediation and traffic improvements. Christ Church wants to be a good neighbor, and has made every effort to resolve these matters amicably.

6. Sadly, it has become clear that Christ Church's efforts will never satisfy Defendants' unreasonable demands. Any doubt on that score was removed last month, when the Rockaway Township Council enacted a new zoning ordinance that makes it impossible for Christ Church to carry out even its already scaled-down building plans necessary for the church adequately to pursue its religious mission.

7. On its face, the new ordinance discriminates against religious institutions such as Christ Church in a manner prohibited by the United States Constitution, federal civil rights law, the New Jersey Constitution, and New Jersey law. Not only does this new ordinance constitute unlawful discrimination, it also violates several bedrock tenets of New Jersey zoning and administrative law. Christ Church also is challenging those violations in this lawsuit.

8. Plaintiffs, through this lawsuit, seek to hold Defendants responsible for their violations of the rights of Christ Church and its members and to prevent them from continuing their unlawful conduct.

9. For the past and continuing injury to Christ Church and its members caused by Defendants' unlawful behavior, Plaintiffs seek a declaratory judgment, in-

junctive relief, and compensatory damages. They also seek recompense of their reasonable legal fees and costs of suit.

JURISDICTION AND VENUE

10. This Court has jurisdiction over all federal claims in this Complaint under 28 U.S.C. §§ 1331 and 1343(a), and supplemental jurisdiction over all state law claims under 28 U.S.C. § 1367(a).

11. Venue lies in this district pursuant to 28 U.S.C. § 1391. All Plaintiffs and all Defendants are located in this district, and all events giving rise to this action occurred in this district.

PARTIES

12. Plaintiff Christ Church New Jersey (“Christ Church”), a nonprofit, 501(c)(3) New Jersey corporation, is a multi-racial Christian church with approximately 5,000 active members resident in northern New Jersey and the New York metropolitan area.

13. Plaintiff Rev. David Ireland, M.E., M.P.S., Ph.D., is the senior pastor of Christ Church.

14. Christ Church and Dr. Ireland will be referred to collectively as “Plaintiffs.”

15. Defendant Rockaway Township (the “Township”) is a municipality created and existing by virtue of the laws of the State of New Jersey and acts through its officials, employees, and official bodies.

16. The Township is empowered to regulate and restrict the use of land within the Township's borders, subject to the limits imposed by federal and New Jersey law.

17. Defendant Rockaway Township Planning Board (the "Planning Board" or "Board") is empowered by the Township of Rockaway Code to review and approve site plans, to issue conditional use permits and to comment upon proposed zoning ordinances.

18. Defendant Rockaway Township Council (the "Township Council"), the governing body of the Township, is empowered pursuant to the Municipal Land Use Law to adopt or amend zoning ordinances relating to the nature and extent of the uses of land and of buildings and structures thereon.

19. Defendant Louis S. Secusi, in his official capacity, is the mayor of Rockaway Township and a member of the Planning Board (the "Mayor").

20. Defendant Vincent Brennan, in his official capacity, is the lieutenant mayor of Rockaway Township and a member of the Planning Board.

21. Defendants Morton B. Dicker, Arthur Crane, John DiMaria, Jan Fischer, Joseph O' Toole, Carolyn Keegan, and David Washington, in their official capacities, are members of the Planning Board.

22. Defendants Max Rogers, Eugene Scheninger, John DiMaria, Joseph O'Connor, William Schiavella, Michael Dachisen, John J. Quinn, Paul Minenna, and Alexander Gellman, in their official capacities, are members of the Rockaway Township Council.

23. Defendant Rockaway Township Environmental Commission (the "Environmental Commission") is a governmental agency established by Rockaway Township that serves as an advisory agency to the Planning Board.

24. Defendant Pat Matarazzo serves as the Chairman of the Environmental Commission.

25. The Planning Board, the Township Council, the Environmental Commission, and all individual defendants will be referred to collectively as "Defendants."

BACKGROUND

26. Plaintiff Christ Church was founded in 1986.

27. From its inception, Christ Church has been dedicated to healing lives through the Gospel of Jesus Christ, and answering the Bible's command to serve both the worship family and the broader community.

28. The Christ Church congregation has grown to approximately 5,000 members, of whom approximately 3,750 worship on any given Sunday.

29. In 1994, Christ Church purchased an 800-seat cathedral in Montclair, New Jersey.

30. Christ Church has developed numerous ministries to serve both its congregants and the wider community. It offers an array of services, including marital counseling, grief counseling, literacy programs, youth and children's ministries, human needs assistance, international missions, and various community development activities.

31. In addition, Christ Church's Sunday services are broadcast on cable television and radio in New Jersey and several other states. These and its other ministries are integral to Christ Church's religious mission.

32. Christ Church believes that Christian doctrine mandates care for the believer's mind, body, and soul. Accordingly, educational instruction, health, and physical fitness all are essential elements of Christ Church's mission.

33. According to Christian doctrine as subscribed to by Christ Church, a group of believers who are members of the same congregation should as nearly as possible worship at the same time and in the same place. Therefore, worship in community is a profound and integral part of Christ Church's religious exercise.

34. Christ Church believes that Pastor Ireland—as shepherd of the flock—should, as much as possible, exercise all of the Church's pastoral responsibilities at the main religious services held every Sunday.

The Limitations of Christ Church's Current Facility

35. Because of the size limitations of its current facility, Christ Church is required to hold five consecutive Sunday services each week. Thus, with occasional exceptions, Pastor Ireland presides over five separate services each Sunday. This necessity creates a significant burden on Pastor Ireland and hinders other areas of his and Christ Church's religious ministry.

36. Christ Church's Montclair facility has become inadequate to satisfy the church's religious mission.

37. The insufficient size of the current facility precludes the gathering of more than a fraction of the congregation for collective worship, requires that each service is truncated prematurely and forces Christ Church to eliminate essential Christian teaching and worship from the service.

38. Because of overcrowding and safety concerns in the cramped Montclair sanctuary, members of the Christ Church congregation have frequently been turned away from Sunday worship services.

39. In addition, the Montclair facility lacks adequate space for Christ Church's counseling and other services and for children's instruction and recreation. There also are no facilities for physical fitness activities.

40. Christ Church's administrative offices cannot properly accommodate the staff for even basic administrative functions; a lunchroom, for instance, is serving as a makeshift office, and the church has been forced to rent temporary office space one mile from its Montclair cathedral.

41. Christ Church's offices are now located in three separate buildings, two of which are remote from the Montclair facility in the neighboring town of Verona, New Jersey.

42. In addition, it is difficult to accommodate disabled persons in the Montclair facility, a 95-year-old historic church.

Christ Church's New Location in Rockaway Township

43. In 1996, Christ Church began to search for property on which to erect a larger facility that would allow the church to fulfill its religious mission.

44. After searching for seven years, Christ Church located a suitable site, close to Interstate Route 80, at 140 Green Pond Road in Rockaway Township. The Site, which contains approximately 101 acres, is owned by Agilent Technologies ("Agilent") and presently holds two vacant industrial/warehouse/office buildings and one vacant maintenance building.

45. The Site is contaminated from historical industrial operations, and is currently being investigated and remediated by Agilent's predecessor, Hewlett Packard.

46. The Site is located in the Township's OB-RL zoning district.

47. Churches are allowed as conditional uses in the OB-RL district, as are libraries, hospitals, K through 12 schools, and municipal buildings.

48. On April 22, 2003, Christ Church signed a contract to purchase the Site, conditioned on Christ Church's obtaining the requisite land-use approvals and permits.

49. The contract required the Church to pay to Agilent monthly carrying costs until the Church has secured the required approvals and permits.

50. On July 10, 2003, Christ Church submitted to the Planning Board an application for site plan and conditional use approval. The initial application was for an approximately 400,000 square foot facility, to be constructed in two phases.

51. After the initial application was submitted, the New Jersey Legislature passed the Highlands Water Protection and Planning Act, N.J.S.A. 13:20-1 (the "Highlands Act"), which limited Christ Church's development opportunities to the reuse of the pre-existing impervious surfaces at the Site.

52. In response to the Highlands Act, Christ Church reduced the square footage of the facility and redesigned its site plan in order to qualify for a redevelopment exemption under the Highlands Act.

53. The site plan, as amended, currently provides for a 2,512-seat sanctuary, offices and other facilities ancillary to the sanctuary, a multipurpose room, Bible study rooms, classrooms and ancillary facilities for students in kindergarten through fifth grade, and recreational facilities.

54. The sanctuary will be the central and defining feature of the Site, and all activities will be centered on Christian worship.

55. Christ Church has complied with all legitimate technical and procedural requirements for its site plan and conditional use applications.

56. In addition to Hewlett Packard's remediation obligations, Christ Church also will perform, as required and at its own expense, all environmental remediation on the Site necessary to construct its proposed facilities.

THE CAMPAIGN AGAINST CHRIST CHURCH

57. Almost from the moment Christ Church announced its intention to acquire the Agilent property, the Mayor and other Township officials have acted together and with others to prevent the Church from obtaining approval for its building plan, and thus to keep Christ Church out of Rockaway Township.

58. On June 2, 2003, before Christ Church filed its application for site plan approval, Pastor Ireland and his engineer, Peter Meyer, met with the Mayor and Lisa Ryden, Rockaway Township's engineer, to discuss the church's plans for the Site.

59. At that meeting, the Mayor told Pastor Ireland that he had no objection to Christ Church's plans.

60. The Mayor thereafter reversed his position on Christ Church's planned relocation.

61. On July 15, 2003, at a private meeting with Pastor Ireland, his attorney, the Township's attorney, and others, the Mayor stated, "We don't want you here," and openly threatened to take the property by eminent domain if such a course were necessary to exclude Christ Church.

62. Upon information and belief, immediately following the July 15 meeting, the Mayor and others began implementing a plan to prevent Christ Church's relocation to Rockaway Township.

63. Upon information and belief, as set forth below, this plan has been prosecuted on several fronts.

The Propaganda and Disinformation Campaign

64. First, the Mayor spearheaded a propaganda campaign against Christ Church. For example, on November 3, 2003, the mayor appeared at a public meeting of Voices of Rockaway Township, Inc. ("VORT"), a group of Township residents allied with the mayor to keep Christ Church out of Rockaway Township—or, as VORT puts it, "ensuring that our community remains the tranquil close knit community we are."

65. Upon information and belief, at that meeting the Mayor applauded VORT's opposition to Christ Church's building application and pledged his support in

that effort. The Mayor also has made several public statements reflecting his opposition and hostility to Christ Church.

66. On October 17, 2004, Defendant Pat Matarazzo, who is the chairman of the Rockaway Environmental Commission, lent his support to this effort to exclude Christ Church by attending a VORT fundraising event. Upon information and belief, Mr. Matarazzo brought to that event his official copies of the Christ Church Site plans for VORT members to review and discuss. At the time of the VORT rally, the Environmental Commission was reviewing the environmental aspects of the Christ Church application.

67. At Christ Church's request, Mr. Matarazzo subsequently agreed to recuse himself from attending or participating in any Environmental Commission meetings addressing Christ Church's application.

68. Notwithstanding that "recusal," Defendant Matarazzo attended the November 10, 2004, meeting of the Environmental Commission, at which the Christ Church proposal was discussed.

69. Defendants and their allies have publicly asserted that the arrival of Christ Church would cause various harms to the Township (stating, for example, that it would introduce "urban sprawl" to the "close knit community") and have expressed hostility to the evangelical Christianity practiced by Christ Church.

70. The misinformation about Christ Church's plans included, for example, the distribution of literature to the homes of Rockaway residents via handouts that

school children were to give to their parents describing Christ Church's plans for the Site as including a nursing home, a medical clinic, and prisoner rehabilitation facilities.

71. The Church never planned to put any kind of nursing home, medical clinic, or prisoner rehabilitation facility on the Property.

72. Upon information and belief, this and other incidents of misinformation were targeted to create a public outcry and an aversion to Christ Church.

The Threat of Eminent Domain

73. The Township also threatened to deprive Christ Church of the Property by taking it through eminent domain, in keeping with the Mayor's threat to Pastor Ireland in July 2003.

74. In November 2003, an ad hoc Facilities Study Committee was formed for the purpose of presenting the Rockaway Township Board of Education with recommended sites for a new public school.

75. Upon information and belief, the Facilities Study Committee considered some 30 possible sites for a new school facility, and reviewed ten preferred sites in detail. The Christ Church Property was not one of the original sites, nor was it one of the ten preferred sites.

76. Upon information and belief, the Christ Church Property suddenly appeared on the list of "finalists" in early 2004.

77. At a March 24, 2004, meeting of the Township's Board of Education, the Committee recommended Christ Church's Site and two other sites as potential locations

for a new school—in spite of several disadvantages relative to other locations, including the high market price of the Site and the cost of environmental remediation.

78. Upon information and belief, at that meeting a member of the Board of Education meeting admitted that Christ Church's development plans was a consideration in deciding whether to select the Site for condemnation.

79. Ultimately, the Board of Education abandoned the effort to condemn the Property, citing the high cost of environmental remediation.

The Six-Month "Megachurch" Detour

80. The Planning Board (with the Mayor sitting as a member) delayed consideration of the Church's building application for six months while "deciding" whether Christ Church is a "church."

81. The pretext for this delay was that Christ Church was not a church, but a "megachurch" not entitled to conditional use status under the Rockaway zoning ordinance, and therefore outside the jurisdiction of the Planning Board.

82. A finding of lack of jurisdiction would prevent the Planning Board from considering the Church's request for conditional use approval.

83. The Planning Board pursued this "megachurch" line of inquiry for a full six months, causing considerable and needless expense to the Church. Upon information and belief, the tactics reflected an intentional strategy to delay and stall the application.

84. Not until June 21, 2004—after the Board was formally advised by its planning consultant that the "megachurch" expedient was baseless—did the Board rule that

Christ Church is a church within the meaning of the zoning ordinance, and proceed to the merits of Christ Church's application.

The Ever-Changing Environmental Standards

85. A provision of the Rockaway zoning ordinance prohibits the erection of any building or structure within 1,500 feet of a public water supply source "unless adequate environmental safeguards can be established and acceptable to the Township Health and Engineering Departments." Rockaway Township General Ordinance 54-30.10(b).

86. Despite Christ Church's repeated requests, neither the Health Department nor the Engineering Department has provided any standard for what "adequate environmental safeguards" might be required for the proposed redevelopment.

87. Nonetheless, Rockaway Township officials continue to raise the "1,500 foot issue" as a barrier to Christ Church's efforts to obtain Planning Board approval.

88. Upon information and belief, prior to the Christ Church application, Rockaway Township has never required an applicant to address General Ordinance 54-30:10(b). A number of development applications have been previously approved by the Planning Board without any formal demonstration by the applicant that "adequate environmental safeguards" existed for those approved projects. There is no indication that those other applicants were required to seek a variance from this ordinance.

89. Another example of the moving environmental requirements established for the Christ Church application includes the failure of Rockaway Township to live up to its agreements with Christ Church.

90. On September 27, 2004, certain Christ Church professionals met with certain Rockaway Township professionals regarding, among other things, the projected wastewater calculations for the Christ Church project. The parties disagreed about the proper method of calculating wastewater flow. The parties agreed that if the New Jersey Department of Environmental Protection ("NJDEP") accepted Christ Church's wastewater calculation, then Rockaway Township would also accept that calculation.

91. The NJDEP has accepted Christ Church's calculation. Rockaway Township, however, reneged on its agreement and is requiring Christ Church to continue addressing this issue notwithstanding the NJDEP's approval.

The Amended Ordinance

92. On February 1, 2005, the Township introduced Ordinance 05-10 ("the Ordinance"), which amended the Zoning Ordinance in a manner that discriminates against houses of worship, and Christ Church in particular.

93. Upon information and belief, Ordinance 05-10 was aimed directly at Christ Church. The Ordinance admits as much in its recitals, which present Rockaway Township's purported rationale for the new municipal law, make reference to "recent testimony and reports received from the Township of Rockaway . . . professionals *as well as the applicants' professionals.*" Upon information and belief, the reference to "the applicant's professionals" is a direct reference to Christ Church's application before the Planning Board.

94. Section 54-30.15.b of the Zoning Ordinance allows houses of worship, schools, and municipal buildings as conditional uses in non-residential districts of the

Township (including the OB-RL district). Ordinance 05-10 amended that provision by creating new conditions on houses of worship, schools, and municipal buildings.

95. Ordinance 05-10 imposes on houses of worship conditions that are significantly more onerous than those imposed on schools, municipal buildings and other uses of public assembly or office uses of the Township.

96. As a result of the Ordinance, Christ Church would be required to modify its existing application before the Planning Board in ways that would hinder or prevent the carrying out of Christ Church's and its members' religious mission.

97. Further, those conditions, if applied against the Church, would prevent the Church from developing the Site as planned.

98. For example, Ordinance 05-10 imposes parking requirements on houses of worship that are significantly more onerous than those imposed on schools, municipal buildings and other places of general assembly.

99. In addition to its unreasonable parking restrictions, Ordinance 05-10 prohibits parking decks. At public hearings, representatives of Christ Church had discussed with Planning Board members the possible need for a parking deck to allow for reserve parking.

100. Ordinance 05-10 also discriminates among houses of worship by limiting the height of "steeple" without placing similar constraints on other similarly situated architectural elements, such as minarets or domes.

101. On February 7, 2005, the Planning Board reviewed Ordinance 05-10 upon referral from the Township Council and recommended its adoption by the Township Council.

102. The Planning Board recommended that the Township Council adopt Ordinance 05-10 despite the fact that the Planning Board had a site application pending (i.e. Christ Church) for over one year which contained a parking deck and had previously granted site plan approval for an office building which contained a parking deck.

103. Upon information and belief, no Planning Board member, prior to the adoption of Ordinance 05-10, had ever indicated that a parking deck would be an unacceptable component of Christ Church's building plans.

104. On March 1, 2005, the Township Council adopted Ordinance 05-10.

CAUSES OF ACTION

*Violations of the Religious Land Use and
Institutionalized Persons Act of 2000 (RLUIPA)*

COUNT I

Violation of RLUIPA: Religious Discrimination (42 U.S.C. § 2000cc(b)(2))

105. Paragraphs 1 through 104 are incorporated as if set forth fully herein.

106. In conspiring to bar the Church from locating in the Township because of the Church's religious character, Defendants discriminated and continue to discriminate against Plaintiffs on the basis of their religion.

107. Through their actions, Defendants discriminated and continue to discriminate against Plaintiffs on the basis of their religion, in violation of 42 U.S.C. § 2000cc(b)(2).

108. Defendants' conduct has caused significant damage to Plaintiffs, and has prevented Christ Church and its members from pursuing their religious mission.

109. Defendants are liable for the damage caused to Plaintiffs, and should be enjoined from further violating Plaintiffs' rights.

COUNT II

Violation of RLUIPA: Unequal Terms (42 U.S.C. § 2000cc(b)(1))

110. Paragraphs 1 through 104 are incorporated as if set forth fully herein.

111. Through their actions, Defendants have treated Christ Church, a religious institution, on less than equal terms with nonreligious institutions, in violation of 42 U.S.C. § 2000cc(b)(1).

112. Defendants' conduct has caused significant damage to Plaintiffs, and has prevented Christ Church and its members from pursuing their religious mission.

113. Defendants are liable for the damage caused to Plaintiffs, and should be enjoined from further violating Plaintiffs' rights.

Violations of the United States Constitution

COUNT III

**Violation of the First and Fourteenth Amendments:
Free Exercise of Religion (42 U.S.C. § 1983)**

114. Paragraphs 1 through 104 are incorporated as if set forth fully herein.

115. In conspiring to bar Christ Church from locating in the Township because of its religious character, Defendants violated and continue to violate Plaintiffs' right to the free exercise of religion as secured by the First and Fourteenth Amendments to the United States Constitution.

116. Through their actions, Defendants violated and continue to violate Plaintiffs' right to the free exercise of religion as secured by the First and Fourteenth Amendments to the United States Constitution.

117. Defendants' conduct has caused significant damage to Plaintiffs, and has prevented Christ Church and its members from pursuing their religious mission.

118. Defendants are liable for the damage caused to Plaintiffs, and should be enjoined from further violating Plaintiffs' rights.

COUNT IV

**Violation of the First and Fourteenth Amendments:
Freedoms of Speech and Assembly (42 U.S.C. § 1983)**

119. Paragraphs 1 through 104 are incorporated as if set forth fully herein.

120. In conspiring to bar Christ Church from locating in the Township, Defendants violated and continue to violate Plaintiffs' constitutional rights to freedom of speech and freedom of assembly.

121. Through their actions, Defendants violated and continue to violate Plaintiffs' constitutional rights to freedom of speech and freedom of assembly.

122. Defendants' conduct has caused significant damage to Plaintiffs.

123. Defendants are liable for the damage caused to Plaintiffs, and should be enjoined from further violating Plaintiffs' rights.

COUNT V

**Violation of the Fourteenth Amendment:
Discrimination on the Basis of Religion (42 U.S.C. § 1983)**

124. Paragraphs 1 through 104 are incorporated as if set forth fully herein.

125. In applying state and municipal laws in such a manner as to discriminate against Plaintiffs, Defendants violated and continue to violate Plaintiffs' clearly established right to the equal protection of the laws as secured by the Fourteenth Amendment to the United States Constitution.

126. Defendants' conduct has caused significant damage to Plaintiffs.

127. Defendants are liable for the damage caused to Plaintiffs, and should be enjoined from further violating Plaintiffs' rights.

Violations of the New Jersey Constitution

COUNT VI

**Violation of the New Jersey Constitution, Article I, Section 3:
Free Exercise of Religion**

128. Paragraphs 1 through 104 are incorporated as if set forth fully herein.

129. In conspiring to bar Christ Church from locating in the Township because of its religious character, Defendants violated and continue to violate Plaintiffs' right to the free exercise of religion as secured by article I, section 3, of the New Jersey Constitution.

130. Through their actions, Defendants violated and continue to violate Plaintiffs' right to the free exercise of religion as secured by article I, section 3, of the New Jersey Constitution.

131. Defendants' conduct has caused significant damage to Plaintiffs, and has prevented Christ Church and its members from pursuing their religious mission.

132. Defendants are liable for the damage caused to Plaintiffs, and should be enjoined from further violating Plaintiffs' rights.

COUNT VII

**Violation of New Jersey Constitution, Article I, Section 5:
Equal Protection of the Laws**

133. Paragraphs 1 through 104 are incorporated as if set forth fully herein.

134. In applying state and municipal laws in such a manner as to discriminate against Plaintiffs, Defendants violated and continue to violate Plaintiffs' right to the

equal protection of the laws as secured by article I, section 5, of the New Jersey Constitution.

135. Defendants' conduct has caused significant damage to Plaintiffs.

136. Defendants are liable for the damage caused to Plaintiffs, and should be enjoined from further violating Plaintiffs' rights.

Violations of New Jersey Statutory Law

COUNT VIII

Violation of the New Jersey Law Against Discrimination

137. Paragraphs 1 through 104 are incorporated as if set forth fully herein.

138. By denying Plaintiffs, on the basis of creed, the opportunity to obtain the accommodations, advantages, facilities, and privileges of ownership of real property, Defendants violated and continue to violate Plaintiffs' rights under the New Jersey Law Against Discrimination, N.J. Stat. Ann. § 10:5-4.

139. Defendants' conduct has caused significant damage to Plaintiffs.

140. Defendants are liable for the damage caused to Plaintiffs, and should be enjoined from further violating Plaintiffs' rights.

COUNT IX

Violations of the New Jersey Municipal Land Use Law

141. Paragraphs 1 through 104 are incorporated as if set forth fully herein.

142. Ordinance 05-10 is invalid because it is arbitrary, capricious, and unreasonable in its treatment of houses of worship versus other "assembly uses", in violation of the New Jersey Municipal Land Use Law, N.J.S.A. 40:55D-62.

143. Ordinance 05-10 is invalid because it is vague and confusing and lacks critical definitions and definitive conditional use standards upon which Christ Church and other applicants can reasonably rely in developing site plan applications, in violation of the New Jersey Municipal Land Use Law, N.J.S.A. 40:55D-67.

144. Ordinance 05-10 is invalid in that it is both arbitrary, capricious and unreasonable and fails to provide to provide clear and definite conditional use standards by which Christ Church and other applicants can be guided, by imposing upon conditional use applications, conditions not reasonably related to the characteristics of church and school uses, in violation of the New Jersey Municipal Land Use Law, N.J.S.A. 40:55D-62 and N.J.S.A 40:55D-67.

145. Ordinance 05-10 fails to promote the assigned purposes of zoning, but was enacted for the unlawful purpose of denying Plaintiffs their legally protected rights, and therefore is invalid under the New Jersey Municipal Land Use Law; N.J.S.A. 40:55D-2.

146. Ordinance 05-10 is invalid because no evidence was proffered by the Township indicating that the ordinance is consistent with the Master Plan of Rockaway Township, as required by the New Jersey Municipal Land Use Law, N.J.S.A. 40:55D-62.

147. Defendants' conduct has caused significant damage to Plaintiffs.

148. Defendants are liable for the damage caused to Plaintiffs.

COUNT X

Preemption Under New Jersey Law

149. Paragraphs 1 through 104 are incorporated as if set forth fully herein.

150. Ordinance 05-10 is preempted and ultra vires under the New Jersey Highlands Water Protection and Planning Act, N.J.S.A. 13:20-1 and the New Jersey Stormwater Management Rules, N.J.A.C. 7:8.

151. Defendants' conduct has caused significant damage to Plaintiffs.

152. Defendants are liable for the damage caused to Plaintiffs.

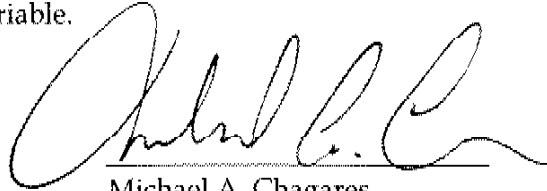
PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that this Court grant the following relief.

- (a) A declaration that Rockaway Township Ordinance No. 05-10, on its face, and as applied to the Church, violates (1) the Religious Land Use and Institutionalized Persons Act of 2000, (2) Plaintiffs' right to free exercise of religion under the United States and New Jersey Constitutions, (3) Plaintiffs' rights to freedom of speech and assembly under the United States and New Jersey Constitutions, (4) Plaintiffs' right to equal protection of the laws under the United States and New Jersey Constitutions, (5) The Highlands Water Protection and Planning Act, (6) the New Jersey Stormwater Rules, and (7) the New Jersey Municipal Land Use Law, and therefore is void and invalid;
- (b) A declaration that Defendants have engaged in a pattern of misconduct aimed at and causing discrimination against Christ Church in violation of (1) the Religious Land Use and Institutionalized Persons Act of 2000, (2) Plaintiffs' right to free exercise of religion under the United States and New Jersey Constitutions, (3) Plaintiffs' rights to freedom of speech and assembly under the United States and New Jersey Constitutions, (4) Plaintiffs' right to equal protection of the laws under the United States and New Jersey Constitutions, and (5) the New Jersey Municipal Land Use Law, and therefore is void and invalid;
- (c) An injunction in favor of Christ Church requiring Defendants to cease their discriminatory actions in relation to Christ Church's application before the Planning Board;
- (d) An award of such compensatory damages against Defendants in favor of Plaintiffs as the Court deems just for the deprivation of Plaintiffs' right to the free exercise of religion, the deprivation of Plaintiffs' right to the equal protection of the laws, and expenses incurred by Plaintiffs and caused by Defendants' actions;
- (e) An award to Plaintiffs of costs and attorney fees arising out of this litigation, pursuant to 42 U.S.C. § 1988; and
- (f) Such other and further relief as this Court may deem just and appropriate.

DEMAND FOR JURY TRIAL

Pursuant to Federal Rule of Civil Procedure 38(b), Plaintiffs demand a trial by jury in this action of all issues so triable.

A handwritten signature in black ink, appearing to read "Michael A. Chagares", written over a horizontal line.

Paul J. Zidlicky
Richard H. Menard Jr.
David S. Petron
Sidley Austin Brown & Wood LLP
PZ 3715

Michael A. Chagares
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MC 5483

April 15, 2005